भारतीय कम्पनी सचिव संस्थान
THE INSTITUTE OF
Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
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(Under the jurisdiction of Ministry of Corporate Affairs)

SUPPLEMENT
PROFESSIONAL PROGRAMME
(SYLLABUS 2022)

for

December, 2026 Examination

(Containing updates from 1st June, 2025 to 31st May, 2026)

LABOUR LAWS & PRACTICE

GROUP 2

ELECTIVE PAPER 7.3

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Students appearing in Examination shall note the following:

Students appearing in December, 2026 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by Ministry of Labour & Employment, Central Government or any other Regulatory Body upto 31st May, 2026.

The students are advised to acquaint themselves with the Subject Specific Updates published by the Institute.

This supplement is to be read with the Labour Laws & Practice study material (Syllabus 2022) updated up to May, 2025.

TABLE OF REFERENCE

Lesson Nos.	Lesson Title	Reference
Lesson 1	**Constitution and Labour Laws**	Labour Laws & Practice Study Material*****
Lesson 2	**International Labour Organization**	Labour Laws & Practice Study Material
Lesson 3	**Law of Welfare & Working Condition**	
	Section I: The Factories Act, 1948	Supplement
	Section II: The Contract Labour (Regulation and Abolition) Act, 1970	Supplement
	Section III: The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996	Supplement
	Section IV: The Mines Act, 1952	Supplement
	Section V: The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955	Supplement
	Section VI: The Weekly Holidays Act, 1942	Labour Laws & Practice Study Material
	Section VII: The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013	Labour Laws & Practice Study Material and Supplement
	Section VIII: The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986	Labour Laws & Practice Study Material
Lesson 4	**Law of Industrial Relations**	
	Section I: The Industrial Disputes Act, 1947	Supplement
	Section II: The Industrial Employment (Standing Orders) Act, 1946	Supplement
	Section III: The Trade Union Act, 1926	Supplement
Lesson 5	**Law of Wages**	
	Section I: The Payment of Wages Act, 1936	Supplement
	Section II: The Minimum Wages Act, 1948	Supplement
	Section III: The Payment Of Bonus Act, 1965	Supplement
	Section IV: The Equal Remuneration Act, 1976	Supplement

Lesson 6	**Social Security Legislations**	
	Section I: The Employees' Compensation Act, 1923	Supplement
	Section II: The Employees' State Insurance Act, 1948	Supplement
	Section III: The Employees' Provident Funds and Miscellaneous Provisions Act, 1952	Supplement
	Section IV: The Payment of Gratuity Act, 1972	Supplement
	Section V: The Maternity Benefit Act, 1961	Supplement
	Section VI: The Unorganised Workers' Social Security Act, 2008	Supplement
Lesson 7	**The Labour Laws (Simplification of Procedure for Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988**	Labour Laws & Practice Study Material
Lesson 8	**Introduction of Labour Codes**	The contents of this lesson have been incorporated in the respective Labour Laws Codes.
Lesson 9	**Industrial and Labour Laws Audit**	Supplement

**The soft copy of the study material is available at:*
https://www.icsi.edu/media/webmodules/Academics/LLP_Final_PP.pdf

LESSON 3

LAW OF WELFARE & WORKING CONDITION

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

INTRODUCTION

The Occupational Safety, Health and Working Conditions (OSH&WC) Code, 2020, is enacted to consolidate and simplify the existing complex web of labour laws. It replaces 13 Central Labour laws by a single comprehensive legislation, thereby reducing multiplicity and bringing uniformity across industries and States/ UTs. The Code was enacted as a part of the broader labour laws reforms to improve transparency, enhance worker welfare, and promote ease of doing business in India.

The Occupational Safety, Health and Working Conditions Code, 2019 which was introduced in Lok Sabha on 23rd July, 2019 by the Ministry of Labour & Employment after inter-ministerial consultations and suggestions received from the public/stakeholders, incorporates the essential features of the 13 enactments relating to Factories, Dock Workers, Building and other Construction Workers, Plantation Labour, Contract Labour, Inter-State Migrant Workers, Working Journalists and other News Paper Employees, Motor Transport Workers, Sales Promotion Employees, Beedi and Cigar Workers, Cine Workers and Cinema Theatre Workers.

The OSHWC Code intends to simplify, rationalise and amalgamate the provisions of the following Labour Laws:

1. The Factories Act, 1948;
2. The Plantations Labour Act, 1951;
3. The Mines Act, 1952;
4. The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955;
5. The Working Journalists (Fixation of Rates of Wages) Act, 1958;
6. The Motor Transport Workers Act, 1961;
7. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
8. The Contract Labour (Regulation and Abolition) Act, 1970;
9. The Sales Promotion Employees (Conditions of Service) Act, 1976;
10. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
11. The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981;
12. The Dock Workers (Safety, Health and Welfare) Act, 1986;
13. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

The Occupational Safety, Health and Working Conditions (OSHWC) Code, 2019 received Presidential assent on September 28, 2020, and was published in the e-Gazette on September 29, 2020. OSHWC Code notified by Central Government on 21st November 2025.

The Occupational Safety, Health and Working Conditions Code, 2020 balances the twin objectives of safeguarding worker rights and safe working conditions, and creating a business-friendly regulatory environment spur economic growth and employment thereby, making India's labour market more efficient, fair, and future-ready. By streamlining compliance through measures such as single registration, all-India licences, electronic filings, and time-bound approvals. Additionally, the code reduces the number of rules, returns among other subjects to reduce procedural hurdles and encourage investments.

SALIENT FEATURES OF THE CODE

Unified Registration: A uniform threshold of 10 employees is set for electronic registration. One registration for an establishment has been envisaged in place of 6 registrations in the Acts. This will create a centralised database and promote ease of doing business.

Extension to Hazardous Work: The Government can extend the Code's provisions to any establishment, even with one employee, engaged in hazardous or life-threatening occupations.

Simplified Compliance: Introduces one license, one registration, one return framework for the establishments, reducing redundancy and compliance burden.

Wider Definition of Migrant Workers: The definition of inter-state migrant workers (ISMW) now covers workers employed directly, through contractors, or migrate on their own. Establishments must declare the number of ISMW. Benefits include: a lump-sum annual travel allowance to native place once in 12 months and portability of public distribution system and social security benefits across states along with access to a toll-free helpline.

Health and Formalization: Free annual health check-ups for employees.

Formalization via appointment letters: Appointment letters specifying job details, wages, and social security will be given to enhance transparency and accountability.

Women's Employment: Women can work in all types of establishments and during night hours (before 6AM, beyond 7PM) with consent and safety measures, fostering equality and inclusion.

Expanded Media Worker Definition: "Working journalists" and "cine workers" now include employees in electronic media and all forms of audio-visual production.

National Database for Unorganised Workers: A national database to be developed for unorganized workers including migrants to help migrant workers get jobs, map their skills and provide other social security benefits.

Victim Compensation: Courts can direct at least 50% of fines imposed on offenders to be paid as compensation to victims or their legal heirs in case of injury or death.

Contract Labour Reform: Applicability threshold has been raised from 20 to 50 contract workers. All India license valid for 5 years against work-order based license to be provided to the contractor. For contract labour, beedi and cigar manufacturing and factory: a common license is envisaged and provision of deemed license after expiry of prescribe period is introduced. Moreover, the license shall be auto-generated. Provision of contract labour board has been done away with and provision for appointment of designated authority to advise matters on core and non-core activities is introduced.

Safety Committees: Establishments with 500 or more workers will form safety committees with employer-worker representation, enhancing workplace safety and shared accountability.

National Occupational Safety & Health Advisory Board: A single tripartite advisory board replaces six earlier boards to set national safety and health standards across sectors, ensuring uniformity and quality.

Decriminalisation & Compounding of Offences: Offences punishable by fine only to be compounded by paying 50% of the maximum fine; those involving imprisonment or fine or both by 75%. Criminal penalties (imprisonment) replaced by civil penalties like monetary fines, promoting compliance over punishment.

Revised Factory Thresholds: Applicability increased from 10 to 20 workers (with power) and 20 to 40 workers (without power), reducing compliance burden for small units.

Social Security Fund: Establishes a fund for unorganised workers, financed through penalties and compounding fees, for their welfare and benefit delivery.

Contract Labour- Welfare & Wages: Principal employers to provide welfare facilities like health and safety measures to contract workers. If the contractor fails to pay wages, the principal employer has to pay unpaid wages to the contract labour.

Working Hours & Overtime: Normal working hours capped at 8 hours/day and 48 hours/week. Overtime allowed only with worker consent and paid at twice the regular rate.

Inspector-cum-Facilitator System: Inspectors will now act as facilitators with an objective to help employers comply with law, rules and regulations rather than merely policing them.

COMMENCEMENT AND APPLICATION OF OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020 (CHAPTER I)

Commencement and Application (Section 1)

The Occupational Safety, Health and Working Conditions Code (OSHWC), 2020 notified by Central Government on 21st November 2025. However, different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

Non-applicability

The Code shall not apply to the offices of the Central Government, offices of the State Government and any ship of war of any nationality, provided that the Code shall apply in case of contract labour employed through contractor in the offices of the Central Government

or in the offices of the State Government, where, the Central Government or, as the case may be, the State Government is the principal employer.

Important Definitions

- "**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. **[Section 2(1)(a)]**
- "**Adult**" means a person who has completed his eighteenth year of age. **[Section 2(1)(b)]**
- "**Agent**" when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such mine or of any part thereof. **[Section 2(1)(c)]**
- "**Appropriate Government**" means the Central Government —
  (i) in relation to, establishments [other than those specified in sub-clause (ii)] carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil field, major ports, air transport service or telecommunication service, banking company or any insurance company (by whatever name called) established by a Central Act or a corporation or other authority established by a Central Act or a Central public sector undertaking or subsidiary companies set up by the Central public sector undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, Central public sector undertakings, subsidiary companies or autonomous bodies, as the case may be, the Central Government:
  Provided that in the case of Central Public Sector Undertakings the Appropriate Government shall continue to be the Central Government even if the holding of the Central Government reduces to less than fifty per cent. equity of the Central Government in that Public Sector Undertakings after the commencement of this Code; and
  (ii) in relation to a factory, motor transport undertaking, plantation, newspaper establishment and establishment relating to beedi and cigar including the establishments not specified in clause (i), the concerned State Government where it is situated.
  Explanation.—For the removal of doubts it is hereby clarified that State Government shall be the Appropriate Government in respect of occupational safety, health and working conditions in a factory situated in that State. **[Section 2(1)(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. **[Section 2(1)(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. **[Section 2(1)(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.
  This includes such other work and power to notify "other work" has been vested 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. **[Section 2(1)(h)]**
- "**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. **[Section 2(1)(i)]**
- "**Chief Inspector-cum-Facilitator"** means a Chief Inspector-cum-Facilitator appointed under sub-section (5) of section 34. **[Section 2(1)(k)]**
- "**Competent Person**", means a person or an institution recognised as such by the Chief Inspector-cum-Facilitator for the purposes of carrying out tests, examinations and inspections required to be done in an establishment having regard to—

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

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

  Provided that in case of mines the competent person includes such other person who is authorised by the manager referred to in section 67 to supervise or perform any work, or to supervise the operation of machinery, plant or equipment and is responsible for such duties assigned to him and also includes a shot firer or blaster. **[Section 2(1)(l)]**

- "**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. **[Section 2(1)(m)]**
- "**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. **[Section 2(1)(n)]**
- "**Controlled Industry**" means any industry the control of which by the Central Government has been declared under any Central Act in the public interest. **[Section 2(1)(o)]**
- "**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. **[Section 2(1)(p)]**
- "**Day**" means a period of twenty-four hours beginning at mid-night. **[Section 2(1)(q)]**
- "**Dock Work**" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—
  (i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;

(ii) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; and

(iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area on board the ship or in the docks. **[Section 2(1)(s)]**

- "**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,

However, any member of the Armed Forces of the Union has been specifically excluded from the definition of employee under the Code.

With respect to mines, it is provided that notwithstanding anything contained in this clause, in case of a mine a person is said to be "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not—

(a) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of dispatch and of gathering sand and transport thereof to the mine);

(b) in operations or services relating to the development of the mine including construction of plant therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;

(c) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;

(d) in operations, within the premises of the mine, of loading for dispatch of minerals;

(e) in any office of mine;

(f) in any welfare, health, sanitary or conservancy services required to be provided under this Code relating to mine, or watch and ward, within the premises of the mine excluding residential area; or

(g) in any kind of work, whatsoever, which is preparatory or incidental to, or connected with, mining operations. **[Section 2(1)(t)]**

- "**Employer**" means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any Department of the Central Government or the State Government, the authority specified, by the head of such Department, in this behalf or where no authority, is so specified, the head of the Department and in relation to an establishment carried on by a local authority, the Chief Executive of that authority, and includes,—

(i) in relation to an establishment which is a factory - the occupier of the factory;

(ii) in relation to mine - the owner of the mine, agent or manager referred to in section 67;
(iii) in relation to any other establishment - the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director;
(iv) contractor; and
(v) legal representative of a deceased employer. **[Section 2(1)(u)]**

- "**Establishment**" means—
  (i) a place where any industry, trade, business, manufacturing or occupation is carried on in which ten or more workers are employed; or
  (ii) motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or
  (iii) factory, for the purpose of Chapter II, in which ten or more workers are employed, notwithstanding the threshold of workers provided in clause (w); or
  (iv) a mine or port or vicinity of port where dock work is carried out:

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

  Provided further that notwithstanding any threshold provided in the definition of factory in clause (w), for the purposes of Chapter II, the establishment specified in sub-clause (i) or sub-clause (ii) or sub-clause (iii) shall be deemed to be the establishment within the meaning of this clause though the number of employees employed are ten or more.
  [Section 2(1)(v)]
- "**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.

  However where under any law for the time being in force in a State immediately before the commencement of this Code, the number of workers specified is more or less than the number specified in clause (i) or clause (ii), then, the number specified under the law of the State shall prevail in that State till it is amended by the competent Legislature.

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

  Explanation II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not

be construed as factory if no manufacturing process is being carried on in such premises or part thereof. **[Section 2(1)(w)]**

- "**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. **[Section 2(1)(x)]**

- "**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. **[Section 2(1)(y)]**

- "**Hazardous**" means involving danger or potential danger. **[Section 2(1)(z)]**

- "**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. **[Section 2(1)(za)]**

- "**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. **[Section 2(1)(zb)]**

- "**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. **[Section 2(1)(zc)]**

- "**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. **[Section 2(1)(zd)]**

- "**Inspector-cum-Facilitator**" means an Inspector-cum-Facilitator appointed under sub-section (1) of section 34. **[Section 2(1)(ze)]**
- "**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. **[Section 2(1)(zf)]**

- "**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. **[Section 2(1)(zg)]**
- "**Major Port**" means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908. **[Section 2(1)(zh)]**
- "**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. **[Section 2(1)(zi)]**

- "**Mine**" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—
  - (i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;
  - (ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;
  - (iii) all levels and inclined planes in the course of being driven;
  - (iv) all open cast workings;
  - (v) all conveyors or aerial ropeways provided for bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;
  - (vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;
  - (vii) all protective works being carried out in or adjacent to a mine;
  - (viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;
  - (ix) all power stations, transformer sub-stations, converter stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;
  - (x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;
  - (xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or coke is being carried on;
  - (xii) a mine owned by the Government. **[Section 2(1)(zl)]**
- "**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. **[Section 2(1)(zn)]**
- "**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. **[Section 2(1)(zo)]**

- "**Newspaper Establishment**" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate and includes following newspaper establishments which shall be deemed to be one establishment, namely:—
  (i) two or more newspaper establishments under common control;
  (ii) two or more newspaper establishments owned by an individual and his or her spouse unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;
  (iii) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory.

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

  (a) (i) the newspaper establishments are owned by a common individual or individuals;
  (ii) the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;
  (iii) the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;
  (iv) one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;
  (v) one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or

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

  Explanation 2.—For the purposes of this clause,—
  (i) different departments, branches and centres of newspaper establishments shall be treated as parts thereof;
  (ii) *a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper.* **[Section 2(1)(zq)]**

- "**Occupier**" of a factory means the person who has ultimate control over the affairs of the factory. Provided that following shall be deemed to be the occupier —
  (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 Central Government or any State Government, or any local authority - the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

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. **[Section 2(1)(zs)]**

- "**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. **[Section 2(1)(zu)]**
- "**Owner**", in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor or sub-lessee for the working of a mine or any part thereof shall be subject to this Code in like manner as if he were an owner but not so as to exempt the former from any liability. **[Section 2(1)(zw)]**
- "**Plantation**" means—

(a) any land used or intended to be used for—

(i)growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;

(ii) growing any other plant, which admeasures five hectares or more and in which persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification, so directs.

Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the former piece of land shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more; and

(b) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares. Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and

(c) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (a) and sub-clause (b); but does not include factory on the premises. **[Section 2(1)(zx)]**

- "**Principal Employer**", where the contract labour is employed or engaged, means—
  (i) in relation to any office or Department of the Government or a local authority - the head of that office or Department or such other officer as the Government or the local authority, may specify in this behalf;
  (ii) in a factory - the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;
  (iii) in a mine - the owner or agent of the mine;
  (iv) in relation to any other establishment - any person responsible for the supervision and control of the establishment. **[Section 2(1)(zz)]**
- "**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. **[Section 2(1)(zza)]**
- "**Sales promotion employees**" means any person by whatever name called employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person who,—
  (i) being employed or engaged in a supervisory capacity, draws wages exceeding eighteen thousand rupees per mensem or an amount as may be notified by the Central Government from time to time; or
  (ii) is employed or engaged mainly in a managerial or administrative capacity.
  [Section 2(1)(zze)]
- "**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. **[Section 2(1)(zzg)]**
- "**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.

However, 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. **[Section 2(1)(zzj)]**

- "**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. **[Section 2(1) (zzk)]**
- "**Worker**" means any person employed in any establishment to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees, but does not include any such person—
  (i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or
  (ii) who is employed in the police service or as an officer or other employee of a prison; or
  (iii) who is employed mainly in a managerial or administrative capacity; or
  (iv) who is employed in a supervisory capacity drawing wage exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time. **[Section 2(1)(zzl)]**

- "**Working Journalist**" means a person whose principal avocation is that of a journalist and who is employed as such, either whole-time or part-time, in, or in relation to, one or more newspaper establishment, or other establishment relating to any electronic media or digital media such as newspaper or radio or other likemedia and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who is employed mainly in a managerial, supervisory or administrative capacity. **[Section 2(1)(zzm)]**

In accordance with Section 1(2), a person working or employed in or in connection with mine is said to be working or employed—

(a) "Below ground" if he is working or employed—

(i) in a shaft which has been or is in the course being sunk; or

(ii) in any excavation which extends below superjacent ground; and

(b) "Above ground" if he is working in an opencast working or in any other manner not specified in clause (a).

REGISTRATION OF CERTAIN ESTABLISHMENTS (CHAPTER II)

Registration (Section 3)

Section 3(1) of the Code prescribes that every employer of any establishment,—

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

(b) to which this Code shall apply, shall,

within 60 days from the date of such applicability of this Code, make an application electronically to the registering officer appointed by the Appropriate Government (hereinafter referred to as the registering officer) for the registration of such establishment.

Provided that the registering officer may entertain any such application for registration after the expiry of such period on payment of such late fees as may be prescribed by the Appropriate Government.

Manner of Registration

Section 3(2) of the Code provides that every application 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.

Issuance of Registration Certificate

Section 3(3) of the Code specifies that after the receipt of an application, the registering officer shall register the establishment and issue a certificate of registration electronically to the employer thereof in such form and within such time and subject to such conditions as may be prescribed by the Central Government.

Provided that if the registering officer fails to register an establishment under the application so made or to entertain the application within the prescribed period, then, such establishment shall be deemed to have been registered under this Code immediately on the expiration of

such period and the electronic certificate of registration shall be auto generated and the responsibility of such failure shall be on the registering officer.

Change in the Ownership or Management

Section 3(4) of the Code states that any change in the ownership or management or in any particulars which occurs after the registration of an establishment under this Code, shall be intimated by the employer electronically to the registering officer within thirty days of such change in such form as may be prescribed by the Central Government and thereafter the registering officer shall make amendment in the certificate of registration electronically in such manner as may be prescribed by the Central Government.

Closing of the Establishment

Section 3(5) of the Code states that the employer of an establishment shall, within 30 days of the closing of the establishment—

(a) inform the closing of such establishment; and

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

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

Misrepresentation or Fraudulent Registration

Section 3(6) of the Code lays down that if an employer of an establishment—

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

(b) has obtained the registration of his establishment so fraudulently or otherwise that the registration has become useless or ineffective to run the establishment,

then, in case of clause (a) such misrepresentation or suppression of any material fact shall be deemed to be the contravention of the provisions of this Code for prosecution of the employer under section 94 (General penalty for offences) 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).

Prohibition on Employment without Registration

As per Section 3(7) of the Code, an employer of an establishment shall not employ any employee in the 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.

Deemed Registration

Section 3(8) of the Code provides that notwithstanding anything contained in this Code, where any establishment, to which this Code applies, has already been registered under any—

(a) Central Labour law; or

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

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

Appeal (Section 4)

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.

On receipt of an appeal, the Appellate Officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal within a period of thirty days from the date of receipt of such appeal.

Notice by Employer of Commencement and Cessation of Operation (Section 5)

Obligation of Employers

An employer of an establishment being factory or mine or relating to contract labour or building or other construction work shall not use such establishment to commence the operation of any industry, trade, business, manufacturing or occupation thereon without sending notice of such purpose.

The notice shall be submitted in the prescribed form, manner, and within the time specified by the Appropriate Government. Similarly, when operations in the establishment cease, the employer is required to intimate such cessation to the same authority, following the procedure prescribed.

Mode of Submission

The Code mandates electronic submission of such notices of commencement and cessation of establishment.

DUTIES OF EMPLOYER AND EMPLOYEES (CHAPTER III)

Duties of Employer (Section 6)

General Duties of Employer:

Every employer shall,—

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

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

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

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

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

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

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

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

Specific Duties of Employer:

The duties of an employer shall particularly in respect of factory, mines, dock, building or other construction work or plantation include—

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

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

(c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work;

(d) the maintenance of all places of work in the workplace in a condition that is safe and without risk to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risk;

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

Duties and Responsibilities of Owner, Agent and Manager in Relation to Mine (Section 7)

(1) The owner and agent of every mine shall jointly and severally be responsible for –
   (a) making financial and other provisions; and
   (b) for taking such other steps as may be necessary

   for compliance with the provisions of this Code and the rules, regulations, bye-laws and orders made thereunder, relating to mine.

(2) In the event of any contravention by any person whosoever of any of the provisions of this Code or of the rules, regulations, bye-laws or orders made thereunder, relating to mine, except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, then, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention, namely:—
   (a) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;
   (b) the manager of the mine;
   (c) the owner and agent of the mine;
   (d) the person appointed, if any, to carry out the responsibility under section 24.

Duties of Designers, Manufacturers, Importers or Suppliers (Section 8)

(1) Every person who designs, manufactures, imports or supplies any article for use in any establishment shall –
   (a) ensure so far as is reasonably practicable, that the article is so designed and constructed in the establishment as to be safe and without risk to the health of the workers when properly used;
   (b) carry out or arrange for the carrying out of such tests and examination in the establishment as may be considered necessary for the effective implementation of the provisions of clause (a);
   (c) take steps as may be necessary to ensure that adequate information will be available—
      (i) in connection with the use of the article in any establishment;
      (ii) about the use for which such article is designed and tested; and
      (iii) about any conditions necessary to ensure that the article, when put to such use, shall be safe, and without risk to the health of the workers.

However, 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) 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.

(3) 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.

Improper Use

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.

For the purpose of this section—

(a) "article" shall include plant and machinery;

(b) "substance" means any natural or artificial substance whether in a solid or liquid form or in the form of a gas or vapour; and

(c) "substance for use in any factory" means such substance, whether or not intended for use by persons working in a factory.

Duties of Architect, Project Engineer and Designer (Section 9)

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

(2) Adequate care shall be taken by the architect, project engineer and other professionals involved in the project referred to in sub-section (1), not to include anything in the design

which would involve the use of dangerous structures or other processes or materials, hazardous to health or safety of building workers and employees during the course of erection, operation and execution as the case may be.

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

Notice of Certain Accident (Section 10)

Duty to Report Accidents

Where at any place in an establishment, an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident or which is of such nature as may be prescribed by the Appropriate Government, then,—

(a) employer or owner or agent or manager referred to in section 67 of such establishment if it is mine; or

(b) employer or manager in relation to such establishment if it is factory or relates to dock work; or

(c) the employer of a plantation or an establishment relating to building or other construction or any other establishment,

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

Inquiry in Case of Death

Where a notice relates to an accident causing death in a plantation or an establishment relating to building or other construction work or any other establishment, the authority to whom the notice is sent shall make an inquiry into the occurrence within two months of the receipt of the notice or if there is no such authority, the Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry within the said period.

Notice of certain Dangerous Occurrences (Section 11)

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

Notice of Certain Diseases (Section 12)

Employer's Duty**:** 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.

***Medical Practitioner's Duty*:** 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.

***Penalty for Non-Compliance*:** If any qualified medical practitioner fails to comply with these provisions, he shall be punishable with penalty which may extend to ten thousand rupees.

Duties of Employee (Section 13)

Every employee at workplace shall,—

(a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the workplace;
(b) comply with the safety and health requirements specified in the standards;
(c) co-operate with the employer in meeting the statutory obligations of the employer under this Code;
(d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable, report such situation to his employer or to the health and safety representative and in case of mine, agent or manager referred to in section 67, safety officers or an official for his workplace or section thereof, as the case may be, who shall report it to the employer in the manner as may be prescribed by the Appropriate Government;
(e) not wilfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers;
(f) not do, wilfully and without reasonable cause, anything, likely to endanger himself or others; and
(g) perform such other duties as may be prescribed by the Appropriate Government.

Rights of Employee (Section 14)

Right of Information

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.

Reporting Imminent Danger

Where the employee 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 and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

Remedial Action

The employer or any employee 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.

Decision of Inspector-cum-Facilitator

If the employer 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.

OCCUPATIONAL SAFETY AND HEALTH (CHAPTER IV)

National Occupational Safety and Health Advisory Board (Section 16)

The Central Government shall, by notification, constitute the National Occupational Safety and Health Advisory Board (hereinafter in this Code referred to as the National Board) to discharge the functions conferred on it by or under this Code and to advise the Central Government on the matters relating to—

(a) standards, rules and regulations to be declared or framed under this Code;
(b) implementation of the provisions of this Code and the standards, rules and regulations relating thereto;
(c) the issues of policy and programme relating to occupational safety and health referred to it, from time to time, by the Central Government; and
(d) any other matter in respect of this Code referred to it, from time to time, by the Central Government.

State Occupational Safety and Health Advisory Board (Section 17)

Section 17 provides that the State Government shall constitute a Board to be called the State Occupational Safety and Health Advisory Board (hereinafter referred to as "State Advisory Board") to advise the State Government on such matters arising out of the administration of this Code as may be referred to it by the State Government. The constitution, procedure and other matters relating to State Advisory Board shall be such as may be prescribed by the State Government.

The State Government may constitute as many technical committees or advisory committees of the State Advisory Board including site appraisal committees, consisting of such number of members and having such qualifications as may be prescribed, to assist the State Government or State Advisory Board in discharge of their functions relating to the area falling within their respective jurisdictions.

Occupational Safety and Health Standards (Section 18)

Declaration of Standards

The Central Government shall declare, by notification, standards on occupational safety and health for workplaces relating to factory, mine, dock work, beedi and cigar, building and other construction work and other establishments.

Scope of Standards

In particular and without prejudice to the generality of the power to declare standards to be followed, such standards shall relate to—

(a) **Hazard Control:** physical, chemical, biological and any other hazards to be dealt with for the working life of employee to ensure to the extent feasible on the basis of the best available evidence or functional capacity, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to such hazards.

(b) **Norms for Hazard Management:**

(i) appraising the hazards to employees and users to whom such hazards are exposed;

(ii) relating to relevant symptoms and appropriate energy treatment and proper conditions and precautions of safe use or exposure;

(iii) for monitoring and measuring exposure of employees to hazards;

(iv) for medical examination and other tests which shall be made available, by the employer or at his cost, to the employees exposed to hazards; and

(v) for hazard evaluation procedures like safety audit, hazard and operability study, fault free analysis, event free analysis and such other requirements.

***Medical Examination Post-Employment*:** Medical examination including criteria for detection and reporting of occupational diseases to be extended to the employees even after he ceases to be in employment, if he is suffering from an occupational disease which arises out of or in the course of employment.

Reports of Designated Authorities: Such aspects of occupational safety and health relating to workplaces which the Central Government considers necessary on the report of the authority designated by such Government for such purpose.

Sector-Specific Measures: Safety and health measures as may be required having regard to the specific conditions prevailing at the workplaces relating to mine, factory, building and other construction work, beedi and cigar, dock work or any other establishments notified.

The Standards must also be relating to the matters specified in the Second Schedule to this Code.

Safety and Occupational Health Survey (Section 20)

Survey

The following may at any time conduct survey of the factory or mine or such other establishment or class of establishments during the normal working hours of an establishment or at any other time as he may deem necessary, after giving notice in writing to the employer–

(a) the Chief Inspector-cum-Facilitator in the case of factory or mine; or
(b) the Director General of Factory Advice Service and Labour Institute in the case of factory; or
(c) the Director General of Mines Safety in the case of mine; or
(d) the Director General of Health Services in the case of factory or mine; or
(e) such other officer as may be authorised by the Appropriate Government in the case of any other establishment or class of establishments.

The 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. 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.

Medical examination of workers

(1) For the purpose of facilitating surveys, 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.
(2) Any time spent by a worker for undergoing medical examination or furnishing information shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be working hour for him.

Safety Committee and Safety Officers (Section 22)

Section 22 is a practical compliance provision that institutionalizes Safety Committees and Safety Officers in establishments. The provisions of the section are as follows:

Safety Committee

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:

- representatives of employers and workers
- the number of representatives of workers on the Committee shall not be less than the number of representatives of the employer
- the workers representatives shall be chosen in such manner and for such purpose as may be prescribed by the Appropriate Government.

Safety Officers

In every establishment which is a—

(a) factory wherein **500 workers or more**; or
(b) factory carrying on **hazardous process** wherein **250 workers or more**; or
(c) building or other construction work wherein **250 workers or more**; or
(d) **mine** wherein **100 or more workers,** are ordinarily employed,

the employer shall also appoint such number of safety officers, who shall possess such qualifications and perform such duties, as may be prescribed by Appropriate Government.

HEALTH, SAFETY AND WORKING CONDITIONS (CHAPTER V)

Responsibility of Employer for maintaining Health, Safety and Working Conditions (Section 23)

Section 23 deals with the employer's responsibility for health, safety, and working conditions.

General Duty: 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.

***Specific Matters Prescribed*:** 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.

WELFARE PROVISIONS (CHAPTER VI)

Welfare Facilities in the Establishment (Section 24)

Section 24 is a comprehensive welfare provision that codifies the employer's responsibility to maintain health, safety, and decent working conditions.

Welfare Facilities

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

(i) adequate and suitable facilities for washing to male and female employees separately;
(ii) bathing places and locker rooms for male, female and transgender employees separately;
(iii) place of keeping clothing not worn during working hours and for the drying of wet clothing;
(iv) sitting arrangements for all employees obliged to work in a standing position;
(v) facilities of canteen in an establishment for employees thereof, wherein one hundred or more workers including contract labourers are ordinarily employed;
(vi) in case of mines, medical examination of the employees employed or to be employed in the mines, before their employment and at specific intervals;

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

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

Additional Prescribed Matters

The Central Government may also prescribe for the following matters, namely:—

(i) ambulance room in every factory, mine, building or other construction work wherein **more than 500 workers** are ordinarily employed;

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

(iii) adequate, suitable and separate shelters or rest-rooms for male, female and transgender employees and lunch-room in every factory and mine wherein **more than 50 workers** are ordinarily employed and in motor transport undertaking wherein employee is required to halt at night;

(iv) the appointment of welfare officer in every factory, mine or plantation wherein **250 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.

Crèche Facility

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

Provided that an establishment can avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation or group of establishments may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.

HOURS OF WORK AND ANNUAL LEAVE WITH WAGES (CHAPTER VII)

Daily and Weekly Working Hours, Leave (Section 25)

Section 25 is a foundational provision on daily and weekly working hours, leave entitlements, and special categories of workers.

General Working Hours

Section 25 laid down that no worker shall be required or allowed to work, in any establishment or class of establishment for more than—

(a) eight hours in a day; and

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

Special Provisions for Mines

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.

Special Provisions for Motor Transport Workers

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.

Working hours for Working Journalist

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.

Sales Promotion Employees & Working Journalists – Leave Entitlements

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.

Adolescent Workers

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.

Weekly and Compensatory Holidays (Section 26)

Section 26 ensuring that workers receive weekly rest and, if deprived, compensatory holidays.

Weekly Holiday Rule

A worker shall not be allowed to work in an establishment for more than six days in any one week.

Special Provision for Motor Transport Workers

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.

Government Exemptions

The Appropriate Government may, by notification, exempt such workers as it thinks fit from these provisions, subject to such conditions as may be prescribed.

Compensatory Holidays

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

Extra Wages for Overtime (Section 27)

This provision ensures that overtime is both voluntary and fairly compensated.

Overtime Pay

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.

Consent Requirement

It is provided that a worker shall be required to work overtime by the employer subject to the consent of such worker for such work.

Government Regulation

It is further provided that the Appropriate Government may prescribe the total number of hours of overtime.

Night Shifts (Section 28)

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

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

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

Prohibition of Overlapping Shifts (Section 29)

The section provides for regulating arrangement of shifts in establishments to prevent overlapping relays of workers.

General Rule

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.

Exemptions

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 these provisions provided that the provisions of this sub-section shall not apply to mines.

Restriction on Double Employment in Factory and Mine (Section 30)

A worker shall not be required or allowed to work in a mine or factory if he has already been working in any other such similar establishment within the preceding twelve hours, save in such circumstances as may be prescribed by the Appropriate Government.

Notice of Periods of Work (Section 31)

The section provides for procedural compliance ensuring transparency in work schedules. It mandates employers to formally display and notify periods of work, with oversight by the Inspector-cum-Facilitator.

Display of Notice

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

Form and Submission

The form of notice required, 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.

Changes in Work System

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

Annual Leave with Wages (Section 32)

The section comprehensively provides for annual leave with wages, laying down eligibility, accrual, carry-forward, encashment, and special rules for mines.

Section 32(1) of the Code specify that every worker employed in an establishment shall be entitled for leave in a calendar year with wages subject to the following conditions, namely:—

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

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

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

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

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

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

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

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

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

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

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

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

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

Extension to Other Establishments: The Appropriate Government may, by notification, extend the above mentioned provisions to any other establishment except railway establishment.

Special Provisions for Mines

- Existing rights under other laws, awards, or contracts remain protected.
- If such arrangements provide longer leave, they shall prevail.
- The Central Government may exempt mines if their leave rules are not less favourable than those in sub-section (1).

Maintenance of Registers, Records and Filing of Returns (Section 33)

Section 33 of the Code prescribes that an employer of an establishment shall—

(a) maintain register in prescribed form, electronically or otherwise, containing such particulars of workers as may be prescribed by the Appropriate Government including,—
  (i) work performed by them;
  (ii) number of hours of work constituting normal working hours in a day;
  (iii) day of rest allowed in every period of seven days;
  (iv) wage paid and receipts given therefor;
  (v) leave, leave wages, overtime work, attendance and dangerous occurrences; and
  (vi) employment of adolescent;

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

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

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

INSPECTOR-CUM-FACILITATORS AND OTHER AUTHORITY (CHAPTER IX)

Appointment of Inspector-cum-Facilitators (Section 34)

The section provides the framework for appointing and regulating Inspector-cum-Facilitators under the Code.

It defines their appointment, jurisdiction, inspection schemes, hierarchy, and safeguards against conflicts of interest as follows:

1. The Appropriate Government may, by notification, appoint Inspector-cum-Facilitators for the purposes of this Code who shall exercise the powers conferred on them under this Code throughout their respective jurisdiction specified in the notification.
2. The Inspector-cum-Facilitators shall, apart from other duties to be discharged by them under this Code, conduct such inspections as specified.
3. The Appropriate Government may—
   (i) for the purposes of inspection, by notification, lay down an inspection scheme which may provide for the generation of web-based inspection and calling of information under this Code, electronically and such scheme shall, inter alia, have provisions to cater to special circumstances for assigning inspection and calling for information from establishment or any other person besides web-based inspections; and

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

4. Without prejudice to the powers of the Appropriate Government under this section, the inspection scheme 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. It is provided that a Chief Inspector-cum-Facilitator may be appointed for the purposes of a State or more than one States or for the purposes of the whole of the Country.
6. The Appropriate Government may, by notification, appoint for the purposes of establishments as may be notified by that Government, as many Additional Chief Inspector-cum-Facilitators, Joint Chief Inspector-cum-Facilitators and Deputy Chief Inspector-cum-Facilitators or any other officer of any designation as it thinks appropriate, to exercise such powers of the Chief Inspector-cum-Facilitator within his jurisdiction, as may be specified in the notification.
7. Every Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum- Facilitator, Deputy Chief Inspector-cum-Facilitator and every other officer appointed under sub-section (6) shall, in addition to the powers of a Chief Inspector-cum-Facilitator specified in the notification by which the officer is appointed, exercise the powers of an Inspector-cum-Facilitator within such local limits as may be specified in the notification.
8. No person shall be appointed under this section or having been so appointed, shall continue to hold office, who is, or who becomes, directly or indirectly interested in a workplace or work activity or in any process or business carried on in any workplace or in any plant or machinery connected therewith.
9. The Appropriate Government may also, by notification, appoint such public officers as it thinks fit to be Inspector-cum-Facilitators in addition to existing Inspector-cum-Facilitator for exercising the powers and discharging the duties of Inspector-cum-Facilitator for all or any of the purposes of this Code within such local limits as may be specified in such notification.

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

    It is 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.

Powers of Inspector-cum-Facilitators (Section 35)

Sections 35 and 36 together define the powers of Inspector-cum-Facilitators and extend those powers to the District Magistrate in respect of mines. These provisions are central to enforcement under the Code, blending investigative authority with compliance facilitation.

The provisions of the section are as follows:

Subject to any rules made in this behalf, an Inspector-cum-Facilitator may—

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

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

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

(iv) subject to any rules made by the State Government in this behalf, within his jurisdiction, examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Code, and take on the spot or otherwise statement of any person which he may consider necessary for carrying out the purposes of this Code relating to plantation;

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

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

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

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

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

(x) take samples of any articles or substances found in any establishment or premises into which he has power to enter and of the air of the atmosphere in or in the vicinity of any such establishment or premises in such manner as may be prescribed by the Appropriate Government;

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

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

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

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

Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code. The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search or seizure as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

Powers and Duties of District Magistrate (Section 36)

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

Third Party Audit and Certification (Section 37)

Section 37 of the Code introduces the concept of third-party audit and certification that shifts part of the oversight responsibility from government inspectors to empanelled experts.

Empanelment of Experts

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.

Duties of Empanelled Experts

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

Special Powers of Inspector-cum-Facilitator in respect of Factory, Mines, Dock Work and Building or Other Construction Work (Section 38)

Special Powers in respect of a Factory

An Inspector-cum-Facilitator shall have the following special powers in respect of a factory:

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;

Special Powers in respect of Mines

An Inspector-cum-Facilitator shall have the following special powers in respect of Mines –

(a) If, in respect of any matter for which no express provision is made by or under this Code, it appears to the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator that any mine or part thereof or any matter, thing or practice in or connected with the mine, or with the control, supervision, management or direction thereof, is dangerous to human life or safety or is defective so as to threaten or tend to cause, the bodily injury of any person, he may give notice in writing thereof to the employer of the mine stating therein the particulars in respect of which he considers the mine or part thereof or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as he may specify in the notice;
(b) Where the employer of a mine fails to comply with the terms of a notice given under sub-clause (a) within the period specified therein, the Chief Inspector-cum-Facilitator or

the Inspector-cum-Facilitator may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice;

(c) Without prejudice to the provisions contained in sub-clause (a), the Chief Inspector cum-Facilitator or the Inspector-cum-Facilitator may, by order in writing addressed to the employer of a mine, prohibit the extraction or reduction of pillars or blocks of minerals in the mine or part thereof, if, in his opinion, such operation is likely to cause the crushing of pillars or blocks of minerals or the premature collapse of any part of the workings or otherwise endanger the mine or the life or safety of persons employed therein or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by fire or flooding;

(d) If the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator authorised, by general or special order in writing by the Chief Inspector-cum-Facilitator, is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by order in writing containing a statement of the grounds of his opinion, prohibit until he is satisfied that the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger;

(e) Every person whose employment is prohibited under sub-clause (b) or sub-clause (d) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment and the employer shall be liable for payment of such full wages of that person. However, the employer may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited.

(f) Where a notice has been given under sub-clause (a) or an order is made under sub-clause (b) or sub-clause (c) or sub-clause (d) by an Inspector-cum Facilitator, the employer of the mine may, within ten (10) days after the receipt of the notice or order, as the case may be, appeal against the same to the Chief Inspector-cum-Facilitator who may confirm, modify or cancel the notice or order;

(g) The Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator sending a notice under sub-clause (a) or making an order under sub-clause (b) or sub-clause (c) or sub-clause (d) and the Chief Inspector-cum-Facilitator making an order (other than an order of cancellation in appeal) under sub-clause (f) shall forthwith report the same to the Central Government;

(h) If the employer of the mine objects to a notice sent under sub-clause (a) by the Chief Inspector-cum-Facilitator or the Inspector-cum Facilitator or to an order made by the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator under sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (f), as the case may be, he may, within twenty (20) days after the receipt of the notice containing the requisition or of the order or after the date of the decision on appeal, as the case may be, send his objection in writing stating the grounds thereof to the Central Government which shall, ordinarily within a period of one month from the date of receipt of the objection, decide the matter;

(i) every notice under sub-clause (a), or order under sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (f), to which objection is made under sub-clause (h), shall be complied with, pending the objection with the concerned Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator of the mine, for the decision of the Central Government. However, the Central Government may, on the application of the employer, suspend the operation of a notice under sub-clause (a), pending its decision on the objection.

(j) Nothing in this section shall affect the powers of a magistrate under section 144 of the Code of Criminal Procedure, 1973;

(k) Where in respect of any matter relating to safety of mine for which express provision is made by or under this Code, the employer of a mine fails to comply with such provisions, the Chief Inspector-cum-Facilitator may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter;

(l) Where the employer fails to comply with the terms of a notice given under sub-clause (k) within the period specified in such notice or within the extended period of time specified under that sub-clause, the Chief Inspector-cum-Facilitator may, by order in writing, prohibit the employment, in or about the mine or any part thereof, of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice;

(m) Every person whose employment is prohibited under sub-clause (l), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager referred to in section 67 shall be liable for payment of such full wages of that person. However, the employer may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-clause (l).

(n) The provisions of sub-clauses (g), (h) and (i) shall apply in relation to a notice issued under sub-clause (k) or an order made under sub-clause (l) as they apply in relation to a notice or an order under sub-clause (b);

(o) The Chief Inspector-cum-Facilitator may, for reasons to be recorded in writing, reverse or modify any order passed by him under this Code or under any regulation, rule or bye-law made thereunder in relation to mine;

(p) No order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation;

(q) The Central Government may reverse or modify any order passed by Chief Inspector cum-Facilitator under this Code or under any regulation, rule or bye-laws thereunder in relation to mine.

Special Powers in respect of Dock Work

An Inspector-cum-Facilitator shall have the following special powers in respect of Dock Work –

(a) If it appears to an Inspector-cum-Facilitator that any place where any dock work is being carried on is in such a condition that it is dangerous to life, safety or health, of workers

employed in dock work, he may, in writing, serve on the employer, an order prohibiting any dock work, in such place, until measures have been taken to remove the cause of the danger to his satisfaction;

(b) An Inspector-cum-Facilitator after serving an order under clause (a) shall endorse a copy thereof to the Chief Inspector-cum-Facilitator who may modify or cancel the order without waiting for an appeal;

(c) Any person aggrieved by an order under clause (a) or clause (b) may, within fifteen (15) days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the Central Government and the Chief Inspector-cum-Facilitator or the Central Government shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty (60) days. However, the Chief Inspector-cum-Facilitator or the Central Government may entertain the appeal after the expiry of the said period of fifteen (15) days, if he or it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Further, an order under clause (a) or an order modified under clause (b) shall be complied with, pending the decision of the Chief Inspector-cum-Facilitator or the Central Government.

Other Special Powers

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

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

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

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

(2) Any person aggrieved by an order as stated above may, within fifteen (15) 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.

(3) 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 (60) days.

(4) 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.

(5) The order under shall be complied with, subject to the decision of the Chief Inspector-cum-Facilitator or the Appropriate Government as the case may be.

Facilities to be afforded to Inspector-cum-Facilitator (Section 40)

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

Powers of Special Officer to Enter, Measure in Relation to Mine (Section 41)

Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector-cum-Facilitator or of an Inspector-cum-Facilitator may, for the purpose of surveying, leveling or measuring any mine or any output therefrom, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof or any output therefrom at any time by day or night.

Provided that, where in the opinion of the Chief Inspector-cum-Facilitator or of an Inspector-cum-Facilitator an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

Medical Officer (Section 42)

The Appropriate Government may appoint medical practitioners having prescribed qualification to be medical officers for the purposes of this Code in relation to factory, mines, plantation, motor transport undertakings and in any other establishment as may be prescribed.

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

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

a) the examination and certification of workers in a mine or factory or in such other establishment engaged in such dangerous occupations or processes as may be prescribed;
b) the exercise of such medical supervision for any factory, mines, plantation, motor transport undertaking and for such other establishment as may be prescribed by the Appropriate Government where cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in such establishments;
c) the examination and certification of adolescent for the purpose of ascertaining his fitness for employment in factory, plantation, motor transport undertakings and in any other establishment as may be prescribed by the Appropriate Government in any work which is likely to cause injury to their health.

SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN (CHAPTER X)

The section is a progressive provision that affirms the right of women to be employed across all establishments and types of work, while balancing this entitlement with safeguards for safety and working conditions

Employment of Women (Section 43)

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

Adequate safety of Employment of Women in Dangerous Operation (Section 44)

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

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

CONTRACT LABOUR (PART I)

Section 45 of the Code is the gateway provision for the applicability of the Chapter XI (Part I) dealing with contract labour. It defines the threshold for coverage, exclusions, and clarifies what counts as "intermittent" or "casual" work.

Applicability (Section 45)

This Part shall apply to—

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

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

Exclusion

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

Authority to Decide

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

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

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

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

Appointment of Designated Authority (Section 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 section 119(1) and specify the limits of their jurisdiction and vest with such powers and duties including dealing with issuance and revocation of licences electronically as may be specified therein.

Licensing of Contractors (Section 47)

The section is a core compliance provision that regulates the licensing of contractors engaging contract labour. It ensures that contractors cannot operate without formal authorisation, and it introduces both general licences and work-specific licences.

General Rule: Except under and in accordance with a licence issued by the designated authority under Section 119(1), no contractor covered by this Part shall:

(a) Supply or engage contract labour in any establishment; or

(b) Undertake or execute work through contract labour,

Licence shall be issued after verifying that the contractor meets qualifications/criteria prescribed by the Central Government. Such licence shall specify:

- Number of contract labour permitted.
- Amount of security to be deposited.

Work-Specific Licence: If contractor does not meet prescribed qualifications/criteria, the authority may issue a work-specific licence. Such licence:

- Is electronically renewable within prescribed period.
- Applies only to the concerned work order.
- Is subject to specified conditions.

Conditions of Licence: Subject to the provisions of this Part—

(a) Licence may include conditions relating to hours of work.

- Fixation of wages.
- Essential amenities for contract labour.

(b) Licence shall be obtained from:

- Central Government authority (if establishment falls under Central jurisdiction).
- State Government authority (if establishment falls under State jurisdiction).

It may be noted that contractors seeking licences for multiple States or whole of India must obtain licence from the referred to in sub-section (1) of section 119 designated by the Central Government for such purpose. It is further provided that before issuing such licence the authority so designated shall consult the concerned State or States authorities designated under sub-section (1) of section 119, electronically before issuing licence for the establishments for which the Appropriate Government is the State Government.

Procedure for Issue or Renewal of Licence (Section 48)

Section 48 laying down the procedure for issue and renewal of contractor licences. It formalises the process, introduces electronic applications, and defines validity, amendment, and contractor responsibilities.

Electronic Application

1. Applications for licences under Section 119 [for purposes of Section 47(1) or 47(2)] shall be made electronically in form and manner as may be prescribed.
2. Application shall include particulars such as:
   i. Number of contract labour.
   ii. Nature of work for which contract labour is to be employed.
   iii. Other prescribed particulars, including information on inter-State migrant workers.

***Prescribed Procedure*:** The designated authority under Section 119(1) shall follow the procedure prescribed by the Appropriate Government for processing applications.

***Validity and Amendment*:** Licence issued under Section 47(1) shall be valid for five years in respect of the number of contract labour specified therein. If contractor wishes to increase the number of contract labour, he shall apply for amendment in prescribed manner. The authority may amend licence after deposit of additional security deposit for the balance period.

***Contractor's Responsibilities*:** The licence so issued shall contain responsibilities of the contractor as prescribed by the Appropriate Government.

No Fees or Commission or any Cost to Workers (Section 49)

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

Information regarding work order to be given to the Appropriate Government (Section 50)

The section is a compliance and accountability provision that ensures transparency between contractors and the Government regarding contract labour engagements.

Mandatory Intimation

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.

Penalty for Non-Compliance

Where the contractor fails to give intimation, the designated authority may, after giving the holder of the licence an opportunity of showing cause, suspend or cancel the licence in such manner as may be prescribed by the Appropriate Government.

Revocation, Suspension and Amendment of Licence (Section 51)

Sections 51 and 52 together establish the disciplinary framework for contractor licences under the Code. They cover revocation, suspension, amendment, and appeals, ensuring both accountability and procedural fairness.

Grounds for Revocation or Suspension

The designated authority under Section 119(1) may revoke or suspend a licence if:

(a) The licence was obtained by misrepresentation or suppression of material facts.
(b) The licence holder has failed to comply with licence conditions or contravened provisions of this Part or rules.

This revocation or suspension is without prejudice to any other penalty to which the contractor may be liable under this Code.

***Process*:** Action shall be taken only after giving the contractor an opportunity to show cause. Procedure for revocation/suspension is prescribed by the Central Government.

Amendment of Licence

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

Appeal (Section 52)

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 section 119(6).

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.

Disposal of Appeal

On receipt of an appeal, the Appellate Authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within thirty days from the date on which the appeal is preferred.

Liability of Principal Employer for Welfare Facilities (Section 53)

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

Effect of Employing Contract Labour from a Non-licenced Contractor (Section 54)

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

Responsibility for Payment of Wages (Section 55)

This section lays down the financial accountability framework for contractors and principal employers in relation to contract labour.

Contractor's Responsibility

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.

Mode of Payment

Every contractor shall, make the disbursement of wages 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.

Principal Employer's Liability

In case the contractor fails to make payment of wages 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.

The Appropriate Government, in the event the contractor does not pay the wages to the contract labour employed by him, shall pass the orders of making payment of such wages from the amount deposited by such contractor as security deposit under the licence issued by the licensing officer to the contractor, in such manner as may be prescribed by such Government.

Experience Certificate (Section 56)

This section ensures that contract labourers receive formal recognition of their work experience.

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

Prohibition of Employment of Contract Labour (Section 57)

The section establishes a general prohibition on employing contract labour in the core activities of an establishment, thereby protecting the integrity of essential operations and ensuring that permanent workers are not displaced. However, it also provides limited exceptions where contract labour may be engaged, and sets out a mechanism for determining whether an activity qualifies as "core."

General Prohibition: Notwithstanding anything contained in this Part, employment of contract labour in core activities of any establishment is prohibited.

Exceptions

It is 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.

Determination of Core Activity

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

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

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

Power to Exempt in Special Cases (Section 58)

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

INTER-STATE MIGRANT WORKERS (PART II)

Applicability (Section 59)	This Part shall apply to every establishment in which ten or more inter-State migrant workers are employed or were employed on any day of the preceding twelve months.
Facilities to Inter-State Migrant Workers (Section 60)	It shall be the duty of every contractor or the employer, of an establishment employing inter-State migrant workers in connection with the work of that establishment— (i) to ensure suitable conditions of work to such worker having regard to the fact that he is required to work in a State different from his own State; (ii) in case of fatal accident or serious bodily injury to any such worker, to report to the specified authorities of both the States and also the next of kin of the worker; (iii) to extend all benefits to such worker which are available to a worker of that establishment including benefits under the Employees' State Insurance Act, 1948 or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any other law for the time being in force and the facility of medical check-up as available to a worker under clause (c) of sub-section (1) of section 6.
Journey Allowance (Section 61)	The employer shall pay, to every inter-State migrant worker employed in his establishment, in a year a lump sum

	amount of fare for to and fro journey to his native place from the place of his employment, in the manner taking into account the minimum service for entitlement, periodicity and class of travel and such other matters as may be prescribed by the Appropriate Government.
Benefits of Public Distribution System (Section 62)	The Appropriate Government shall make schemes to provide— (a) option to an inter-State migrant worker for availing benefits of public distribution system either in his native State or the destination State where he is employed; and (b) for portability of the benefits of the inter-State migrant worker working for building or other construction work out of the building and other construction cess fund in the destination State where such inter-State migrant worker is employed.
Toll Free Helpline (Section 63)	The Appropriate Government may provide facility of toll free helpline to the inter-State migrant workers in such manner as may be prescribed by that Government.
Study of Inter-State Migrant Workers (Section 64)	The Appropriate Government may provide for study of inter-State migrant workers in such manner as may be prescribed by that Government.
Past Liabilities (Section 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.

AUDIO-VISUAL WORKERS (PART III)

Prohibition of Employment of Audio-Visual Worker without Agreement (Section 66)

A person shall not be employed as an audio-visual worker in or in connection with production of any audio-visual programme unless,—

(a) an agreement in writing is entered into—

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

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

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

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

Every agreement, referred above 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.

A copy of the agreement 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.

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.

However, 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.

MINES (PART IV)

Managers (Section 67)

Every mine shall be under a sole manager who shall have such qualifications as may be prescribed by the Central Government and the owner or agent of every mine shall appoint a person having such qualifications to be the manager.

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications. Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

Except in case of an emergency, the owner or agent of a mine or anyone on his behalf shall not give, otherwise than through the manager, instructions affecting the fulfilment of his statutory duties, to a person, employed in a mine, who is responsible to the manager.

Code not to apply in Certain Cases (Section 68)

(1) The provisions of this Code, except those contained in sections 35, 38, 40, 41 and 44, shall not apply to—

(a) any mine or part thereof in which excavation is being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale subject to such conditions relating to number of employees, depth of excavation and other matters as may be prescribed by the Central Government;

(b) any mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand (excluding mouldings and glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone, slate, road metal, earth, fullers earth (marl, chalk) and lime stone subject to such conditions relating to workings, open cast workings and explosives as may be prescribed by the Central Government.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may declare that the provisions of this Code shall apply to such mine or part thereof as may be prescribed by the Central Government.

(3) Without prejudice to the provisions contained in sub-section (2), if at any time any of the conditions specified in clause (a) or clause (b) of sub-section (1) is not fulfilled in relation to any mine referred to in that sub-section, the provisions of this Code not set out in sub-section (1), shall become immediately applicable, and it shall be the duty of the employer of the mine to inform about such non-fulfilment to such authority in such manner and within such time as may be prescribed by the Central Government.

Exemption from Provision Regarding Employment (Section 69)

In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as a result of breakdown of such machinery plant or equipment, the manager may, subject to the provision of clause (B) of sub-section (1) of section 38 and in accordance with the provisions of section 25 relating to exemption from hours of work above ground, hours of work below ground and notification regarding hours of work and weekly day of rest relating to mines under section 26, permit persons to be employed in contravention of sections 25 and 30 and sub-section (1) of section 31 on such work as may be necessary to protect the safety of the mine or of the persons employed therein.

Provided that in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of mineral would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

Every case in which action has been taken by the manager, shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator.

Employment of Persons below Eighteen Years of Age (Section 70)

(1) No person below eighteen years of age shall be allowed to work in any mine or part thereof.

(2) Notwithstanding anything contained in sub-section (1), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager as referred to in section 67. Provided that in the case of trainees, other than apprentices, prior approval of the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator shall be obtained before they are allowed to work.

(3) The Central Government may prescribe the provisions for medical examination of apprentice, other trainee and employee in the mine to ensure their fitness to work and to prevent the persons below sixteen years of age to work as apprentice or trainee and those who are not adults to work as such employee.

Explanation.—In this section, "apprentice" means an apprentice as defined in clause (a) of section 2 of the Apprentices Act, 1961.

Exemption to Certain Persons (Section 71)

The Central Government may make rules to provide for exemption to certain persons or category of persons employed in mines from the provisions of sub-section (1) of section 25, sub-section (1) of section 26, section 30 and sub-section (1) of section 31.

Establishment, Maintenance of Rescue Services and Vocational Training (Section 72)

The Central Government may prescribe vocational training and rescue and recovery services for persons employed in a mine.

Decision of Question whether a Mine is covered under this Code (Section 73)

If any question arises as to whether any excavation or working or premises in or adjacent to and belonging to a mine, on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on in a mine within the meaning of this Code, the Central Government may decide the question, and a certificate signed by a Secretary to the Government of India in the Ministry of Labour and Employment shall be conclusive proof thereof.

BEEDI AND CIGAR WORKERS (PART V)

Licence to Industrial Premises and Person (Section 74)

An employer shall not 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.

Subject to the provisions of section 119-

- any person who intends to use or allows to use any place or premises shall make an application to the authority referred to in sub-section (1) of section 119, in such form and on payment of such fees as may be prescribed by the State Government, for a licence to use, or allow to use, such premises as an industrial premises;
- the application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed by the State Government;
- the authority referred to in sub-section (1) thereof shall, in deciding whether to grant or refuse to grant a licence, have regard to the following matters, namely:—
  (a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;
  (b) previous experience of the applicant or he has employed experienced person or has entered into agreement with the experienced person for employment for the period of licence;
  (c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;
  (d) whether the application is made bona fide on behalf of the applicant himself or in benami of any other person;
  (e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed by the State Government.
- a licence granted under the said section for the purposes of this section shall be valid for five years and may be renewed thereafter;
- an application for the renewal of a licence for the purposes of this Part shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed by the State Government, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof.

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

  Provided further that the authority referred to in sub-section (1) of section 119 shall renew or refuse to renew the licence within such period as may be prescribed by the State Government and in deciding whether to renew a licence or to refuse a renewal thereof.

- the authority 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;
- the State Government may issue in writing to an authority referred to in sub-section (1) of section 119 such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licence under section 119 relating to this section;
- the authority referred to in sub-section (1) of section 119 may grant or renew licence relating to this Part on such terms and conditions as it may determine and where such authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

Appeals (Section 75)

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

Permission to Work by Employees outside Industrial Premises (Section 76)

The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees, subject to such conditions as may be prescribed. The employer shall maintain the record of the work permitted, to be carried on outside the industrial premises, in such form as may be prescribed.

Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises. Provided that nothing in this sub-section shall apply to any worker who is given raw material by an employer or a contractor to make beedi or cigar or both at home.

Part not to apply to Self-employed Persons in Private Dwelling Houses (Section 77)

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

Explanation.—For the purposes of this section,—

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

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

BUILDING OR OTHER CONSTRUCTION WORKERS (PART VI)

Prohibition of Employment of Certain Persons in Certain Building or Other Construction Work (Section 78)

A 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 not 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.

FACTORIES (PART VII)

Approval and Licensing of Factories (Section 79)

i. The Appropriate Government may make rules in respect of factory or class or description of factories for—
   (a) the submission of plans including specifications, nature and certification thereof;
   (b) the previous permission for the site on which the factory is to be situated and for the construction or extension thereof; and
   (c) subject to the provision of sub-section 119, licensing and renewal thereof including fees to be payable for such, licensing and renewal, if required, as the case may be.

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

Appeal to the Central Government

Where a State Government or a Chief Inspector-cum-Facilitator refuses to grant permission to the site, construction or extension of a factory and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the State Government and to the State Government in any other case.

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

Liability of Owner of Premises in Certain Circumstances (Section 80)

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

Power to Apply Code to Certain Premises (Section 81)

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

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

Dangerous Operations (Section 82)

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

(a) specifying the manufacturing process or operation and declaring it to be dangerous;
(b) prohibiting or restricting the employment of pregnant women in the manufacturing process or operation;
(c) the periodical medical examination before, or at any time during the employment to ascertain the fitness of a worker or employee for such employment on the cost of the occupier; and
(d) welfare amenities, sanitary facilities, protective equipment and clothing, and any other requirement necessary for dangerous operations.

Constitution of Site Appraisal Committee (Section 83)

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

Compulsory Disclosure of Information by Occupier (Section 84)

Information to be disclosed

The occupier of every factory involving a hazardous process shall disclose in the manner prescribed by the State Government all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, the local authority within whose jurisdiction the factory is situate and the general public in the vicinity.

Detailed policy to be laid down by the Occupier

The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the local authority and, thereafter, at such intervals as may be prescribed by the State Government, inform the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the local authority of any change made in the said policy.

The information furnished shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

Onsite Emergency Plan

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.

Duty to disclose nature of hazardous process

Every occupier of a factory shall, if such factory proposes to engage in a hazardous process at any time after the commencement of this Code, within a period of thirty days before the commencement of such process, inform the Chief Inspector-cum-Facilitator about the nature and details of the process in such form and in such manner as may be prescribed by the State Government.

Penalty for Contravention

Where any occupier of a factory contravenes the provisions of section 84(5), the licence issued under section 79 to such factory shall, notwithstanding any penalty to which the occupier of factory shall be subjected to under the provisions of this Code, be liable for cancellation.

Measures for handling hazardous substances

The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector-cum-Facilitator, lay down measures for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed by the State Government among the workers and the general public living in the vicinity.

Specific Responsibility of the Occupier in Relation to Hazardous Processes (Section 85)

Every occupier of a factory involving any hazardous process shall—

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

(b) appoint persons who possess prescribed qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed by the State Government. Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector-cum-Facilitator shall be final;

(c) provide for medical examination of every worker—

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

ii. while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed by the State Government.

National Board to Inquire into Certain Situations (Section 86)

In the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, the Central Government may direct the National Board to inquire into the standards of health and safety observed in the factory with a view to finding out

- the causes of any failure or neglect in the adoption of any measures or standards prescribed by the State Government for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected due to such failure or neglect and
- for the prevention of recurrence of such extraordinary situations in future in such factory or elsewhere.

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

Emergency Standards (Section 87)

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.

Enforceability of the emergency standards

The emergency standards laid down shall, until they are incorporated in the rules made under this Code, be enforceable and have the same effect as if they had been incorporated in the rules made under this Code.

Permissible Limits of Exposure of Chemicals and Toxic Substances (Section 88)

The maximum permissible limits of exposure of chemical and toxic substances in manufacturing process in any factory shall be of the value as may be prescribed by the State Government.

Right of Workers to Warn about Imminent Danger (Section 89)

Apprehension by the Workers

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.

Duty of the Person Receiving Notice of Imminent Danger

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.

Reference of the matter in case imminent danger is not observed

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

Appeal against the Order of Inspector-Cum-Facilitator in case of Factory (Section 90)

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

Power to Make Rules to Exempt (Section 91)

The Appropriate Government may make rules,—

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

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

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.

PLANTATION (PART VIII)

Facilities for Workers in Plantation (Section 92)

Without prejudice to the generality of sections 23 and 24, the State Government may prescribe requiring every employer to make provisions in his plantation for—

(a) necessary housing accommodation including drinking water, kitchen and toilet to every worker employed in the plantation (including his family);

(b) crèches facilities where in the plantation fifty or more workers (including workers employed by any contractor) are employed or were employed on any day of the preceding twelve months.

Provided that,—

(i) an establishment may avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation; or

(ii) a group of establishments may agree to pool their resources for setting up of common crèche;

(c) educational facilities for the children of the workers employed in the plantation where the children between the ages of six to twelve of the workers exceed twenty-five in number;

(d) health facilities to every worker employed in the plantation (including his family) or provide coverage under the Employees State Insurance Act, 1948; and

(e) recreational facilities for the workers employed in the plantation.

An employer of a plantation shall be responsible to provide and maintain welfare facilities for which the workers in the plantation are entitled under this Code either from his own resources or through the schemes of the Central Government or State Government, Municipality or Panchayat for the locality in which the plantation is situated.

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

(i) the expression "Municipality" has the same meaning as assigned to it in clause (e) of article 243 of the Constitution; and

(ii) the expression "Panchayat" has the same meaning as assigned to it in clause (d) of article 243 of the Constitution.

Safety (Section 93)

In every plantation, arrangement shall be made by the employer to provide for the safety of a worker in connection with the use, handling, storage and transport of insecticides, pesticides and chemicals and toxic substances. The State Government may prescribe for special safeguards for employment of women or adolescents in using or handling hazardous chemicals. The employer of a plantation shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides,

chemicals and toxic substances in his plantation. Every employer of a plantation shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides, chemicals and toxic substances and such other matters as may be prescribed by the State Government. Every worker in a plantation who is exposed to insecticides, pesticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed by the State Government. Every employer of a plantation shall maintain health record of every worker in plantation who is exposed to insecticides, pesticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

Every employer of a plantation shall provide—

(a) washing, bathing and clock room facilities; and

(b) protective clothing and equipment, to every worker engaged in the handling insecticides, pesticides, chemicals and toxic substances in such manner as may be prescribed by the State Government.

Every employer of a plantation shall display in the plantation, a list of permissible concentrations of insecticides, pesticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of insecticides, pesticides, chemicals and toxic substances in the plantation. Every employer of a plantation shall exhibit such precautionary notices in the plantation as may be prescribed by the State Government indicating the hazards of insecticides, pesticides, chemicals and toxic substances.

OFFENCES AND PENALTIES (CHAPTER XII)

General Penalty for Offences (Section 94)

Save as otherwise expressly provided in this Code, if in, or in respect of, any establishment, there is any contravention of the provisions of this Code or regulations or rules, or bye-laws or any of standards, made thereunder or of any order in writing given under this Code or such regulations or rules or bye-laws or standards, the employer or the principal employer of the establishment, as the case may be, shall be liable to **penalty which shall not be less than two lakhs rupees but which may extend up to three lakh rupees**, and if the contravention is continued after the conviction, then, with further penalty which may extend to two thousand rupees for each day till such contravention continues.

Punishment for Causing Obstruction to Chief Inspector-Cum-Facilitator or Inspector-Cum -Facilitator (Section 95)

Whoever wilfully—

(i) prevents or causes obstruction to a Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or an officer of the Appropriate Government or a person authorised to discharge any duty or to exercise any powers under this Code or the rules or the

regulations or the bye-laws made thereunder, from discharging such duty or exercising such power; or

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

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

(iv) fails to comply with any requisition or order issued to him,

under this Code or the rules, regulations or bye-laws made thereunder he shall be punishable with **imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees,** or with both.

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

Penalty for Non-Maintenance of Register, Records and Non-Filing of Returns (Section 96)

Any person, who is required under this Code or the rules or regulations or bye-laws or order made thereunder, to—

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

(ii) produce any register or plan or record or report or any other document, omits or fails to produce such register or plan or record or report or such other document,

he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

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

Punishment for Contravention of Certain Provisions (Section 97)

Any person, who, save as permitted by or under this Code, contravenes, any—

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

(ii) order made under this Code prohibiting, restricting or regulating the employment of workers including women, audio-visual worker and contract labour and employee below eighteen years of age in case of mines,

he shall be liable to **penalty which shall not be less than fifty thousand rupees but which may extend to one lakh rupees**.

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

Punishment for Falsification of Records (Section 98)

Whoever—

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

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

(c) makes, gives or delivers knowingly a false plan, section, return, notice, record or report containing a statement, entry or detail,

he shall be punishable with **imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both**.

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

Penalty for Omission to Furnish Plans (Section 99)

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

Punishment for Disclosure of Information (Section 100)

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**.

Court shall not proceed with the trial of any offence under this section except with the previous sanction of the Appropriate Government.

Punishment for Wrongfully Disclosing Results of Analysis (Section 101)

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

Punishment for Contravention of Provisions of Duties Relating to Hazardous Processes (Section 102)

Whoever fails to comply with or contravenes any of his duties specified under—

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

(ii) section 80,

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

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

Punishment for Contravention of Provisions of Duties Relating to Safety Provisions Resulting in an Accident (Section 103)

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

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

(b) serious bodily injury to any person within the establishment, he shall be punishable with **imprisonment for a term which may extend to one year, or with a fine which shall not be less than two lakh rupees but not exceeding four lakh rupees, or with both.**

Provided that while imposing the fine under this section, the court may direct that a portion of the fine, which shall not be less than fifty per cent. thereof, shall be given as compensation to the victim or to the legal heirs of the victim, in the case of his death. Where a person having been convicted is again convicted thereunder, shall be punishable with double the punishment provided under that sub-section for first conviction.

Failure to Appoint Manager in Mine (Section 105)

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

Offences by Employees (Section 106)

Subject to the provisions of section 13, except clause (d) thereof, if any employee employed in a workplace contravenes any provision of this Code or any rules or orders made thereunder, imposing any duty or liability on employee, he shall be punishable with penalty which may extend to ten thousand rupees. Where an employee is convicted of an offence punishable, the employer of the establishment shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

Prosecution of Owner, Agent or Manager of Mine (Section 107)

No prosecution shall be instituted against any owner, agent or manager of a mine for any offence under this Code except at the instance of the Chief Inspector-cum-Facilitator or of the District Magistrate or of Inspector-cum-Facilitator authorised in this behalf by general or special order in writing by the Chief Inspector-cum-Facilitator.

However, the Chief Inspector-cum-Facilitator or the District Magistrate or the Inspector-cum-Facilitator as so authorised shall before instituting such prosecution satisfy himself that the owner, agent or manager of a mine had failed to exercise due diligence to prevent the commission of such offence.

Provided further that in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager of a mine without the previous approval of the Chief Inspector-cum-Facilitator.

Offences by Companies (Section 109)

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

It is 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.

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

Explanation.—For the purposes of this section,—

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

(b) "director" means,—

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

(ii) the owner of a mine being a firm or other association of individuals or a company; or

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

Power of Officers of Appropriate Government to Impose Penalty in Certain Cases (Section 111)

Holding of Enquiry

The Appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the

case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

Imposition of Penalty

While holding the enquiry, the officer 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, he may impose such penalty as he thinks fit in accordance with the provisions of that sub-section.

Appeal

Any person aggrieved by an order made by the officer may prefer an appeal, in such form and manner and accompanied by such fee as may be prescribed, to the Appellate Authority to be appointed by the Appropriate Government from amongst officers not below the rank of Deputy Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, **within sixty days** from the date on which the copy of the order made by the officer is received by the aggrieved person.

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.

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.

Credit of Amount to Fund

The amount of penalty imposed and received under this section shall be credited to the Social Security Fund.

Jurisdiction of Court for Entertaining Proceedings, etc., for Offence (Section 112)

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

Power of Court to Make Orders (Section 113)

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

Where an order is made, the employer of the mine or the factory shall not be liable under this Code in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully

complied with, employer shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

Composition of Certain Offences (Section 114)

(1) Any penalty under section 12(3) or section 94 or section 96 or section 97(1) 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 that Government in the manner as may be prescribed by it—

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

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

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

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

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

(a) which was earlier compounded; or

(b) for which such person was earlier convicted.

SOCIAL SECURITY FUND (CHAPTER XIII)

Social Security Fund (Section 115)

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. The fund may also be funded by such other sources as may be prescribed by the Appropriate Government.

Administration and Expenditure of the Fund

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.

MISCELLANEOUS (CHAPTER XIV)

Common Licence for Contractor, Factories and to Industrial Premises (Section 119)

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

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

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

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

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

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

It is provided that where the licence is deemed to be issued, no further inquiry shall be made. Provided further that the form of licence shall, as far as practicable, be similar throughout India. Provided also that where such authority rejects the application he shall assign the reason for such rejection.

(5) Notwithstanding anything contained in this Code, any licence in respect of a factory, industrial premises for beedi and cigar work and for engaging contract labour has been obtained under any Central labour law before the commencement of this Code, in respect of any establishment shall be deemed to have been obtained under the provisions of this

Code and shall be valid for the period for which it was issued and shall have to be obtained afresh after its expiration.

(6) Any person aggrieved by an order passed under this section by the authority referred to in sub-section 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.

Power of Appropriate Government to Direct Inquiry in Certain Cases (Section 121)

Appointment of Assessors in the event of the Occurrence of an Accident

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.

Directions of Appropriate Government

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.

Powers of Officer or Committee

The officer directed or committee appointed, to hold an inquiry, shall have the powers of a civil court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also so far as may be necessary for the purposes of the inquiry, exercise such powers of an Inspector-cum-Facilitator under this Code as may be necessary. The Central Government may make rules for regulating the procedure of inquiry and survey and other related matters under this section.

Power of Appropriate Government to Make Rules (Section 133)

The Appropriate Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Code. In particular and without prejudice to the generality of the foregoing power, such rules may provide for the matters such as income from the sources, substance or quantity of substance, the late fee, the manner of submitting application, the form of application, the fees to be accompanied with application, the form and manner of sending the notice, the authority to whom the notice to

be sent, the manner of intimating the authority, annual health examination and other prescribed matters under this section.

Power of Central Government to Make Rules (Section 134)

The Central Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Code. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the matters such as the form of certificate of registration, the form of intimation by the employer electronically, the manner of informing closing of establishment, procedure for nomination and discharge of functions of Members of National Board, health and working conditions and other prescribed matters under this section.

Power of State Government to Make Rules (Section 135)

The State Government may, subject to the condition of previous publication and by notification, make rules for the carrying out the provisions of this Code. In particular and without prejudice to the generality of the foregoing power, such rules may provide for the matters such as the constitution, procedure and other matters relating to State Advisory Board, the manner of preparing the plan of the place or premises, the time of filing appeal, form of maintaining the record of the work, the form and manner of informing Chief Inspector-cum-Facilitator and other prescribed matters under this section.

SALIENT FEATURES OF OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS (CENTRAL) RULES, 2026

The Occupational Safety, Health and Working Conditions (Central) Rules, 2026 were notified by the Ministry of Labour and Employment on May 8, 2026. These rules were established to exercise the powers granted under the Occupational Safety, Health and Working Conditions Code, 2020.

The following is a gist of the key provisions of the Rules:

Registration

Establishments must adhere to a digital-first registration and reporting process to ensure legal compliance.

Action	Form	Timeline
New Registration	FORM-I	Electronic application via Shram Suvidha Portal.
Updation of Existing Data	FORM-I	Required within 6 months (from the date on which rules come into force) for already registered firms.
Closing of the establishment	FORM-II	Intimation must be submitted within 30 days of the closing of the establishment other than mines, to the Registering Officer and also to Inspector-cum-Facilitator
Issuance of Certification of Registation	FORM-III	Issued within 7 days from the date of submission of complete application.
Cancellation of Certificate	FORM-IV	Registering officer issue cancellation of certificate of registration within sixty days from the receipt of FORM-II.

Registration		
Commencement and Cessation of Work	FORM-VI	Notice must be submitted within 30 days of Commencement and Cessation of operation of the establishment relating to contract labour or building or other construction work.

Duties of Employers and Health Standards

The rules mandate proactive measures to safeguard employee health and ensure transparency in employment.

- **Appointment Letters:** No person can be employed without a formal letter (prescribed format) detailing wages, designation, and social security benefits.
- **Annual Health Examination:** Mandatory and free of cost for employees aged 40 years or older in dock work, building and construction work.
- **Reporting disease:** If a worker contracts a disease listed in the Third Schedule of the Code, the employer must immediately notify the Inspector-cum-Facilitator.
- **Fatal Accident Report**: Where an accident occurs resulting to death in an establishment, the employer of the establishment must inform to the Inspector-cum-Facilitator forthwith in a notice in Form-XI.

Occupational Health, Safety and Working Conditions

- **Sanitation:** Separate latrines and urinals must be provided for male, female, transgender, and disabled employees. Signage in Hindi, English, and local languages is mandatory.
- **Lighting and Ventilation:** Employers must ensure adequate natural or artificial light and proper air circulation to remove toxic fumes or dust.
- **Potable water**: adequate supply of clean, wholesome and safe drinking water must be provided.
- **First Aid and Medical Appliances:** First aid boxes or cup-boards in adequate numbers with necessary items are provided and maintained.

Welfare Facility Thresholds:

- **Safety Committee:** Every establishment must form a safety committee if there are 500 or more workers to address workplace safety and health hazards.
- **Canteen:** Mandatory for establishments with 100 or more workers.
- **Creche:** Required for Employer of every factory, mine, building or other construction work, industrial premise for manufacture of beedi and cigar, motor transport undertaking, dock work and plantation with more than 50 workers to support children under the age of six years.
- **Ambulance Room:** Required for factory, mines, building and construction sites employing more than 500 workers.
- **Shelter and Rest Room:** Required for factory, mine and motor transport undertaking employing more than 50 workers.

Employment of Women

Women are permitted to work night shifts (7:00 PM to 6:00 AM) under strict safety conditions.

- **Consent:** Written consent from the woman employee is mandatory.
- **Safety:** The employer must provide safe transportation to her residence and ensure the workplace is well-lit and monitored via CCTV.
- **Presence in Mines:** In below-ground mines, at least three women must be on duty together at any place.

Employment of Contract Labour

- **License requirement:** Contractors must obtain a license (FORM-XXII) and are responsible for timely wage payments.
- **Renewal of licence of Contractor:** Contractor must apply electronically on Shram Suvidha Portal for renewal of the licence at least 30 days prior to expiry of licence period but not before ninety days of such expiry of licence.
- **Responsibility of payment of wages:** If a contractor fails to make payment of wages to the contract labour within seven days of completion of wage period, the principal employer must settle the dues within 15 days.
- **Half-yearly Return**: Contractor must send half-yearly return in FORM-XVIII electronically to the Deputy Chief Labour Commissioner (Central) concerned not later than 30 days from the close of the half year.
- **Experience Certificates:** Contractors are obligated to issue experience certificates in FORM-XXIII to contract workers upon demand.

Hours of Work

- **Maximum Hours:** Workers are not required/allowed to work more than 48 hours per week.
- **Overtime:** Any work beyond standard hours is compensated at the rate of twice the rate of their wages.

Administrative and Legal Provisions

- **Annual Return:** Employer of an establishment must send an annual return in FORM-XVII related to category of employees, health and welfare facilities, retrenchment or layoffs, bonus, maternity benefits etc. to the Inspector-cum-Facilitator
- **Registers:** All employers must maintain registers for employees (FORM-XIII), attendance (FORM-XIV), and wages, overtime and deductions (FORM-XV).

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SECTION VII: THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

1. Compliances to be made by the Employer under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act")

(i) **Constitution of the Internal Complaints Committee:** Every employer, with 10 or more employees, shall constitute an 'Internal Complaints Committee' at the workplace and wherein the offices or administrative units of workplace are located at different places or divisional or sub-divisional level, employer will, constitute the the Internal Committee at all such offices or administrative units.

(ii) **Preparation of an Annual Report by the employer:** The POSH Act casts a duty on employers to include information pertaining to the number of cases filed and disposed of by them in their Annual Report. Where no such report is required to be prepared, employer must intimate such number of cases, if any, to the District Officer.

(iii) **Drafting a Prevention of Sexual Harassment (POSH) policy:** The POSH Act requires every employer to formulate and widely disseminate a POSH Policy to prevent, prohibit, and redress sexual harassment at the workplace.

2. Disclosure Requirements under the Annual Report of Companies

The Sexual Harassment of Women at the Workplace (Prevention, Prohibition & Redressal) Act, 2013 mandates that all companies need to make necessary disclosure about compliance with the said law in their Annual Report as follows:

- The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the Annual Report of his organization or where no such report is required to be prepared, intimate such number of cases if any, to the District Officer. [Section 22 of the POSH Act]
- The Board's Report shall contain a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 along with the following details: -

  (a) number of complaints of sexual harassment received in the year;

  (b) number of complaints disposed off during the year; and

  (c) number of cases pending for more than ninety days

  (d) number of workshops or awareness programme against sexual harassment carried out;

  (e) nature of action taken by the employer or District Officer.

3. Manner to organize workshops, etc. [Rule 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013]

Subject to the provisions of Section 19, every employer shall;

a. formulate and widely disseminate an internal policy or charter or resolution or declaration for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against women;
b. carry out orientation programmes and seminars for the Members of the Internal Committee;
c. carry out employees awareness programmes and create forum for dialogues which may involve Panchayati Raj Institutions, Gram Sabha, women's groups, mothers' committee, adolescent groups, urban local bodies and any other body as may be considered necessary;
d. conduct capacity building and skill building programmes for the members of the Internal Committee;
e. declare the names and contact details of all the members of the Internal Committee;
f. use modules developed by the State Governments to conduct workshops and awareness programmes for sensitising the employees with the provisions of the Act.

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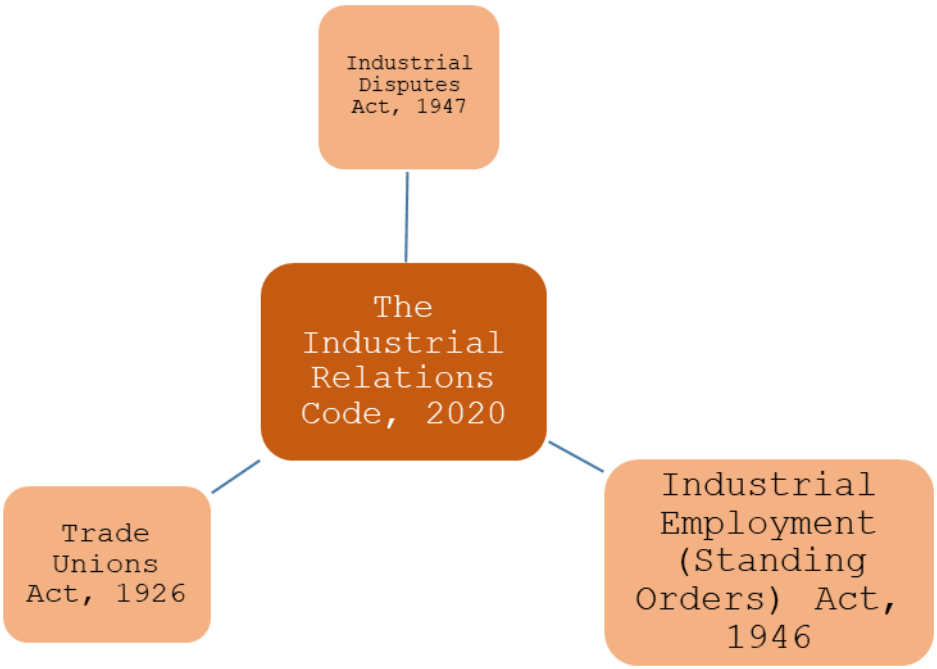
LESSON 4
LAW OF INDUSTRIAL RELATIONS

INTRODUCTION

The success of workers and industries are deeply connected; one cannot thrive without the other. When industries grow, they create stable jobs, fair wages, and social security for workers. Likewise, a motivated and secure workforce drives productivity and innovation, ensuring the industry's long-term survival. National Commission on Labour highlighted a need to rationalise and simplify the exiting labour laws with an aim to protect interests of the workers.

The Industrial Relations Code, 2020 is a landmark consolidation of India's labour laws, merging and repealing three major statutes namely, the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946, and the Industrial Disputes Act, 1947 into a single, streamlined framework. Historically, these laws were enacted in different eras and addressed specific industrial concerns, resulting over time in fragmentation, inconsistent procedures, and delays in dispute resolution. To modernise and rationalise this framework, the Industrial Relations Code Bill, 2019 was introduced in the Lok Sabha and subsequently referred to the Parliamentary Standing Committee on Labour, which submitted a detailed report recommending clearer definitions, stronger worker safeguards, and simplified compliance requirements. Incorporating several of these recommendations, the revised Code was passed by the Parliament in September 2020 and received the assent of the President of India on 28th September 2020. However, the Central Government has notified the Code for enforcement with effect from 21st November 2025, bringing its provisions formally into operation across the country.



The Industrial Relations Code, 2020 is designed to consolidate & amend the laws regarding trade Unions, retrenchment, industrial disputes and simplifying compliance by providing

uniform definitions. The Code seeks to promote industrial harmony by balancing worker protection with business flexibility and facilitating ease of Doing Business.

The Code also creates a balanced and progressive framework that benefits workers, employers, and the economy alike. It is pro-labour, ensuring fair representation, job security, and quicker dispute resolution. At the same time, it is pro-employment, simplifying compliance and promoting flexible hiring. With pro-women measures encouraging equal representation and working flexibility, it fosters inclusive participation. Overall, the Code is pro-growth, by focusing on uniform, faster, and efficient system.

INDUSTRIAL LAWS ARE SOCIO-ECONOMIC JUSTICE ORIENTED

The concept of social justice is so innate and demonstrated in the industrial laws of our country. As proclaimed in the Preamble of the Constitution and the Directive Principles of State Policy, the industrial jurisprudence of the Country is founded on the basic idea of socio-economic equality and its aim is to assist the removal of socio-economic disparities and inequalities. The laws particularly, the industrial laws of the Country revolve on this basic philosophy of the Constitution. The concept of social justice is though not limited to any particular branch of legislation, it is more prominent and conspicuous in industrial laws and relations. Its scope is comprehensive and is founded to the basic ideals of social economic equality and it aims at assisting the removal of social economic disparities and inequalities of birth and the competing claims especially between the employers and workers by finding a just, fair and equitable solution to their human relation problem, so that peace, harmony and collection of the highest order prevails among them which may further the growth and progress of nations. [Mahesh Chandra, 'Industrial Jurisprudence' (1976), p. 47].

CONSTITUTIONAL FRAMEWORK OF FUNDAMENTAL RIGHTS AND INDUSTRIAL RELATIONS

Articles 12 to 35 of the Constitution of India pertain to Fundamental Rights of the Citizen of the Country. The Indian Constitution guarantees essential human rights in the form of Fundamental Rights under Part III and also Directive Principles of State Policy in Part IV which are fundamental in the governance of the country. Freedom and civil rights granted to all under Part III have been liberally construed by various pronouncements of the Supreme Court in the last half a century. The object has been to place citizens at a centre stage and make the State accountable. Fundamental Rights must not be read in isolation but together with directive principles and fundamental duties. The need for protecting and safeguarding the interest of labour as human beings has been enshrined in Article 14, 16, 19, 21, 23 and 24 giving an idea of the conditions under which labour shall work.

SALIENT FEATURES OF THE CODE

Fixed Term Employment (FTE): Allows direct, time-bound contracts with full parity in wages and benefits with permanent employees and gratuity eligibility after completion of one year of service. The provision reduces excessive contractualization and offers cost efficiency to employers.

Worker Re-skilling Fund: To train retrenched employees, this fund shall be set up from the contribution to be made by the employer for an amount equal to 15 days' wages for every worker retrenched. This is in addition to retrenchment compensation. The amount will be credited to the workers account within 45 days of retrenchment.

Statutory Recognition to Trade Union: Unions with 51% membership get recognition as the Negotiating Union; otherwise, a Negotiating Council shall be constituted comprising representatives of all trade unions with not less than 20% membership. Such an arrangement strengthens collective bargaining and grievance redressal.

Expanded Worker Definition: Covers sales promotion employees, working journalists and supervisory employees earning up to ₹18,000/month.

Broader Definition of Industry: Includes all systematic employer-employee activities, regardless of profit or capital, widening access to labour protections.

Higher Threshold for Lay-off/Retrenchment/Closure: Approval limit raised from 100 to 300 workers; States may enhance the limit further. The provision will simplify compliance and contribute to formalization.

Women's Representation: Ensures proportional representation of women in grievance committees for gender-sensitive redressal.

Standing Orders Threshold: Raised from 100 to 300 employees, easing compliance and enabling flexible workforce management.

Work-from-Home Provision: Permitted in service sectors subject to mutual consent, improving flexibility.

Industrial Tribunals: Two-member tribunals consisting of judicial and administrative member for quicker dispute resolution.

Direct Tribunal Access: Parties may approach tribunals directly after failed conciliation within 90 days.

Notice for Strikes/Lockouts: Mandatory 14-days' prior notice for all establishments to promote dialogue and minimize disruptions.

Expanded Definition of Strike: Includes "mass casual leave also within its ambit" to prevent flash strikes and ensure lawful action.

Decriminalization & Compounding: Minor offences made compoundable with monetary penalties, promoting compliance over prosecution.

Digital Processes: Enables electronic record-keeping, registration, and communication for transparency and efficiency.

SCHEME OF THE CODE

Chapters	Sections	Description
CHAPTER I	1-2	PRELIMINARY
CHAPTER II	3-4	BI - PARTITE FORUMS
CHAPTER III	5-27	TRADE UNIONS
CHAPTER IV	28-39	STANDING ORDERS
CHAPTER V	40-41	NOTICE OF CHANGE
CHAPTER VI	42	VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION
CHAPTER VII	43-61	MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES
CHAPTER VIII	62-64	STRIKES AND LOCK– OUTS
CHAPTER IX	65-76	LAY-OFF, RETRENCHMENT AND CLOSURE
CHAPTER X	77-82	SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS
CHAPTER XI	83	WORKER RE - SKILLING FUND
CHAPTER XII	84	UNFAIR LABOUR PRACTICES
CHAPTER XIII	85-89	OFFENCES AND PENALTIES
CHAPTER XIV	90-104	MISCELLANEOUS

Important Definitions

Appellate Authority {Section 2(a)}

"Appellate Authority" means an authority appointed by the Appropriate Government to exercise such functions in such area as may be specified by that Government by notification in the Official Gazette.

Appropriate Government {Section 2(b)}

"Appropriate Government" means -

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

Explanation.—For the purposes of this clause, the Central Government shall continue to be the Appropriate Government for central public sector undertakings even if the holding of the Central Government reduces to less than fifty per cent. equity in that public sector undertaking after the commencement of this Code;

ii. in relation to any other industrial establishment, including State public sector undertakings, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the Appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.

Average Pay {Section 2(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.

Award {Section 2(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.

The erstwhile definition of "award" was analysed in the case of Cox & Kings (Agents) Ltd. v. Their Workmen, AIR 1977 S.C. 1666 as follows: The definition of "award" is in two parts. The first part covers a determination, final or interim, of any industrial dispute. The second part takes in a determination of any question relating to an industrial dispute. However, basic thing to both the parts is the existence of an industrial dispute, actual or apprehended. The 'determination contemplated is of the industrial dispute or a question relating thereto on merits.

The word 'determination' implies that the Labour Court or the Tribunal should adjudicate the dispute upon relevant materials and exercise its own judgement. The definition of 'award' also includes the 'interim award', but it should be distinguished from 'interim relief' granted by Tribunal under Section 10(4). (Hotel Imperial v. Hotel Workers Union). However, in Management of Bihar State Electricity Board v. Their Workmen, it was held that since there is no provision for interim relief in the Act, it will take the form of interim award. It may be noted that if the 'interim relief' does not take the form of 'interim award', the violation of it, will not attract any penalty under the Act.

Further, if an industrial dispute has been permitted to be withdrawn by an order of the adjudication authority, it will not amount to an award because there is no determination of the dispute on merit. However, position would be different if the dispute has been settled by a private agreement and the Tribunal has been asked to make award in terms of the agreement. The Delhi High Court in Hindustan Housing Factory Employees Union v. Hindustan Housing Factory, has held that such an award is binding on the parties provided it is not tainted with fraud, coercion, etc. However, it is necessary that the Tribunal brings its own judicial mind with regard to such a compromise so that there is determination of the dispute.

Lastly, if any party to the dispute does not appear before the adjudication authority, the Tribunal can proceed ex-parte but cannot make award unless it has exercised its mind. Thus, the order of dismissal of the reference, for default, does not amount to award.

Certifying Officer {Section 2(g)}

"Certifying Officer" means any officer appointed by the Appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV.

Closure {Section 2(h)}

"Closure" means the permanent closing down of a place of employment or part thereof.

Controlled Industry {Section 2(k)}

"Controlled Industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest.

Employee {Section 2(l)}

"Employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) (52 of 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.

Employer {Section 2(m)}

"Employer" means a person who employs, whether directly or through any person, or on his behalf or on behalf of any person, one or more employee or worker in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified by the head of the department in this behalf or where no authority is so specified, the head of the department, and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,-

(i) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (n) of section 2 of the Factories Act, 1948 (63 of 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. {Section 2(m)}

Executive {Section 2(n)}

"Executive" in relation to a Trade Union, means the body by whatever name called, to which the management of the affairs of a Trade Union is entrusted.

Fixed Term Employment {Section 2(o)}

"Fixed Term Employment" means the engagement of a worker on the basis of a written contract of employment for a fixed period:

Provided that—

(a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;
(b) he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and
(c) he shall be eligible for gratuity if he renders service under the contract for a period of one year.

This concept of Fixed Term Employment (FTE) allows engagement of workers through a direct written contract between the employer and the employee for a specified duration. Such workers are entitled to all benefits, including working hours, wages, allowances, and statutory benefits, on par with permanent employees. It is a win-win situation for employee and employer as this provision is expected to reduce excessive contractualization and offer cost efficiency to employers.

Industry {Section 2(p)}

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

(i) any capital has been invested for the purpose of carrying on such activity; or
(ii) such activity is carried on with a motive to make any gain or profit, but does not include –

- institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or
- 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
- any domestic service; or
- any other activity as may be notified by Central Government.

The Supreme Court carried out an indepth study of the erstwhile definition of the term industry in a comprehensive manner in the case of ***Bangalore Water Supply and Sewerage Board v. A Rajiappa, AIR 1978 SC 548*** (hereinafter referred to as Bangalore Water Supply case), after considering various previous judicial decisions on the subject and in the process, it rejected some of them, while evolving a new concept of the term "industry".

Tests for determination of "industry"

After discussing the definition from various angles, in the above case, the Supreme Court, laid down the following tests to determine whether an activity is covered by the definition of "industry" or not. It is also referred to as the triple test.

I. (a) Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee, (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g., making, on a large scale, prasad or food) prima facie, there is an "industry" in that enterprise.

(b) Absence of profit motive or gainful objective is irrelevant wherever the undertaking is whether in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If the organisation is a trade or business, it does not cease to be one because of philanthrophy animating the undertaking.

II. Although the erstwhile definition used words of the widest amplitude in its two limbs, their meaning cannot be magnified to over-stretch itself. Undertaking must suffer a contextual and associational shrinkage, so also, service, calling and the like. This yields the inference that all organised activity possessing the triple elements although not trade or business, may still be "industry", provided the nature of the activity, viz., the employer - employee basis, bears resemblance to what we find in trade or business. This takes into the fold of "industry", undertaking, callings and services, adventures analogous to the carrying on of trade or business. All features, other than the methodology of carrying on the activity, viz., in organising the co-operation between employer and employee, may be dissimilar. It does not matter, if on the employment terms, there is analogy.

III. Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition, nothing less, nothing more.

Industrial Dispute {Section 2(q)}

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

The above definition can be analysed and discussed under the following heads:

1. There should exist a dispute or difference;
2. The dispute or difference should be between:
   (a) employers and employers;
   (b) employers and workers; or
   (c) workers and workers.
3. The dispute or difference should be connected with (a) the employment or non-employment, or (b) terms of employment, or (c) the conditions of labour of any person;
4. The dispute or difference may also be between an individual worker and an employer connected with, or arising out of discharge, dismissal, retrenchment or termination of such worker.
5. The dispute should relate to an industry as defined in Section 2(p).

1. Existence of a dispute of difference

The existence of a dispute or difference between the parties is central to the definition of industrial dispute. Ordinarily a dispute or difference exists when workers make demand and the same is rejected by the employer. However, the demand should be such which the employer is in a position to fulfil. The dispute or difference should be fairly defined and of real substance and not a mere personal quarrel or a grumbling or an agitation. The term "industrial dispute" connotes a real and substantial difference having some element of persistency, and likely, and if not adjusted, to endanger the industrial peace of the community. An industrial dispute exists only when the same has been raised by the workers with the employer. A mere demand to the Appropriate Government without a dispute being raised by the workers with their employer regarding such demand, cannot become an industrial dispute *(Sindhu Resettlement Corporation Ltd. v. Industrial Tribunal 1968-I L.L.J. 834 S.C.)*. However, in *Bombay Union of Journalists v. The Hindu, AIR, 1964 S.C. 1617*, the Supreme Court observed that for making reference for resolution of disputes, it is enough if the industrial dispute exists or is apprehended on the date of reference. Therefore, even when no formal demands have been made by the employer, industrial dispute exists if the demands were raised during the conciliation proceedings. When an industrial dispute is referred for adjudication the presumption is that, there is an industrial dispute *(Workmen v. Hindustan Lever Ltd., (1984) 4 SCC 392)*.

Unless there is a demand by the worker and that demand is not complied with by the management, there cannot be any industrial dispute within the meaning of Section 2(q). Mere participation by the employer in the conciliation proceedings will not be sufficient *(W.S. Insulators of India Ltd. v. Industrial Tribunal, Madras 1977-II Labour Law Journal 225)*.

2. Parties to the dispute

Most of the industrial disputes exist between the employers and the workers and the remaining combination of persons who can raise the dispute, has been added to widen the scope of the term "industrial dispute". So the question is who can raise the dispute? The term "industrial dispute" conveys the meaning that the dispute must be such as would affect large groups of workers and employers ranged on opposite sides. The disputes can be raised by

workers themselves or their union or federation on their behalf. This is based on the fact that workers have right of collective bargaining. Thus, there should be community of interest in the dispute.

It is not mandatory that the dispute should be raised by a registered Trade Union. Once it is shown that a body of workers either acting through their union or otherwise had sponsored a worker's case, it becomes an industrial dispute *(Newspaper Ltd., Allahabad v. Industrial Tribunal, A.I.R. 1960 S.C. 1328).* The dispute can be raised by minority union also. Even a sectional union or a substantial number of members of the union can raise an industrial dispute. However, the members of a union who are not workers of the employer against whom the dispute is sought to be raised, cannot by their support convert an individual dispute into an industrial dispute. In other words, persons who seek to support the cause must themselves be directly and substantially interested in the dispute and persons who are not the employees of the same employer cannot be regarded as so interested. But industrial dispute can be raised in respect of non-workmen *(Workmen v. Cotton Greaves & Co. Ltd. 1971 2 SCC 658).* Industrial dispute can be initiated and continued by legal heirs even after the death of a workman *(LAB 1C 1999 Kar. 286).*

3. Subject matter of dispute

The dispute should relate to employment or non-employment or terms of employment or conditions of labour of any person.

The meaning of the term "employment or non-employment" was explained by Federal Court in the case of Western India Automobile Association v. Industrial Tribunal. If an employer refuses to employ a worker dismissed by him, the dispute relates to non-employment of worker. But the union insists that a particular person should not be employed by the employer, the dispute relates to employment of worker. Thus, the "employment or non-employment" is concerned with the employers' failure or refusal to employ a worker. The expression "terms of employment" refers to all terms and conditions stated in the contract of employment. The expression terms of employment would also include those terms which are understood and applied by parties in practice or, habitually or by common consent without ever being incorporated in the Contract *(Workmen v. Hindustan Lever Ltd., 1984 1 SCC 392).*

The expression "conditions of labour" is much wider in its scope and usually it was reference to the amenities to be provided to the workers and the conditions under which they will be required to work. The matters like safety, health and welfare of workers are also included within this expression.

It was held that the definition of industrial dispute in Section 2(q) is wide enough to embrace within its sweep any dispute or difference between an employer and his workers connected with the terms of their employment. A settlement between the employer and his workers affects the terms of their employment. Therefore, prima facie, the definition of Industrial dispute in Section 2(q) will embrace within its sweep any fraudulent and involuntary character of settlement. Even a demand can be made through the President of Trade Union (1988 1 LLN 202). Dispute between worker and employer regarding confirmation of worker officiating in a higher grade is an industrial dispute (1984 4 SCC 392).

Employer's failure to keep his verbal assurance, claim for compensation for loss of business; dispute of workers who are not employees of the Purchaser who purchased the estate and who were not yet the worker of the Purchaser's Estate, although directly interested in their employment, etc. were held to be not the industrial disputes. Payment of pension can be a subject matter of an industrial dispute *(ICI India Ltd. v. Presiding Officer L.C., 1993 LLJ II 568)*.

4. Dispute in an "Industry"

Lastly, to be an "industrial dispute", the dispute or difference must relate to an industry. Thus, the existence of an "industry" is a condition precedent to an industrial dispute. No industrial dispute can exist without an industry. The word "industry" has been fully discussed elsewhere. However, in *Pipraich Sugar Mills Ltd. v.P.S.M. Mazdoor Union, A.I.R. 1957 S.C. 95*, it was held that an "industrial dispute" can arise only in an "existing industry" and not in one which is closed altogether. The mere fact that the dispute comes under the definition of Section 2(q) does not automatically mean that the right sought to be enforced is one created or recognised and enforceable only under the Act *(National and Grindlays Bank Employees' Union, Madras v. I. Kannan (Madras), 1978 Lab. I.C. 648)*. Where the right of the employees is not one which is recognised and enforceable under the Industrial Disputes Act, the jurisdiction of the Civil Court is not ousted.

Industrial Establishment or Undertaking {Section 2(r)}

"Industrial Establishment or Undertaking" means an establishment or undertaking in which any industry is carried on:

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

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

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

Lay-Off {Section 2(t)}

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

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

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

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

From the above provisions, it is clear that lay-off is a temporary stoppage and within a reasonable period of time, the employer expects that his business would continue and his employees who have been laid-off, the contract of employment is not broken but is suspended for the time being. But in the case of *M.A. Veirya v. C.P. Fernandez, 1956-I, L.L.J. 547 Bomb.*, it was observed that it is not open to the employer, under the cloak of "lay-off", to keep his employees in a state of suspended animation and not to make up his mind whether the industry or business would ultimately continue or there would be a permanent stoppage and thereby deprive his employees of full wages. In other words, the lay-off should not be mala fide in which case it will not be lay- off. Tribunal can adjudicate upon it and find out whether the employer has deliberately and maliciously brought about a situation where lay-off becomes necessary. But, apart from the question of mala fide, the Tribunal cannot sit in judgement over the acts of management and investigate whether a more prudent management could have avoided the situation which led to lay-off *(Tatanagar Foundry v. Their Workmen, A.I.R. 1962 S.C. 1533).*

Further, refusal or inability to give employment must be due to (i) shortage of coal, power or raw materials, or (ii) accumulation of stock, or (iii) break-down of machinery, (iv) natural calamity, or (v) for any other connected reason. Financial stringency cannot constitute a ground for lay-off *(Hope Textiles Ltd. v. State of MP, 1993 I LLJ 603).*

Lastly, the right to lay-off cannot be claimed as an inherent right of the employer. This right must be specifically provided for either by the contract of employment or by the statute *(Workmen of Dewan Tea Estate v. Their Management)*. In fact 'lay-off' is an obligation on the part of the employer, i.e., in case of temporary stoppage of work, not to discharge the workers but to lay-off the workers till the situation improves. Power to lay-off must be found out from the terms of contract of service or the standing orders governing the establishment *(Workmen v. Firestone Tyre and Rubber Co., 1976 3 SCC 819).*

There cannot be lay-off in an industrial undertaking which has been closed down. Lay-off and closure cannot stand together.

Lock-Out {Section 2(u)}

"Lock-Out" means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.

In lock out, the employer refuses to continue to employ the worker employed by him even though there is no intention to close down the unit. The essence of lock out is the refusal of the employer to continue to employ worker. Even if suspension of work is ordered, it would constitute lock out. But mere suspension of work, unless it is accompanied by an intention on the part of employer as a retaliation, will not amount to lock out.

Locking out workmen does not contemplate severance of the relationship of employer and the workmen. In the case *Lord Krishna Sugar Mills Ltd. v. State of U.P., (1964) II LLJ 76 (All)*, a closure of a place of business for a short duration of 30 days in retaliation to certain acts of workmen (i.e. to teach them a lesson) was held to be a lock out. But closure is not a lock out.

Retrenchment {Section 2(zh)}

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

(i) voluntary retirement of the worker; or
(ii) retirement of the worker on reaching the age of superannuation; or
(iii) termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
(iv) termination of service of the worker as a result of completion of tenure of fixed term employment; or
(v) termination of the service of a worker on the ground of continued ill-health.

The scope and ambit of the definition is explained in the case of *Santosh Gupta v. State Bank of Patiala, (1980) Lab.I.C.687 SC)*, wherein it was held that if the definition of retrenchment is looked at unaided and unhampered by precedent, one is at once struck by the remarkably wide language employed and particularly the use of the word 'termination for any reason whatsoever'. If due weight is given to these words, i.e. they are to be understood as to mean what they plainly say, it is difficult to escape the conclusion that retrenchment must include every termination of service of a workman by an act of the employer. In the case of *Punjab Land Development Corporation Ltd. v. Labour Court, Chandigarh, (1990) II LLJ 70 SC*, the Supreme Court held that expression "retrenchment" means termination by employer of services of workman for any reason whatsoever except those expressly excluded in the Section itself.

The expression "for any reason whatsoever" could not be safely interpreted to include the case of discharge of all workmen on account of bona fide closure of business, because for the application of definition, industry should be a working or a continuing or an existing industry, not one which is altogether a closed one. So the underlying assumption would be

of course, that the undertaking is running as an undertaking and the employer continues to be an employer *(Hariprasad Shivshankar Shukla v. A.D.Divakar, (1957) SCR 121)*, hereinafter referred to as Hariprasad case.

The Supreme Court in the *Punjab Land Development Corporation Ltd. case* clarified that the expression "retrenchment" does not mean only termination by the employer of service of surplus labour for any reason whatsoever. The expression "retrenchment" is not to be understood in the narrow, natural and contextual meaning but is to be understood in its wider literal meaning to mean termination of service of worker for any reason whatsoever. The expression "for any reason whatsoever" must necessarily draw within its ambit, the termination of the workers services due to reasons such as economy, rationalisation in industry, installation or improvement of plant or technique and the like. It is in conjunction with such reasons that the words "any reason whatsoever" must be read and construed *(Kamleshkumari Rajanikant Mehta v. Presiding Officer, Central Government, Industrial Tribunal No.1, (1980) Lab I.C.1116).*

Where persons are employed for working on daily wages their disengagement from service or refusal to employ for a particular work cannot be construed to be a retrenchment and that concept of retrenchment cannot be stretched to such an extent as to cover such employees *(U.P. v. Labour Court, Haldwani, 1999 (81) FLR 319 All.).*

In *Parry & Co. Ltd. v. P.C. Pal, (1970) II L.L.J. 429*, the Supreme Court observed that the management has a right to determine the volume of its labour force consistent with its business or anticipated business and its organisation. If for instance a scheme of reorganisation of the business of the employer results in surplusage of employees, no employer is expected to carry the burden of such economic dead weight and retrenchment has to be accepted as inevitable, however, unfortunate it be.

The fact that the implementation of a reorganisation scheme adopted by an employer for reasons of economy and convenience would lead to the discharge of some of the employees, will have no material bearing on the question as to whether the reorganisation has been adopted by the employer bona fide or not. The retrenchment should be bona fide and there should be no victimisation or unfair labour practice on the part of the employer. The Supreme Court in the case of *Workmen of Subong Tea Estate v. Subong Tea Estate, (1964) 1 L.L.J. 333*, laid down following principles with regard to retrenchment:

1. The management can retrench its employees only for proper reasons, which means that it must not be actuated by any motive of victimisation or any unfair labour practice.
2. It is for the management to decide the strength of its labour force, and the number of workers required to carry out efficiently the work in his industrial undertaking must always be left to be determined by the management in its discretion.
3. If the number of employees exceeds the reasonable and legitimate needs of the undertaking, it is open to the management to retrench them.
4. Workers may become surplus on the ground of rationalisation or on the group of economy reasonably and bona fide adopted by the management or of other industrial or trade reasons.

5. The right of the employer to effect retrenchment cannot normally be challenged but when there is a dispute in regard to the validity of the retrenchment, it would be necessary for the tribunal to consider whether the impugned retrenchment was justified for proper reasons and it would not be open to the employer either capriciously or without any reason at all to say that it proposes to reduce its labour for no rhyme or reason.

The Section does not make any difference between regular and temporary appointment or an appointment on daily wage basis or appointment of a person not possessing requisite qualification (L.L.J.-II-1996 Mad. 216) or whether the appointment was held to be in accordance with law or not. In *Prabhudayal Jat v. Alwar Sehkari Bhumi Vikas Bank Ltd., (1997) Lab IC Raj. 944*, where the services of an employee irregularly appointed was terminated, the Court held, it was a fit case of retrenchment.

In *Anand Behari v. RSRTC*, AIR 1991 SC 1003, the services of bus conductors, were terminated on the ground of weak eye sight which was below the standard requirement. Supreme Court held that the termination is due to continued ill- health which has to be construed relatively in its context, and that must have a bearing on the normal discharge of their duties. Ill-health means disease, physical defect, infirmity or unsoundness of mind. Termination on account of lack of confidence is stigmatic and does not amount to retrenchment (*Chandulal v. Pan American Airways*, (1985) 2 SCC 727). Striking of the name of a worker from the rolls on the ground of absence for a specific period, provided under Standing Orders amounts to retrenchment (1993 II LLJ 696). Disengagement of workers of seasonal factories after season is not a retrenchment (LLJ I 98 SC 343).

Settlement {Section 2(zi)}

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

The definition envisages two categories of settlements (i) a settlement arrived at in the course of conciliation proceedings, and (ii) a written agreement between employer and worker arrived at otherwise in the course of conciliation proceedings. For the validity of the second category of settlement, it is essential that parties thereto should have subscribed to it in the prescribed manner and a copy thereof sent to authorised officer and the conciliation officer *(Tata Chemicals Ltd. v. Workmen, 1978 Lab. I.C. 637).* Moreover, settlement contemplates only written settlement, and no oral agreement can be pleaded to vary or modify or supersede a written settlement (AIR 1997 SC 954).

A settlement cannot be weighed in any golden scale and the question whether it is just and fair has to be answered on the basis of principles different from those which came into play where an industrial dispute is under adjudication. If the settlement has been arrived at by a vast majority of workers with their eyes open and was also accepted by them in its totality, it must be presumed to be fair and just and not liable to be ignored merely because a small number of workers were not parties to it or refused to accept it *(Tata Engineering and*

Locomotive Co. Ltd. v. Workmen, 1981-II Labour Law Journal 429 SC). A memorandum of settlement signed by office bearers of union without being authorised either by constitution of union or by executive committee of the union or by the workers to enter into agreement with the management does not amount to settlement *[Brooke Bond India Pvt. Ltd. v. Workman, (1981) 3 SCC 493]*.

Strike {Section 2(zk)}

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

Strike is a weapon of collective bargaining in the armour of workers. The following points may be noted regarding the definition of strike:

(i) Strike can take place only when there is a cessation of work or refusal to work by the workers acting in combination or in a concerted manner. Time factor or duration of the strike is immaterial. The purpose behind the cessation of work is irrelevant in determining whether there is a strike or not. It is enough if the cessation of work is in defiance of the employers authority. Proof of formal consultations is not required. However, mere presence in the striking crowd would not amount to strike unless it can be shown that there was cessation of work.

(ii) A concerted refusal or a refusal under a common understanding of any number of persons to continue to work or to accept employment will amount to a strike. A general strike is one when there is a concert of combination of workers stopping or refusing to resume work. However, the refusal by workers should be in respect of normal lawful work which the workers are under an obligation to do. But refusal to do work which the employer has no right to ask for performance, such a refusal does not constitute a strike *(Northbrooke Jute Co. Ltd. v. Their Workmen, AIR 1960 SC 879).* If on the sudden death of a fellow-worker, the workers acting in concert refuse to resume work, it amounts to a strike *[National Textile Workers' Union v. Shree Meenakshi Mills, (1951) II L.L.J. 516]*.

(iii) The striking workers must be employed in an "industry" which has not been closed down.

(iv) Even when workers cease to work, the relationship of employer and employee is deemed to continue albeit in a state of belligerent suspension. In *Express Newspaper (P) Ltd. v. Michael Mark, 1962-II, L.L.J. 220 S.C.,* the Supreme Court observed that if there is a strike by workmen, it does not indicate, even when strike is illegal, that they have abandoned their employment. However, for illegal strike, the employer can take disciplinary action and dismiss the striking workers.

Trade Union {Section 2(zl)}

"Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive

conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.

Provided that the provisions of Chapter III of this Code shall not affect —

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

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

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

Trade Union Dispute {Section 2(zm)}

"Trade Union Dispute" means any dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union inter se.

Wages {Section 2(zq)}

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

(i) basic pay;

(ii) dearness allowance;

(iii) retaining allowance, if any

but does not include—

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

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

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

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

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

(f) house rent allowance;

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

(h) any overtime allowance;

(i) any commission payable to the employee;

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

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

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

this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed to be remuneration and shall be accordingly added in wages under this clause:

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

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

Worker {Section 2(zr)}

"Worker" means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) (52 of 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, 195 (45 of 1955) 5 and sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976), and for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

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

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

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

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

(a) means all persons employed in trade or industry; and

(b) includes the worker as defined in clause (m) of section 2 of the Unorganised Workers' Social Security Act, 2008 (33 of 2008).

WORKS COMMITTEE (SECTION 3)

1. In case of any industrial establishment in which **100 or more workers are employed or have been employed on any day in the preceding 12 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 where the number of representatives of workers shall not be less than the number of representatives of the employer. 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.

2. The Works Committee shall –
   - promote measures for securing and preserving amity and good relations between the employer and workers;
   - to that end, comment upon matters of their common interest or concern; and
   - endeavour to compose any material difference of opinion in respect of such matters.

GRIEVANCE REDRESSAL COMMITTEE (SECTION 4)

This section provides for the threshold limit for constituting Grievance Redressal Committee for the resolution of disputes arising out of grievances of individual workers, provisions for filing application in respect of dispute by the aggrieved worker, the constitution of the Committee, the time limit for completing its proceedings, the manner of its decision, and the filing of the application for the adjudication against the decision of the Committee or the adjudication of grievance.

***Applicability*:** Every industrial establishment employing **twenty (20) or more workers** shall have one or more Grievance Redressal Committees (GRC).

***Constitution*:** The GRC shall consist of equal number of members representing the employer and the workers where the **total number of members shall not exceed ten (10)** and the representation of women workers shall not be less than the proportion of women workers to the total workers employed in the industrial establishment. The chairperson of the Committee shall be selected from among persons representing the employer and the workers alternatively on rotational basis every year.

***Grievance Redressal*:** An application in respect of any dispute may be filed before the Committee by any aggrieved worker **within one (1) year** from the date on which the cause of action of such dispute arises. The Committee may complete its proceedings **within thirty** (30) **days** of receipt of the application. The decision of the Committee 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.

Adjudication: 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 the Act, may, within a period of sixty (60) days from the date of the decision of the Grievance Redressal Committee or from the date on which the period specified in the Act 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.

TRADE UNIONS (CHAPTER III)

Registrar of Trade Unions (Section 5)

This section provides for the Registrar of Trade Unions to be appointed by the State Government by notification and their respective powers and duties shall be specified in the notification.

Appointment of Registrar of Trade Unions: The State Government may, by notification, appoint-

- a person to be the Registrar of Trade Unions, and
- other persons as Additional Registrar of Trade Unions, Joint Registrar of Trade Unions and Deputy Registrar of Trade Unions,

who shall exercise such powers and perform such duties of the Registrar as the State Government may, by notification, specify from time to time.

Jurisdiction and Authority: Where an Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions, , exercises the powers and performs the duties of the Registrar in an area within which the registered office of a Trade Union is situated, such Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions, as the case may be, shall be deemed to be the Registrar in relation to that Trade Union for the purposes of this Code.

Criteria for Registration of Trade Union (Section 6)

- ***Minimum Requirement:*** Seven (7) or more members of a trade union may apply for registration of a Trade Union by subscribing their names to the rules of the Trade Union and comply with the provisions of the Code.
- ***Eligibility of Trade Union:*** Trade Unions in which at least 10% of the workers or 100 workers, whichever is less, engaged or employed in the industrial establishment or industry with which it is connected are members, shall be eligible for registration under the Code.
- ***Validity of application:*** The application for registration shall remain valid unless more than half of the total number of persons who made the application, have ceased to be members of the Trade Union or have not given notice in writing to the Registrar dissociating themselves from the application.
- ***Continuation of Registration:*** A registered Trade Union shall at all times maintain at least 10% of the workers or 100 workers, whichever is less, as members subject to a minimum of seven (7) members engaged or employed in the establishment or industry with which it is connected.

Provisions to be contained in Constitution or Rules of Trade Union (Section 7)

This section provides for provisions to be contained in constitution or rules of Trade Union. In case the matters specified in the said clause are not provided in the rules of the Trade Union and the executive of the Trade Union is not constituted in accordance with the provisions of the proposed Code, the Trade Union shall not be entitled for registration.

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

(a) the name of the Trade Union;
(b) the whole of the objects for which the Trade Union has been established;
(c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Code;
(d) the maintenance of a list of members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;
(e) the admission of ordinary members (irrespective of their craft or category) who shall be persons actually engaged or employed in the industrial establishment, undertaking or industry, or units, branches or offices of an industrial establishment, as the case may be, with which the Trade Union is connected, and also the admission of such number of honorary or temporary members, who are not such workers, as are not permitted under section 21 to be office-bearers to form the executive of the Trade Union;
(f) the payment of a subscription by members of the Trade Union from such members and others, as may be prescribed;
(g) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on any member;
(h) the annual general body meeting of the members of the Trade Union, the business to be transacted at such meeting, including the election of office-bearers of the Trade Union;
(i) the manner in which the members of the executive and the other office-bearers of the Trade Union shall be elected once in a period of every three years and removed, and filling of casual vacancies;
(j) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the office-bearers and members of the Trade Union;
(k) the manner in which the rules shall be amended, varied or rescinded; and
(l) the manner in which the Trade Union may be dissolved.

Application for Registration and Alteration of name of Trade Union (Section 8)

Documents for registration: The application for registration to be made to the Registrar of Trade Union accompanied by the following documents:

- a declaration to be made by an affidavit in such form and manner as may be prescribed;
- 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;
- a copy of the resolution adopted by the members of the Trade Union authorising the applicants to make an application for registration;
- 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.

- in the case of a Trade Union which has been in existence for more than one year before the making of an application for its registration, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars, as may be prescribed.

Alteration of Name: The Registrar shall require alteration of the name of the Trade Union 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 refuse to register the Trade Union until such alteration has been made.

Registration of Trade Union and Cancellation thereof (Section 9)

This section provides the manner of registration of Trade Unions, issuance of certificates, recognition of existing unions, and grounds for cancellation or withdrawal of registration.

Registration: The Registrar shall, on being satisfied that the Trade Union has complied with all the requirements in regard to registration, register the Trade Union by entering the particulars relating to the Trade Union contained in the statement accompanying the application for registration in a register, to be maintained in such form as may be prescribed.

Issuance of Certificate of Registration: Upon making an order for registration of a Trade Union, the Registrar shall issue a certificate of registration to the applicant Trade Union, in such form as may be prescribed which shall be the conclusive evidence that the Trade Union has been registered under this Code and the name and other particulars of the Trade Union shall be entered in a register maintained in this behalf in such form as may be prescribed.

Recognition of Existing Unions: Every Trade Union registered under the Trade Unions Act, 1926 having valid registration immediately before the commencement of this Code shall be deemed to have been registered under this Code. Such Trade Union shall file with the Registrar a statement that the constitution of the executive of the Trade Union is in accordance with this Code along with the rules of the Trade Union updated in accordance with section 7, and the Registrar shall amend his records accordingly.

Withdrawal or Cancellation of Registration**:** The certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar under the following circumstances:

- on the application of the Trade Union verified in such manner as may be prescribed; or
- on the information received by him regarding the contravention by the Trade Union of the provisions of this Code or the rules made thereunder or its constitution or rules; or
- 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.

The Registrar shall give at least sixty days previous notice in writing specifying the grounds on which it is proposed to cancel the certificate of registration of a Trade Union before the certificate of registration is cancelled otherwise than on the application of the Trade Union.

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

Appeal against Non-Registration or Cancellation of Registration (Section 10)

This section provides for appeal against non-registration or cancellation of registration by the Registrar.

- Any person aggrieved by the refusal to grant registration of a Trade Union, or cancellation of a certificate of registration of a Trade Union, by Registrar may within the period as may be prescribed prefer an appeal to the Tribunal.
- The Tribunal has power to condone the delay in filing the appeal on its satisfaction.
- The Tribunal may, after giving hearing to the parties dismiss the appeal or pass an order for registration of the Trade Union and to issue a certificate of registration or set aside the order of cancellation of the certificate of registration and forward a copy of order to the Registrar.

Communication to Trade Union and Change in Registration Particulars (Section 11)

- 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.
- The Trade Union shall inform the Registrar if the members of such Trade Union fall below ten per cent. of total workers or one hundred workers, whichever is less.
- The Trade Union shall inform the Registrar of any change in the particulars given by it in its application for registration and in its constitution or rules, in such manner as may be prescribed.

Incorporation of Registered Trade Union (Section 12)

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

Certain Acts not to apply to registered Trade Unions (Section 13)

The provisions of the following Acts, 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:

(a) the Societies Registration Act, 1860;
(b) the Co-operative Societies Act, 1912;
(c) the Multi-State Co-operative Societies Act, 2002;
(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.

Recognition of Negotiating Union or Negotiating Council (Section 14)

This section provides for the framework for recognition of a negotiating union or constitution of a negotiating council, depending on the number and strength of registered Trade Unions in the establishment. It ensures structured representation of workers and sets validity periods and facilities for effective negotiation.

Mandatory Negotiating union or council

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.

Sole negotiating union in case of one Trade union

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.

Sole negotiating union in case of multiple Trade union

If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, then -

- The Trade Union having fifty-one per cent. (51%) 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 as the sole negotiating union of the workers.
- In case no Trade Union has fifty-one per cent. (51%) 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 a negotiating council for negotiation on the matters as stated above in the following manner -
  (i) The Negotiating Council shall consist of the representatives of such registered Trade Unions which have the support of not less than twenty per cent. (20%) of the total workers on the muster roll of that industrial establishment so verified and
  (ii) such representation shall be of one representative for each twenty per cent. (20%) and for the remainder after calculating the membership on each twenty per cent.

Decision-Making

Where any negotiation is held between an employer and a negotiating council constituted under the Code, 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.

Validity of Recognition

Any recognition made under this Section shall be valid for three (3) years from the date of recognition or constitution. Such recognition can be further extended by such further period

not exceeding five (5) years, in total, as may be mutually decided by the employer and the Trade Union, as the case may be.

Facilities to Negotiating Union or Council

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

Objects of General Fund, Composition of Separate Fund and Membership Fee of Trade Union (Section 15)

- The general funds of a registered Trade Union shall not be spent on any objects other than such objects as may be prescribed.
- *Constitution of separate fund for promotion of Civic and Political Interests of members:*
  - *(a)* A separate fund may be constituted from the 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.
  - *(b)* The contribution to the separate fund shall not be mandatory.
  - *(c)* 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.
  - *(d)* The contribution to the separate fund shall not be a condition for admission to the Trade Union.
- The subscriptions payable by the members of the Trade Union shall be such as may be prescribed.

Immunity from Civil Suit in Certain Cases (Section 16)

This section provides immunity to registered Trade Unions and their members in respect of acts done during industrial disputes w.r.t. civil suits.

Immunity from Civil Suits

No suit or legal proceeding shall be maintainable in a civil court against:

- Any registered Trade Union, or
- Any office-bearer or member thereof,

for acts done in contemplation or furtherance of an industrial dispute to which a member of the Trade Union is a party merely on the ground that:

- It induces another person to break a contract of employment, or
- It interferes with trade, business, or employment of another person, or
- It interferes with another person's right to dispose of capital or labour as he wills.

Limited Liability for Tortious Acts

A registered Trade Union shall not be liable in civil court for tortious acts done in contemplation or furtherance of an industrial dispute by its agent, if it is proved that:

- The act was done without the knowledge of the Trade union's executive, or

- The act was done contrary to express instructions of the Trade union's executive.

Criminal Conspiracy in furtherance of Objects of Trade Union (Section 17)

No office-bearer or member of a registered Trade Union shall be liable to punishment under Section 120B (2) of the Indian Penal Code (criminal conspiracy) for any agreement made between members to further objects of the Trade Union unless such agreement is an agreement to commit an offence.

Rights of Minor to Membership of Trade Union (Section 20)

Any person who has attained the **age of fourteen (14) years** and is employed in a non-hazardous Industry:

(a) may be a member of a registered Trade Union subject to any rules of the Trade Union, and

(b) may, subject to as aforesaid enjoy all the rights of a member and execute all instruments and given all acquaintances necessary to be executed or given under the rules.

Disqualification of Office Bearers of Trade Unions (Section 21)

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, on the following grounds –

(i) he has not attained the age of eighteen (18) 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 (5) 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.

(iv) holds an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected) in the Union or a State.

Adjudication of Disputes of Trade Unions (Section 22)

- 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 the disputes, where a dispute arises between—
  (a) one Trade Union and another; or
  (b) one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office bearers of the Trade Union; or
  (c) one or more workers who are refused admission as members and the Trade Union; or
  (d) where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union.
- No civil court other than the Tribunal shall have power to entertain any suit or other proceedings in relation to any dispute referred above.

Proportion of Office-Bearers to be connected with Industry (Section 23)

This section ensures that the office-bearers of registered Trade Unions remain closely connected to the industry or establishment they represent, thereby preventing domination by outsiders and maintaining genuine worker representation.

(a) 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.

(b) 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 and also, by notification, specify any sector as "unorganised sector".

(c) In cases other than above, all office-bearers of a registered Trade Union shall be persons actually engaged or employed in the connected establishment or industry, except not more than one-third of office-bearers or five, whichever is less, may be outsiders and an employee who has retired or has been retrenched are not considered outsiders for the purpose of holding office in a Trade Union.

Change of Name, Amalgamation, Notice of Change and Its Effect (Section 24)

This section provides framework for changing the name of a registered Trade Union or amalgamation of two or more registered Trade Unions.

Consent for change of name: Any registered Trade Union may, with the consent of not less than two-third of the total number of its members, change its name.

Amalgamation*:* Any two or more registered Trade Unions may be amalgamated in such manner as may be prescribed and the same shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them.

Notice to Registrar:

(a) In the case of change of name of the Trade Union, the notice in writing signed by the secretary and by seven (7) members of the Trade Union changing its name shall be sent to the Registrar.

(b) In the case of an amalgamation, the notice in writing signed by the secretary and by seven (7) 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.

Effect of Registration of Change of Name: The Registrar shall, if he is satisfied that the provisions of this Code in respect of change of name have been complied with, register the change of name in the register, and the change of name shall have effect from the date of such registration.

Effect of Registration of Amalgamation: The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Code in respect of amalgamation have been complied with and that the Trade Union formed

thereby is entitled to registration under section 9, register the Trade Union and the amalgamation shall have effect from the date of such registration.

Effect of Change of Name: 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.

Dissolution (Section 25)

Notice of Dissolution: When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall be sent to the Registrar within fourteen (14) days of the dissolution.

Registration of Dissolution**:** The dissolution shall be registered by the Registrar 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.

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

Annual Returns (Section 26)

This section lays down the reporting and transparency obligations of registered Trade Unions to ensure proper financial accountability, keep their rules updated with the Registrar, and remain subject to inspection for compliance.

Annual Compliance: Every registered Trade Union shall forward to the Registrar annually—

(i) 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, 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,

(ii) along with the general statement referred to in the above clause, 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.

Submission of copy of alteration in Rules: A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen (15) days of the making of the alteration.

Inspection by Registrar*:* For the purpose of examining the above referred documents, 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 specified in this behalf, but no such place shall be at a distance of more than fifteen kilometres from the registered office of such Trade Union.

Recognition of Trade Unions at Central and State level (Section 27)

This section provides the framework for official recognition of Trade Unions or federations of Trade Unions at both the Central and State levels.

***Recognition at Central Level*:** 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. 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 at State Level: Where the State Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as State Trade Union at the State level, it may recognise such Trade Union or federation of Trade Unions as State Trade Union in such manner and for such purpose, as may be prescribed. If any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the State Government.

STANDING ORDERS (CHAPTER IV)

Applicability of the Chapter (Section 28)

(a) The provisions of this Chapter shall apply to every industrial establishment wherein three hundred (300) or more than three hundred (300) workers are employed, or were employed on any day of the preceding twelve (12) months.

(b) 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.

Model Standing Orders (Section 29)

This section provides for making of model standing orders by Central Government and its temporary application until draft standing orders are prepared by employer and are certified.

(a) The Central Government shall make model standing orders relating to conditions of service and other matters incidental thereto or connected therewith.

(b) *Temporary adoption of Model Standing Orders:* Notwithstanding anything contained in sections 30 to 36 of the Code, until the date on which the standing orders as finally certified under this Code come into operation under section 33 in an establishment, the model standing order issued by the Central Government shall be deemed to be adopted in that establishment and the provisions of sub-section (2) of section 33 and section 35 shall apply to such model standing orders as they apply to the standing orders so certified.

Preparation of Draft Standing Orders by Employer and Procedure for Certification (Section 30)

This section lays down the procedure for employers to prepare, consult, and certify standing orders for their industrial establishments. It ensures that service conditions are codified, fair, and consistent with the Code, while involving trade unions and workers in the process.

***Timeline for Preparation of Draft Standing Orders*:** The employer shall prepare draft standing orders within a period of six (6) months from the date of commencement of this Code, based on the model standing orders referred to in section 29 in respect of the matters specified in the First Schedule to the Code and on any other matter considered necessary for incorporation of necessary provisions in such standing orders for the industrial establishment or undertaking, considering the nature of activity in industrial establishment or undertaking subject to same being consistent with the provisions of the Code.

Matters to be covered in Standing Orders:

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.

***Consultation with Unions*:** 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 prior to forwarding the same to the certifying officer for certification.

Adoption of Model Standing Orders: An employer may adopt model standing order of the Central Government with respect to matters relevant to his industrial establishment or undertaking and the same shall be deemed to have been certified under the provisions of this section and the Registrar shall be intimated about such adoption.

In case certifying officer has any observation, he may direct such employer to amend the standing order so adopted within such period as may be prescribed and the draft of the modifications shall be forwarded to certifying officer for certification of those modifications within a period of six (6) months from the date of applicability of this Chapter to his industrial establishment.

The draft standing orders or draft of the modifications proposed in the standing orders 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.

Seeking comments on draft Standing Orders:

- The certifying officer shall seek comments on the draft Standing Orders from –
  (a) the Trade Union or negotiating union of the industrial establishment or undertaking, or members of the negotiating council; or
  (b) where there is no Trade Union operating, such representatives of the workers of the industrial establishment or undertaking chosen in such manner as may be prescribed.
- After receipt of comments as stated above, an opportunity of being heard shall be given to the negotiating union or negotiating council, or as the case may be, to the Trade Unions or the representatives of the workers.
- The certifying officer shall then 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.

Timeline for Certification: The procedure for certification of draft standing order or draft modifications in the standing order received, as the case may be, shall be completed within a period of **sixty (60) days** from the date of receipt of draft. In case, the procedure for certification is not completed within the timelines, the draft submitted shall be deemed to have been certified on the expiry of the said period.

Issue of Certified copies: The certifying officer shall certify the draft standing orders or the modifications in the standing orders, and shall within seven (7) 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, as the case may be.

Joint Draft of Standing Orders: 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.

Continuity of Existing Standing Orders and deemed certification: Without prejudice to the foregoing provisions of this section, the standing orders relating to an industrial establishment

or undertaking existing on the date of commencement of the relevant provisions of this Code shall, in so far as is not inconsistent with the provisions of this Code or rules made thereunder, continue and be deemed to be the standing orders certified under this Section and accordingly the provisions of this Chapter shall apply thereon.

Certifying Officer and Appellate Authority to have Powers of Civil Court (Section 31)

Every certifying officer and the Appellate Authority referred to in section 32 shall have all the powers of a civil court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Appeals (Section 32)

Right to Appeal

If the following are not satisfied with the order of the certifying officer given under sub-section (5) of section 30 w.r.t. certification of Standing Order or modification of Standing Order, an appeal may be filed within sixty (60) days of receipt of the order of the certifying officer:

- 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.

Such appeal shall be filed 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.

The Appellate Authority has no power to set aside the order of Certifying Officer. It can confirm or amend the Standing Orders (Khadi Gram Udyog Sangh v. Jit Ram, 1975-2 L.L. J. 413). The Appellate Authority cannot remand the matter for fresh consideration. [Kerala Agro Machinery Corporation, (1998) 1 LLN 229 (Ker)]

Date of Operation of Standing Orders and its Availability (Section 33)

This section specifies effective date for certified standing orders and the employer's duty to maintain them for workers' information.

Effective date of Standing Orders

(i) *Where no appeal is preferred under section 32,* the standing orders or modified standing orders, as the case may be, shall come into operation on the expiry of thirty (30) days from the date on which authenticated copies thereof are sent under sub-section (8) of section 30, or

(ii) *Where an appeal as aforesaid is preferred,* on the expiry of seven (7) days from the date on which copies of the order of the Appellate Authority are sent in such manner as may be prescribed.

Maintenance of Certified Standing Orders

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

Register of Standing Orders (Section 34)

The certifying officer shall

- file copy of all standing orders as finally certified under this Code in a register maintained for the purpose or uploaded in electronic form or such other form as may be prescribed, and
- furnish a copy thereof to any person applying therefor on payment of such fee as may be prescribed.

Duration and Modification of Standing Orders (Section 35)

This section facilitates modification in certified Standing Orders and lays down the procedure thereof.

Duration before Modification

Certified standing orders shall not be liable to modification until the expiry of six (6) months from the date on which the standing orders or the last modifications thereof came into operation as per provisions of this Code. However, same may be modified earlier if there is an agreement between the employer and workers, or a negotiating union or a Trade Union or other representative body of workers.

Application for Modification

- 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.
- The application shall be accompanied by copies of the modifications proposed to be made.
- Where the modifications are proposed to be made by an 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 along with the application.

Oral Evidence in Contradiction of Standing Orders not Admissible (Section 36)

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

Interpretation of Standing Orders (Section 37)

This section provides a mechanism for providing clarity about the application or interpretation of certified standing orders.

Application to Tribunal

If any question arises as to the application or interpretation of the certified standing orders or the modified Standing Order, an application may be made to the Tribunal can be made within the local limits of whose territorial jurisdiction such establishment or the office, section or branch of the undertaking is situated, to decide the question.

Who may make such application?

- 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.

The Tribunal shall after giving all the parties concerned a reasonable opportunity of being heard, decide the question and its decision shall be final and binding on the concerned employer and the workers.

Time-limit for Completing Disciplinary Proceedings and Liability to Pay Subsistence Allowance (Section 38)

This section provides the timeline for completion of disciplinary proceedings against suspended workers and that workers are financially supported during suspension through subsistence allowance.

Time-limit for Proceedings

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 (90) days from the date of suspension. {Sub-section (1)}

Provision in Standing Orders

The standing orders certified or modified under this Code shall provide that where a worker is suspended, the employer in relation to the industrial establishment or undertaking shall pay to such worker employed in such industrial establishment or undertaking a subsistence allowance at the rates specified in the Code for the period during which such worker is placed under suspension pending investigation or inquiry into complaints or charges of misconduct against such worker. {Sub-section (2)}

Rates of Subsistence Allowance

The amount of subsistence allowance payable under Section 38(2) shall be—

(a) at the rate of fifty per cent. (50%) of the wages which the worker was entitled to immediately preceding the date of such suspension, for the first ninety (90) days of suspension; and

(b) at the rate of seventy-five per cent. (75%) 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. {Sub-section (3)}

NOTICE OF CHANGE (CHAPTER V)

Notice of Change (Section 40)

This section mandates employers to give prior notice of change of service conditions to the workers and protects them from sudden or unilateral changes, except in specific circumstances.

General Rule

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

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

(ii) within twenty-one (21) days of giving such notice.

Exception

No notice shall be required for effecting any of the following changes—

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

(b) where the workers likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the Appropriate Government in the Official Gazette, apply;

(c) in case of emergent situation which requires change of shift or shift working, otherwise than in accordance with standing orders, in consultation with the 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.

Conditions of service for change of which notice is to be given (The Third Schedule)

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.

Power of Appropriate Government to Exempt (Section 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.

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION (CHAPTER VI)

Voluntary Reference of Disputes to Arbitration (Section 42)

This section provides a special arbitration mechanism for resolving industrial disputes under the Code.

Reference to Arbitration

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

Appointment of umpire in case of even number of arbitrators

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. Such umpire shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Code.

Forwarding Agreement

A copy of the arbitration agreement shall be forwarded to the Appropriate Government and the conciliation officer.

Notification by Government

Where the Appropriate Government is satisfied that the persons making the reference of an industrial dispute to arbitration represent the majority of each party, the Appropriate Government may issue a notification in such manner as may be prescribed. 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.

Representation of workers before arbitrator

(i) In case of 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 in the following manner –
   (a) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or
   (b) where there is no negotiating union or negotiating council, by the Trade Union; or
   (c) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;

(ii) In case the 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.

Arbitration award

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

Prohibition of strike or lockout

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, where an industrial dispute has been referred to arbitration and a notification has been issued.

Non applicability of the Arbitration and Conciliation Act, 1996

Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section.

MECHANSIM FOR RESOLUTION OF INDUSTRIAL DISPUTES (CHAPTER VII)

Conciliation Officers (Section 43)

The Appropriate Government may appoint persons as conciliation officers for a specified area or one or more specified industries, either permanently or for a limited period, to mediate and promote settlement of industrial disputes.

Industrial Tribunal (Section 44)

This section provides for constitution of the Industrial Tribunals as adjudicatory bodies for industrial disputes.

Constitution of Tribunals:

The Appropriate Government may set up Industrial Tribunals for adjudication of industrial disputes and other functions specified in the Code.

An Industrial Tribunal will consist of two members: (i) a Judicial Member and (ii) an Administrative Member.

Power of Industrial Tribunal:

The Industrial Tribunal shall exercise the jurisdiction, powers and authority conferred on the Tribunal, as defined in clause (m) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 by or under that Act.

Qualifications & Service Conditions of Tribunal Members:

(i) The qualifications for appointment, method of recruitment, term of office, salaries and allowances, resignation, removal and the other terms and 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.

(ii) The term of office of the Judicial Member and the Administrative Member of a Tribunal constituted by the State Government , their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be prescribed by the State Government.

(iii) 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.

(iv) The salary and allowances and the terms and conditions of service of the Judicial Member or Administrative Member and appointed by a State Government shall not be varied to his disadvantage after his appointment.

Composition of benches of Tribunal:

(i) 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.

(ii) The cases other than those stated above shall be entertained and decided by the bench of the Tribunal consisting either a Judicial Member or an Administrative Member of the Tribunal.

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

National Industrial Tribunal (Section 46)

Constitution of National Tribunals:

The Central Government may constitute one or more National Industrial Tribunals for adjudication of industrial disputes which: (i) involve questions of national importance, or (ii) are of such a nature that industrial establishments situated in more than one state are likely to be interested in or affected.

A National Industrial Tribunal shall consist of two members to be appointed by the Central Government: (i) a Judicial Member and (ii) an Administrative Member.

Qualifications & Service Conditions of Members of National Industrial Tribunal:

(i) A person shall not be qualified for appointment as the Judicial Member unless he is, or has been, a Judge of a High Court.

(ii) A person shall not be qualified for appointment as Administrative Member unless, he is or has been Secretary to the Government of India or holding an equivalent rank in the Central Government or State Government, having adequate experience of handling the labour related matters.

(iii) The Judicial Member shall preside over a National Industrial Tribunal.

(iv) The procedure of selection of Judicial Member and Administrative Member, their salaries, allowances and other terms and conditions of service shall be such as may be prescribed.

Decision of Tribunal or National Industrial Tribunal (Section 47)

This section lays down the procedure for decision-making in Industrial Tribunals and National Industrial Tribunals.

Consensus Rule

The decision of a Tribunal or a National Industrial Tribunal, as the case may be, shall be by consensus of the members.

Difference of Opinion

If the members of a Tribunal or a National Industrial Tribunal differ in opinion on any point, they shall

- state the point or points on which they differ, and
- make a reference to the Appropriate Government.

Resolution of Differences

- On receiving the reference, the Appropriate Government shall appoint a Judicial Member from another Tribunal or National Industrial Tribunal who shall hear the disputed point(s) himself.
- The point(s) shall then be decided according to the majority opinion of:
    a) The original members who first heard the case, and
    b) The Judicial Member appointed to resolve the difference.

Disqualification for Members of Tribunal and National Industrial Tribunal (Section 48)

A person shall not be appointed or continue as member of Tribunal or National Industrial Tribunal in the following cases:

(i) he is not an independent person i.e. a person who is unconnected with the industrial dispute referred to a Tribunal or National Industrial Tribunal or with any industry directly affected by such dispute.

(ii) he has attained the age of sixty-five (65) years.

Procedure and Powers of Arbitrator, Conciliation Officer, Tribunal and National Industrial Tribunal (Section 49)

This section outlines the procedural flexibility, investigative powers, and legal status of arbitrators, conciliation officers, Tribunals, and National Industrial Tribunals.

Right of Entry to premises

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.

Proceedings

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;
(d) in respect of such other matters as may be prescribed.

Every inquiry or investigation by Tribunal or National Industrial Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

Appointment of assessors or experts

The Appropriate Government may appoint one or more persons having special knowledge of the matter under consideration as assessors or experts to advise a Tribunal or National Industrial Tribunal, as the case may be, in respect of any proceeding before either of the said Tribunals.

Deemed Civil Court

Every Tribunal or National Industrial Tribunal shall be deemed to be civil court for the purposes of sections 345, 346, and 348 of the Code of Criminal Procedure, 1973.

Execution of award, order or settlement

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

Powers of Tribunal and National Industrial Tribunal to give Appropriate Relief in case of Discharge or Dismissal of Worker (Section 50)

- In case application or reference relating to an industrial dispute involving discharge or dismissal or otherwise termination of a worker, the Tribunal or National Industrial

Tribunal, as the case may be, upon being satisfied that the order of discharge or dismissal or termination is not justified, may issue award as under:

(i) 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

(ii) 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.

- The Tribunal or National Industrial Tribunal, as the case may be, may, in the interest of justice, grant such interim relief to the worker referred above during the pendency of the industrial dispute and in any proceeding under this sub-section, the Tribunal or National Industrial Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

Conciliation and Adjudication of Dispute (Section 53)

This section lays down the procedure, time limits, and outcomes of conciliation proceedings conducted by conciliation officers. It ensures disputes are investigated promptly, settlements are documented, and unresolved matters can move to adjudication before a Tribunal.

Initiation of Conciliation

Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, 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.

Role of Conciliation Officer

The conciliation officer shall without delay, investigate the dispute and all matters affecting the merits and right settlement thereof and 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.

Conciliation report and Memorandum of settlement

(i) 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 the following to the Appropriate Government or an officer authorised in this behalf by the Appropriate Government
   - a report on the proceedings.
   - a memorandum of the settlement signed by the parties to the dispute.

(ii) If no settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send the following to the concerned parties and 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 bringing about a settlement thereof.
   - 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.

(iii) The conciliation officer shall send the report to the concerned parties and the Appropriate Government within forty-five (45) days of the commencement of the conciliation

proceedings or within such shorter period as may be fixed by the Appropriate Government.

(iv) 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 (14) days of the commencement of the conciliation proceedings.

Application to the Tribunal

Any concerned party may make application to the tribunal in the matters not settled by the conciliation officer within ninety (90) days from the date of receipt of report of non-settlement by the party.

Form of Award, its Communication and Commencement (Section 55)

This section specifies the form of award, procedure for communication and enforcement of the award.

Form of Award

The award delivered by the Tribunal or National Industrial Tribunal, as the case may be, shall be issued in writing and signed by the members of the bench.

Communication of Award

Every arbitration award and every award of Tribunal or National Industrial Tribunal shall be communicated to the parties concerned and the Appropriate Government.

Enforceability and Operation of Award

(i) An award made under this Code shall become enforceable on the expiry of thirty (30) days from the date of its communication, as stated above.

(ii) The Appropriate Government or the Central Government, as the case may be, may, by notification, declare that the award shall not become enforceable on the expiry of the said period of thirty (30) days, if it is of the opinion 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.

(iii) In case of declaration as stated above, the Appropriate Government or the Central Government, as the case may be, may, within ninety (90) days from the date of communication of award, make an order rejecting or modifying the award.

(iv) The award together with a copy of the order shall be laid before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government, at the earliest opportunity available.

(v) Post laying of award before the Legislature or the Parliament, as the case may be, the award shall become enforceable on the expiry of 15 days from the date on which it is so laid.

(vi) In case no order is made by the Appropriate Government or the Central Government, as the case may be, the award shall become enforceable on the expiry of ninety (90) days from the date of communication of original award.

(vii) The award shall come into operation with effect from the date as may be specified therein and where no date is specified, it shall come into operation on the date when the award becomes enforceable under this Section.

Persons on whom Settlements and Awards are Binding (Section 57)

(i) 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.

(ii) An arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

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

(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.

STRIKES AND LOCK-OUTS (CHAPTER VIII)

Prohibition of Strikes and Lock-Outs (Section 62)

This section lays strict conditions and prohibitions on strikes by workers and lock-outs by employers in industrial establishments to ensure industrial peace.

Conditions for Strike

No person employed in an industrial establishment shall go on strike, in breach of contract—

(a) without giving to the employer notice of strike within sixty (60) days before striking; or

(b) within fourteen (14) 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 (7) days after the conclusion of such proceedings; or

(e) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty (60) days, after the conclusion of such proceedings; or

(f) during the pendency of arbitration proceedings before an arbitrator and sixty (60) 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.

Conditions for Lock-out

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

(a) without giving them notice of lock-out within sixty (60) days before locking-out; or

(b) within fourteen (14) 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 (7) days after the conclusion of such proceedings; or
(e) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty (60) days, after the conclusion of such proceedings; or
(f) during the pendency of arbitration proceedings before an arbitrator and sixty (60) 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.

Notice or intimation of strike or lockout

The employer shall send 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 the following:-

- The notice of strike or lock-out under this section
- intimation of such lock-out or strike where there is already in existence a strike or, as the case may be, lock-out,

Such notice or intimation shall be sent on the day on which it is declared.

Time period of reporting

On receipt of notice of strike or issue of notice of lock-out as stated above, the employer shall within five (5) days thereof, report to the Appropriate Government or to such authority as that Government may prescribe and to the conciliation officer, the number of such notices received or given on that day.

Illegal Strikes and Lock-Outs (Section 63)

This section defines when strikes and lock-outs are considered illegal under the Code along with exceptions.

Illegal Strikes/Lock-outs*:* A strike or lock-out shall be illegal, if it is commenced or declared in contravention of section 62; or continued in contravention of an order made under section 42(7).

Continuance of Existing Strikes/Lock-outs:

- The 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, and the same was not at its commencement in contravention of the provisions of the Code or the continuance thereof was not prohibited under section 42(7) and
- The continuance of such strike or lock-out shall not be deemed to be illegal.

The Supreme Court in an unprecedented judgement in *T.K. Rangarajan v. Government of Tamil Nadu and Others, (2003) 6 SCC 581: 2003-III-LLJ-275* held that the government employees have no fundamental right, statutory or equitable or moral to resort to strike and they cannot take the society at ransom by going on strike, even if there is injustice to some extent.

Consequential Strikes/Lock-outs

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

Prohibition of Financial Aid to Illegal Strikes or Lock-Outs (Section 64)

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

The strike or lockout is not to be resorted to because the concerned party has a superior bargaining power or the requisite economic muscle to compel the other party to accept its demands. Such indiscriminate case of power is nothing but assertion of the rule of 'might is right'. Thus, initially, employees must resort to dispute settlement by alternative mechanisms. Only under extreme situations when the alternative mechanisms have totally failed to provide any amicable settlement, can they resort to a strike as a last resort. Even a very liberal interpretation of Article 19(1) (c) cannot lead to the conclusion that the trade unions have a guaranteed right to an effective collective bargaining or to strike, either as part of collective bargaining or otherwise. The right to strike or the right to declare a lockout may be controlled or restricted by appropriate industrial legislation. *(Baldev Singh Gandhi v. State of Rajasthan, AIR 2002 SC 1124).*

LAY-OFF, RETRENCHMENT AND CLOSURE (CHAPTER IX)

Application of Sections 67 to 69 (Section 65)

- The provisions of Sections 67 to 69 shall not apply to the following industrial establishments:
  (a) to which Chapter X of the Code applies; or
  (b) in which less than fifty (50) workers on an average per working day have been employed in the preceding calendar month; or
  (c) which are of a seasonal character or in which work is performed intermittently.
- In this section and in sections 67, 68 and 69, industrial establishment shall mean a—
  (a) factory as defined in clause (m) of section 2 of the Factories Act, 1948; or
  (b) mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; or
  (c) plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951.

Definition of Continuous Service (Section 66)

This section defines continuous service for workers, clarifying what counts as uninterrupted service and when workers are deemed to be in continuous service even if they fall short of the full period.

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.

Deemed Continuous Service

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 (190) days in the case of a worker employed below ground in a mine; and
   (ii) two hundred and forty (240) 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 (95) days in the case of worker employed below ground in a mine; and
   (ii) one hundred and twenty (120) days, in any other case.

Counting Number of Days

The number of days on which a worker has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by or under this Code or any other law applicable to the industrial establishment for the time being in force; or
(ii) he has been on leave on full wages earned in the previous years; or
(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; or
(iv) in the case of a female, she has been on maternity leave, so however, that the total period of such maternity leave does not exceed the period as specified in the Maternity Benefit Act, 1961.

Rights of Workers Laid-off for Compensation (Section 67)

This section provides the rights of workers to compensation during lay-off and the conditions under which employers may limit or offset such payments.

Eligibility for Compensation

A worker (other than a badli worker or a casual worker) shall be paid by the employer during lay-off, whether continuously or intermittently, if-

- his 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.

Amount of Compensation

(a) The worker 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. (50%) of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off.

(b) 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.

Setting-off Compensation in case of Retrenchment

In case the employer decides 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, 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.

It may be noted that "***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.

Maintenance of Muster Rolls (Section 68)

The employer shall-

(a) A muster roll of workers, and

(b) provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Workers not entitled for Compensation in Certain Cases (Section 69)

This section specifies the exceptions to compensation during lay-off, ensuring that workers are not entitled to payment if they fail to cooperate with reasonable alternatives or if the lay-off arises from collective worker action in another part of the establishment.

No Compensation shall be paid to a worker who has been laid-off in the following circumstances—

(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 –

  (a) 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, and

  (b) the wages which would normally have been paid to the worker are offered for the alternative employment also.

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

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

Conditions Precedent to Retrenchment of Workers (Section 70)

Worker employed in any industry who has been in continuous service for not less than one year under an employer shall not be retrenched by that employer until—

(a) the worker has been given one month's notice in writing indicating the reasons for retrenchment and –

- the period of notice has expired, or

- the worker has been paid in lieu of such notice, wages for the period of the notice;

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

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

Procedure for Retrenchment (Section 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. However, the employer may retrench any other worker for reasons to be recorded in writing.

Re-employment of Retrenched Worker (Section 72)

If the employer proposes to take into his employment any person within one year of retrenchment, he shall, give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment and such retrenched workers who offer themselves for re-employment shall have preference over other persons.

Compensation to Workers in Case of Transfer of Establishment (Section 73)

(i) 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.

(ii) The provisions of notice and compensation shall not apply to a worker in any case where there has been a change of employers by reason of the transfer, if—

- service of the worker has not been interrupted by such transfer;
- 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
- the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

Sixty Days' Notice to be given of Intention to Close Down any Undertaking (Section 74)

Issuance of Closure Notice

(a) An employer who intends to close down an undertaking shall serve a notice, in such manner as may be prescribed, on the Appropriate Government.

(b) The notice shall be served at least sixty days before the date on which the intended closure is to become effective and clearly state the reasons for the intended closure of the undertaking.

Exception to issuance of Notice

- The requirement of issuance of notice as stated above shall not apply to the following industrial establishment —
  (a) in which less than fifty (50) workers are employed or were employed on any day in the preceding twelve months;
  (b) which is set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.
- 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 issuance of notice shall not apply in relation to such undertaking for such period, as may be specified in the order.

Compensation to Workers in Case of Closing Down of Undertakings (Section 75)

This section governs the rights of workers to compensation when an undertaking is closed down.

General Rule of Compensation

(a) 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.

(b) 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.

(c) An industrial establishment shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer in the following cases –
  - financial difficulties (including financial losses); or
  - accumulation of un-disposed stocks; or
  - the expiry of the period of the lease or license granted to it; or
  - in case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which operations are carried on.

Entitlement in case of workers engaged in mining operations

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 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 (20) 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.

Entitlement in case of workers engaged in construction works

a. No worker employed therein shall be entitled to any compensation under clause (b) of section 70, 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.
b. 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.

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS (CHAPTER X)

Application (Section 77)

The provisions of this Chapter shall apply to an industrial establishment in which not less than three hundred (300) workers were employed on an average per working day in the preceding twelve months. The Appropriate Government may notify higher number of workers for this purpose. However, industrial establishment of a seasonal character or in which work is performed only intermittently are not covered under this Chapter.

For the purposes of this Chapter, "industrial establishment" shall mean:-

i. a factory as defined in clause (m) of section 2 of the Factories Act, 1948;
ii. a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; or
iii. a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951.

Prohibition of Lay-Off (Section 78)

This section governs the procedure and conditions for lay-off in industrial establishments with more than 300 workers.

Prior Permission

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 except when such lay-off is due to

- shortage of power,
- natural calamity, and
- the case of a mine, such lay-off is due to fire, flood, excess of inflammable gas or explosion.

Application for Permission

An application for permission shall be made by the employer electronically or otherwise in the prescribed manner, clearly stating the reasons for the intended lay-off.

A copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

Permission in case of lay-off in Mines

Where the workers (other than badli workers or casual workers) of industrial establishment, being a mine, have been laid-off for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, apply, in such manner as may be prescribed, to the Appropriate Government for permission to continue the lay-off. The application shall be made within a period of thirty days from the date of commencement of such lay-off.

Grant of Permission

(a) On receipt of application for permission, the Appropriate Government shall
   - make such enquiry as it thinks fit and
   - give a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such lay-off.

(b) Thereafter, the Appropriate Government may, by order and for reasons to be recorded in writing, grant or refuse to grant such permission within a period of sixty (60) days from the date on which such application is made. The Appropriate Government shall, while making such order, have regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workers and all other relevant factors.

(c) A copy of such order shall be communicated to the employer and the workers.

Deemed Permission

Where 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.

Order of the Appropriate ***Government to be final and binding***

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
- remain in force for one year from the date of such order.

Review of order or reference to Tribunal: The Appropriate Government may

- 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.

The Appropriate Government may do so either on its own motion or on the application made by the employer or any worker. It is 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.

Illegal Lay-off

Lay-off shall be deemed to be illegal from the date on which the workers had been laid-off-

- 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.

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.

Conditions Precedent to Retrenchment of Workers (Section 79)

Conditions Precedent to Retrenchment

These provisions of retrenchment are applicable to workers employed in any industrial establishment with ≥300 workers and who has been in continuous service for not less than one year under an employer. Such worker shall not 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.

Application for permission of retrenchment

An application for permission shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended retrenchment. A copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

Order by the Appropriate Government

(a) Where an application for permission has been made, the Appropriate Government may, by order and for reasons to be recorded in writing, grant or refuse to grant such permission.

(b) Such an order shall be made by the Appropriate Government only 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.
(c) The Government shall have regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workers and all other relevant factors.
(d) A copy of such order shall be communicated to the employer and the workers.

Deemed permission

Where an application for permission 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 (60) 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.

Enforcement and duration of the order of Appropriate Government

An order of the Appropriate Government granting or refusing to grant permission shall be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

Review or reference of order

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 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.

Where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty (30) days from the date of such reference.

Illegal Retrenchment

The retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the worker-

- where no application for permission under sub-section (1) is made, or
- where the permission for any retrenchment has been refused

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.

Rights of worker retrenched

Where permission for retrenchment has been granted or is deemed to be granted, every worker who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive compensation at the time of retrenchment.

Amount of retrenchment compensation

Such retrenchment compensation shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the Appropriate Government, for every completed year of continuous service or any part thereof, in excess of six months.

Procedure for Closing down an Industrial Establishment (Section 80)

This section regulates closure of undertakings in industrial establishments with ≥300 workers.

Prior Permission

(a) 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.
(b) Such an application shall be made at least ninety (90) days before the date on which the intended closure is to become effective, to the Appropriate Government.
(c) The application shall clearly state the reasons for the intended closure of the undertaking.
(d) A copy of such application shall also be served simultaneously on the representatives of the workers in such manner as may be prescribed.

Illegal closure

The closure of the undertaking shall be deemed to be illegal from the date of closure -

- where no application for permission is made within the period specified therein, or
- where the permission for closure has been refused.

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.

Exemption to establishment owing to exceptional circumstances

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.

Right of compensation

Where an undertaking is permitted to be closed down or where permission for closure is deemed to be granted, 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.

Amount of compensation

Such compensation shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the Appropriate Government, for every completed year of continuous service or any part thereof in excess of six months.

Duty of an Employer to Maintain Muster Rolls of Workers (Section 81)

It shall be the duty of every employer to maintain 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.

WORKER RE-SKILLING FUND (CHAPTER XI)

Worker Reskilling Fund (Section 83)

This section introduces the Worker Reskilling Fund, a statutory mechanism to financially support workers who are retrenched.

Establishment of Fund

The Appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund.

Sources of the Fund

The fund shall consist of—

(e) the contribution of the employer of an industrial establishment for 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;

(f) the contribution from such other sources as may be prescribed by the Appropriate Government.

Utilisation of the Fund

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.

UNFAIR LABOUR PRACTICES (CHAPTER XII)

Prohibition of Unfair Labour Practice (Section 84)

No employer or worker or a Trade Union shall commit any unfair labour practice specified in the Second Schedule. This prohibition is applicable irrespective of the fact whether they are registered under Industrial Relations Code or not.

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.

OFFENCES AND PENALTIES (CHAPTER XIII)

Power of Officers of Appropriate Government to Impose Penalty (Section 85)

Appointment of Officer

The Appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government and impose penalty under the following sections:-

(i) Section 86(3)
(ii) Section 86(5)
(iii) Section 86(7)
(iv) Section 86(8)
(v) Section 86(9)

(vi) Section 86(10)
(vii) Section 86(11)
(viii) Section 86(20)
(ix) Section 89(7)

Power of the Officer

The officer appointed as above shall have the power as under:

(a) 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.
(b) to impose such penalty as he thinks fit in accordance with such provisions.

Payment of penalty

(a) The penalty imposed shall be paid within a period of ninety (90) days from the date of receipt of the copy of the order.
(b) In case of non-payment of penalty within the stipulated time, a fine which shall not be less than fifty thousand rupees but may extend up to two lakh rupees shall be imposed.

Penalties (Section 86)

The following fines or penalties or punishment may be imposed on the person contravening the provisions of the Code:

Provisions	**Party punishable**	**Fine / Penalty / Punishment**
Section 78 Section 79 Section 80	Employer	Minimum - Rs. 1 Lakh Maximum – Rs. 10 Lakh **Continuing offence –** Minimum - Rs. 5 Lakh Maximum – Rs. 20 Lakh Or Imprisonment – upto 6 months Or Both
Section 67 Section 70 Section 73 Section 75	Employer	Minimum - Rs. 50,000 Maximum – Rs. 2 Lakh **Continuing offence –** Minimum - Rs. 1 Lakh Maximum – Rs. 5 Lakh Or Imprisonment – upto 6 months Or Both
Unfair Labour Practice as specified in the Second	Any person	Minimum - Rs. 10,000 Maximum – Rs. 2 Lakh

Schedule		**Continuing offence –** Minimum - Rs. 50,000 Maximum – Rs. 5 Lakh Or Imprisonment – upto 3 months Or Both
Default by any registered Trade Union - in giving any notice or - sending any statement or other document as required by or under any of the provisions of this Code	- every office-bearer or - other person bound by the rules of the Trade Union to give or send the same, or, - if there is no such office-bearer or person, every member of the executive of the Trade Union	Minimum - Rs. 1,000 Maximum – Rs. 10,000 **Continuing default –** Additional penalty of Rs.50/day till the default continues
Section 26	Any person making default wilfully	Minimum - Rs. 2,000 Maximum – Rs. 20,000
- Submission of false copy of the Rules of the Trade Union - Submission of 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	Any person making default wilfully	Minimum - Rs. 5,000 Maximum – Rs. 20,000
Submission of draft standing orders or draft modified standing orders under Section 30 or Section 35	Employer	Minimum - Rs. 50,000 Maximum – Rs. 2 Lakh **Continuing offence –** Additional fine of Rs. 2,000/day till the offence continues
Contravention of certified standing orders	Employer	Minimum - Rs. 1 Lakh Maximum – Rs. 2 Lakh **Continuing offence –** Minimum - Rs. 2 Lakh Maximum – Rs. 4 Lakh Or

		Imprisonment – upto 3 months Or Both
Commencement, continuation or furtherance of illegal strike	Worker	Minimum - Rs. 1,000 Maximum – Rs. 10,000 Or Imprisonment – upto 1 month Or Both
Commencement, continuation or furtherance of illegal lock-out	Employer	Minimum - Rs. 50,000 Maximum – Rs. 1 Lakh Or Imprisonment – upto 1 month Or Both
Instigate or incite others to take part in, or otherwise act in furtherance of, an illegal strike or lock-out	Any person	Minimum - Rs. 10,000 Maximum – Rs. 50,000 Or Imprisonment – upto 1 month Or Both
Spending or applying any money in direct furtherance or support of any illegal strike or lock-out	Any person	Minimum - Rs. 10,000 Maximum – Rs. 50,000 Or Imprisonment – upto 1 month Or Both
Breach of any term of any settlement or award, which is binding under this Code	Any person	Minimum - Rs. 20,000 Maximum – Rs. 2 Lakh Or Imprisonment – upto 3 months Or Both **Continuing offence –** Additional fine of upto Rs. 1,000/day till the offence continues - 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.
Section 61	Any person	upto Rs. 20,000 Or Imprisonment – upto 1 month Or Both
Any other contravention under this Code	Any person	Upto Rs. 1 Lakh

Offences by Companies (Section 88)

This section provides for the liability framework for offences committed by Companies under the Code.

Company

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.

A "director" in relation to a firm means a partner in the firm.

General Liability

If the person committing an offence under the Code is a company-

- every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, and
- company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Defence

Any person liable to any punishment shall have the right to prove that -

- the offence was committed without his knowledge; and
- he exercised all due diligence to prevent the commission of such offence.

Specific Liability for Consent, Connivance, or Neglect

Where an offence under this Code has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any –

- director, or
- manager, or
- secretary or

- other officer of the company,

such person shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Composition of Offences (Section 89)

This section provides a mechanism for compounding offences under the Code, allowing certain offences to be settled by payment of a prescribed sum instead of undergoing full prosecution.

Compounding of Offences

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under the Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine may be compounded.
- For compounding, an application shall be made by the accused person, either before or after the institution of any prosecution.
- The Appropriate Government may, by notification, specify any Gazetted Officer as a compounding authority.
- Such an offence may be compounded as under:
  a) fifty (50) per cent. of the maximum fine provided for such offence punishable with fine only; and
  b) seventy-five (75) per cent. provided for such offence punishable with imprisonment for a term which is not more than one year or with fine.

It may be noted that such amount of composition shall be credited to the Social Security Fund established under section 141 of the Social Security Code, 2020.

Compounding not permissible

Compounding shall not be permissible for 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.

Compounding before institution of prosecution

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.

Compounding after institution of prosecution

Where the composition of any offence is made after the institution of any prosecution-

- such composition shall be brought by the compounding officer in writing, to the notice of the adjudicating officer appointed under section 85(1) 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.

Consequences of failure to comply with compounding order

Any person who fails to comply with an order made by the compounding officer shall be liable to pay a sum equivalent to twenty (20) per cent. of the maximum fine provided for the offence, in addition to such fine.

SALIENT FEATURES OF INDUSTRIAL RELATIONS (CENTRAL) RULES, 2026

The Industrial Relations (Central) Rules, 2026, were notified by the Ministry of Labour and Employment on May 8, 2026, under the powers conferred by Section 99 of the Industrial Relations Code, 2020. The Central Government issued these rules in supersession of the Industrial Disputes (Central) Rules, 1957 (specifically Parts II and V to VIII) and the Industrial Employment (Standing Orders) Central Rules, 1946.

The following is a gist of the key provisions of the Rules:

Bi-Partite Forums

Forum	Key Provisions	Important Timelines/Limits
Works Committee	Promote measures for securing and preserving amity and good relations between the employer and workers	• Maximum 20 members. • The number of worker representatives must not be less than employer representatives.
Grievance Redressal Committee (GRC) or Grievance Committee	It handles workers grievances. Any aggrieved worker may file an application stating his grievance before the Grievance Committee.	• Mandatory for establishments employing 20 or more workers having equal number of members representing the employer and workers, which must not exceed 10 members. • Grievances must be filed within 1 year of the cause of action. • The GRC must resolve grievances within 30 days of receipt.
Conciliation Officer	Any worker aggrieved by the decision of the Grievance Committee or whose grievance is not resolved within 30 days of receipt of the application, may file an application to conciliation office.	• Application must be filed within a period of 60 days from the date of the decision of the Grievance Committee.

Trade Unions

- **Recognition:** If an establishment has only one registered Trade Union with at least 30% membership, the employer must recognize it as the Sole Negotiating Union of the workers.
- **Verification:** Membership verification of Trade Unions is conducted via secret ballot overseen by a Central Government-appointed Verification Officer.
- **Tenure:** Recognition is valid for 3 years, extendable to a maximum of 5 years by mutual agreement between employer and the Trade Union.

Standing Orders

- **Adoption:** The Model Standing Orders in respect of industrial establishments in mine sector, manufacturing sector and service sector must be those set out under the Model Standing Orders, 2026. The employer to inform the concerned certifying officer electronically or in person or by speed post, the specific date from which the provisions of the Model Standing Orders have been adopted.
- **Certification:** If an employer adopts the Model Standing Orders, they are "deemed certified" if the Certifying Officer raises no objections within 30 days.
- **Display:** Certified standing orders must be displayed in Hindi, English, and the local language at the entrance or near the entrance of the industrial establishment through which majority of workers enter and may also be posted on the designated portal/website, if any, of such industrial establishment.

Notice of Change

- **Requirement:** Employers must give notice for change in Form IV before changing service conditions applicable to any worker as specified in the Third Schedule of the Code.
- **Communication:** Notice must be served to affected workers electronically, in person, or by speed post.

Arbitration & Dispute Resolution

- **Voluntary Arbitration:** The employer and workers may agree to refer industrial disputes to arbitration by entering into an arbitration agreement using Form V.
- **Conciliation:** If no settlement is arrived at in the conciliation proceedings, the Conciliation Officers must upload reports on the portal of the Ministry of Labour and Employment within 7 days of concluding conciliation proceedings.
- **Recovery of Dues:** Workers can apply for recovery of money due from an employer under settlements or awards using Form VII.

Strikes and Lock-outs

- **Strikes:** Registered Trade Unions must give notice of strike to the employer of an industrial establishment in Form XI.
- **Lock-outs:** Employers of an industrial establishment must provide notice of lock-out in Form XII to every registered Trade Union.
- **Reporting:** Employers must notify the Conciliation Officer and Chief Labour Commissioner (Central) within 5 days of receiving a strike notice or giving a lock-out notice.

Lay-off, Retrenchment, and Closure

- **Service of notice before retrenchment:** If an employer desires to retrench any worker employed in his industrial establishment who has been in continuous service for not less than 1 year, such employer must serve prior notice of retrenchment in Form-XIII to the Central Government and to the concerned Deputy Chief Labour Commissioner (Central).
- **Re-employment to retrenched workers:** When any vacancy occurs in an industrial establishment and there are workers of such industrial establishment retrenched within 1 year prior to the proposal for filling such vacancies, the employer must give them preference over other on the basis of their seniority, if such workers are citizens of India and have given their willingness for employment.
- **Service of notice for intended Closure:** If an employer intends to close down an industrial establishment, the employer must give notice in Form-XIII at least 60 days before the date of intended closure to the Central Government and the concerned Deputy Chief Labour Commissioner (Central).

Worker Re-skilling Fund

- **Employer Contribution:** Every employer who has retrenched a worker in industrial establishment must transfer an amount equivalent to 15 days of last drawn wages of such retrenched worker in the fund within 10 days from the date of such retrenchment.
- **Fund Transfer:** The fund must be transferred by the office of the Chief Labour Commissioner (Central) or the office of the Deputy Chief Labour Commissioner (Central) or the office of the Regional Labour Commissioner (Central) or the office of the Assistant Labour Commissioner (Central), electronically to each of the retrenched worker account within 45 days of retrenchment to enable them to utilise that amount for his re-skilling.

Offences and Miscellaneous

- **Compounding Offences:**
    - Certain violations can be settled out of court. The officer notified by the Central Government for the purposes of compounding of offences must send a notice to the accused in Form XV through the designated portal of the Ministry of Labour and Employment.
    - The accused to whom the notice is served may send the duly filled up application in Part III of Form XV to the compounding officer electronically and deposit the compounding amount electronically, within 15 days of the receipt of the notice.

- **Protected Workers:** Every registered Trade Union connected with an industrial establishment must communicate to the employer before the 30th April of every year, the names and addresses of the officers of such Trade Union who are employed in that establishment and recognised as protected workers.
- **Legal Representation:** Workers or employer not belonging to trade unions or association of employers, may authorize representatives using Form VI to represent them in any proceeding relating to a dispute in which that worker or employer is a party.

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LESSON 5
LAW OF WAGES

The Code on Wages, 2019 seeks to simplify, consolidate, and rationalize the provisions of four existing laws-

1. The Payment of Wages Act, 1936;
2. The Minimum Wages Act, 1948;
3. The Payment of Bonus Act, 1965; and
4. The Equal Remuneration Act, 1976.

It aims to strengthen workers' rights while promoting simplicity and uniformity in wage-related compliance for employers.

SALIENT FEATURES OF THE CODE

Universal Minimum Wages: The Code establishes a statutory right to minimum wages for all employees across both organized and unorganized sectors. Earlier, the Minimum Wages Act applied only to scheduled employments covering ~30% of workers.

Introduction of Floor Wage: A statutory floor wage shall be set by the Government based on minimum living standards, with scope for regional variation. No state can fix minimum wages below this level, ensuring uniformity and adequacy nationwide.

Criteria for Wage Fixation: Appropriate Governments will determine minimum wages considering workers' skill levels (unskilled, skilled, semi-skilled and highly skilled), geographic areas, and job conditions such as temperature, humidity, or hazardous environments.

Gender Equality in Employment: Employers shall not discriminate on the basis of gender, including transgender identity, in recruitment, wages, and employment conditions for similar work.

Universal Coverage for Wage Payment: Provisions ensuring timely payment and preventing un-authorized deductions will apply to all employees, irrespective of wage limits (currently applicable only to employees earning up to ₹24,000/month).

Overtime Compensation: Employers must pay all employees overtime wages at least twice the normal rate for any work done beyond the regular working hours.

Responsibility for Wage Payment: Employers, including companies, firms, or associations, shall pay wages to employees employed by them. Failure to do so makes the proprietor/ entity liable for unpaid wages.

Inspector-cum-Facilitator: The traditional role of "Inspector" is replaced with "Inspector-cum-Facilitator," emphasizing guidance, awareness, and advisory roles alongside enforcement to improve compliance.

Compounding of Offences: First-time, non-imprisonable offences can be compounded by paying a penalty. Repeat offences within five years, however, cannot be compounded.

Decriminalization of Offences: The Code replaces imprisonment for certain first-time offences with monetary fines (up to 50% of the maximum fine), making the framework less punitive and more compliance-oriented.

CHAPTER I: PRELIMINARY

Section 1 of the Code provides for title and applicability of the Code as follows:

- This Act may be called the Code on Wages, 2019.
- The Code extends to the whole of India

The Code has vested power in the **Central Government** for notification with respect to commencement of the Code, and different dates may be appointed for different provisions as may be considered appropriate. In exercise of these powers, the Central Government may, by notification in the Official Gazette, appoint the date(s) on which the provisions of the Code shall come into force.

In exercise of the powers conferred by sub-section (3) of section 1 of the Code on Wages, 2019, the Central Government appointed 21st day of November, 2025 as the date on which the following provisions of the said Code, to come into force, namely: -

Sl. No.	Provisions of the Code
1.	sections 1 to 41;
2.	sub-sections (4) to (9) of section 42;
3.	sections 43 to 66;
4.	sub-section (1) and clauses (a) to (r) and (u) to (zc) of sub-section (2) and sub-sections (3) to (5) of section 67;
5.	section 68;
6.	section 69, except the provisions of the Code mentioned at serial number 3 of S.O. 4604 (E), dated the 18th December, 2020.

Important Definitions

Section 2 of the Code provides for definitions with the opening words *"unless the context otherwise requires"* as follows:

"Accounting Year" means the year commencing on the 1st day of April. **{Section 2(a)}**

"Advisory Board" means the Central Advisory Board or, as the case may be, the State Advisory Board, constituted under section 42. **{Section 2(b)}**

"Agricultural income tax law" means any law for the time being in force relating to the levy of tax on agricultural income. **{Section 2(c)}**

"Appropriate Government" means—

(i) in relation 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, as the case may be, the Central Government;

(ii) in relation to any other establishment, the State Government; **{Section 2(d)}**

"Company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013.**{Section 2(e)}**

"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;

Therefore, contractor does not include mere supplier of goods or articles of manufacture through contract labour. The definition focus on those persons who are actually undertaking to give results for an establishment through contract labour or source workforce for any work of establishment. **{Section 2(f)}**

"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 this definition specifically exclued 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. **{Section 2(g)}**

The Code provides a detailed definition of ***"contract labour"*** *to distinguish between workers engaged through contractors for specific work and those who are permanently employed by contractors under regulated employment conditions.*

"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. **{Section 2(h)}**

"Corporation" means any body corporate established by or under any Central Act, or State Act, but does not include a company or a co-operative society. **{Section 2(i)}**

"Direct Tax" means—

(i) any tax chargeable under the—

(A) *Income-tax Act, 1961;*

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

(C) *Agricultural income tax law;*

(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 Code. **{Section 2(j)}**

"Employee" means any person 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.

The definition includes a person declared to be an employee by the Appropriate Government.

The definition of employee specifically exclude-

- an apprentice engaged under the Apprentices Act,1961.
- any member of the Armed Forces of the Union**. {Section 2(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 employees in his establishment and where the establishment is carried on by-

- Central/State Government departments: authority specified by the head of the department, or if none specified, the head of the department.
- Local authority establishments: the chief executive of that authority.

Specific Inclusions:

(i) Factory: the *occupier* as defined in section 2(n) of the Factories Act, 1948, or, 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)Other establishments: the person/authority with *ultimate control* over affairs, or the *manager/managing director* if entrusted.

(iii) Contractor.

(iv) Legal representative of a deceased employer. **{Section 2(l)}**

"Establishment" means any place where any industry, trade, business, manufacture or occupation is carried on and includes Government establishment. **{Section 2(m)}**

"Factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948. **{Section 2(n)}**

"Government Establishment" means any office or department of the Government or a local authority. **{Section 2(o)}**

"Income-tax Act" means the Income-tax Act, 1961. **{Section 2(p)}**

"Industrial dispute" means—

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

(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; **{Section 2(q)}**

"Inspector-cum-Facilitator" means a person appointed by the Appropriate Government under sub-section (1) of section 51. **{Section 2(r)}**

"Minimum Wage" means the wage fixed under section 6. **{Section 2(s)}**

"Notification" means a notification published in the Gazette of India or in the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly. **{Section 2(t)}**

"Prescribed" means prescribed by rules made by the Appropriate Government. **{Section 2(u)}**

"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, If there is any difference between the skill, effort, experience and responsibility required for employees of any gender, the difference is practically of no importance in relation to the terms and conditions of employment. **{Section 2(v)}**

"State" includes a Union territory. **{Section 2(w)}**

"Tribunal" shall have the same meaning as assigned to it in clause (r) of section 2 of the Industrial Disputes Act, 1947. **{Section 2(x)}**

"Wages"- The term *"wages"* under the Code is defined broadly to encompass all monetary remuneration payable to an employee in respect of employment or work done, whether under express or implied terms of employment. This ensures that the statutory scope of wages is not confined merely to salary but extends to allowances and other forms of compensation 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.

The definition explicitly includes—

(i) basic pay;
(ii) dearness allowance; and
(iii) retaining allowance, if any,

Followings are explicitly excluded from the definition —

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 totalwages payable to him, shall be deemed to form part of the wages of such employee. **{Section 2(y)}**

"Worker": The definition of the worker under the Code is both inclusive and exclusive. It means any person 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. An apprentice as defined under clause (aa) of section 2 of the *Apprentices Act, 1961 is specifically excluded from purview of worker under the Code.*
Following are specifically included in the definition of worker—

- 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 Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute,

The following persons are specifically excluded from the definition of worker-

- who is subject to the *Air Force Act, 1950,* or the *Army Act, 1950* or the *Navy Act, 1957;* or
- who is employed in the police service or as an officer or other employee of a prison; or
- who is employed mainly in a managerial or administrative capacity; or
- who is employed in a supervisory capacity drawing wages exceeding fifteen thousand rupees per month or an amount as may be notified by the Central Government from time to time. **{Section 2(z)}**

Prohibition of Discrimination on Ground of Gender

Section 3 of the Code provides for **Prohibition of Discrimination on Ground of Gender** as follows:

(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.

(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.

Decision as to Disputes with regard to Same or Similar Nature of Work

Section 4 of the Code provides for **decision as to Disputes with Regard to Same or Similar Nature of Work** as follows:

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

CHAPTER II: MINIMUM WAGES

Payment of Minimum Rate of Wages

Section 5 of the Code makes it mandatory for every employer to pay to any employee wages at least equal to the minimum rate of wages notified by the Appropriate Government.

Fixation of Minimum Wages

Section 6 of the Code provides for Fixation of Minimum Rate of Wages as follows:

(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.

(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 that 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.

Components of Minimum Wages

The section 7 of the Code provides for the components of minimum wages as follows-

1. Any minimum rate of wages fixed or revised by the Appropriate Government under section 8 may consist of—
   (a) ***Basic rate plus Cost-of-Living Allowance*****:** 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) ***Basic rate plus cash value of concessions:*** 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) ***All-inclusive rate:*** an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.
2. ***Computation of cost-of-living allowance and cash value of concessions:*** 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.

The section lays the structure of minimum wages that may be fixed or revised by the Appropriate Government under Section 8. The provision ensures that minimum wages are not a flat figure but a composite package**,** reflecting both basic remuneration and adjustments for cost of living.

Procedure for Fixing and Revising Minimum Wage

Section 8 lays down the procedural framework for fixing minimum wages for the first time or revising them thereafter**.**

(1) In fixing minimum rates of wages for the first time or in revising minimum rates of wages under this Code, the Appropriate Government shall either—

(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.

Power of Central Government to Fix Floor Wage

Section 9 empowers the Central Government to fix a *floor wage*, which serves as the baseline wage standard across the country. It provides the same as follows: -

(1) The Central Government shall fix floor wage taking into account minimum living standards of a worker in such manner as may be prescribed:

Provided that different floor wage may be fixed for different geographical areas.

(2) The minimum rates of wages fixed by the Appropriate Government under section 6 shall not be less than the floor wage 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.

(3) The Central Government may, before fixing the floor wage under sub-section (*1*), obtain the advice of the Central Advisory Board constituted under sub-section (*1*) of section 42 and consult State Governments in such manner as may be prescribed.

Wages of Employee who Works for less than Normal Working Day

Section 10 safeguards employees as it provides that if a worker is employed for less than the requisite hours of a normal working day, they are still entitled to receive full day's wages**,** thereby protecting them from loss of income due to factors beyond their control.

If an employee whose minimum rate of wages has been fixed under this Code 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:

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.

Wages for Two or More Classes of Work

Section 11 addresses situations where an employee performs multiple classes of work within the same employment period, each attracting a different minimum wage rate. According to the section-

- 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.

Minimum Time Rate Wages for Piece Work

Section 12 ensures minimum time rate wages where minimum piece rate is also fixed by providing-

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

Fixing Hours of Work for Normal Working Day

Section 13 empowers the Appropriate Government to regulate the *hours of work* constituting a normal working day.

(1) Where the minimum rates of wages have been fixed under this Code, the Appropriate Government may —

(*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.

Wages for Overtime Work

Section 14 ensures that any work performed beyond the prescribed hours of a normal working day attracts enhanced remuneration.

Where an employee whose minimum rate of wages has been fixed under this Code 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.

CHAPTER III: PAYMENT OF WAGES

Mode of Payment of Wages

Section 15 prescribes the acceptable modes of wage payment, ensuring transparency, accountability, and ease of access for employees.

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:

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.

Fixation of Wage Period

Section 16 requires every employer to fix a wage period for employees.

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:

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

Time Limit for Payment of Wages

Section 17 ensures that employees receive their wages promptly and within defined timelines, thereby safeguarding their right to timely remuneration and preventing undue hardship caused by delayed payments.

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

(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 this section above, 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.

Deductions which may be made from Wages

Section 18 establishes a **closed list of permissible deductions** from wages, prohibiting employers from making arbitrary or unauthorized deductions.

(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 authorized under this Code.

What is deemed to be deduction and what does not: It is explained that 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) Following 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-

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,

(2) Deductions from the wages of an employee shall be made in accordance with the provisions of this Code, 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. It is provided via explanation that 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 Trade Unions Act, 1926 (16 of 1926);
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 cranage 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 Code and subject to the provisions of any other law for the time being in force, the total amount of deductions which may be made as stated above 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 above provisions 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.

Fines

Section 19 regulates the imposition of fines on employees, ensuring that fines are not arbitrary but subject to government approval, procedural safeguards, and strict limits.

The provisions are as follows:-

(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.
(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 installments 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.

Deductions for Absence from Duty

Section 20 provides for the circumstances under which deductions from wages may be made for absence from duty. It ensures that deductions are proportionate, lawful, and not misused by employers, while also addressing collective absenteeism and strike-related conduct.

The provisions of the section are as follows:-

(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 may be for the whole or any part of the period during which he is so required to work.
(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.

It is 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.

It is further explained that 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.

Deductions for Damage or Loss

Section 21 regulates deductions from wages where an employee has caused damage or loss to the employer. It ensures that such deductions are fair and procedurally safeguarded as follows-

(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.

(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.

Deductions for Services Rendered

Section 22 regulates deductions from wages in respect of house accommodation, amenities, or services provided by the employer. The provisions of the section are as follows-

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 Recovery of Advances

Section 23 provides for deductions from wages for the recovery of advances made to employees as follows:-

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:-

(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.

Deductions for Recovery of Loans

Section 24 of the Code provides for deductions from wages for recovery of loans as follows:- 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.

Chapter not to apply to Government Establishments

Section 25 provides that the provisions of this Chapter shall not automatically apply to Government establishments. It states that-

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 IV: PAYMENT OF BONUS

Eligibility for Bonus, etc.

Section 26 provides for the framework for bonus entitlement of employees, linking it to wages, allocable surplus, and the profitability of establishments. It ensures that employees receive a minimum statutory bonus regardless of the employer's financial performance, while also providing for higher bonuses when surplus profits exist.

(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.

(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 Code 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, 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, 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.

Proportionate Reduction in Bonus in Certain Cases

Section 27 provides for the proportionate reduction of the minimum bonus in cases where an employee has not worked for all the working days in an accounting year as follows-

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.

Computation of Number of Working Days

Section 28 clarifies how the number of working days is computed for the purposes of Section 27 (proportionate reduction in bonus) as follows-

An employee shall be deemed to have worked in an establishment in any accounting year also on the days on which—

(a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, 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.

Disqualification for Bonus

Section 29 sets out the circumstances under which an employee is disqualified from receiving bonus under the Code as follows-

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

(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.

Establishments include Departments, Undertakings and Branches

Section 30 provides for how bonus is to be computed when an establishment consists of multiple departments, undertakings, or branches, whether located in the same place or spread across different places as follows:-

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 Code.

It is 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 Code for that year. This separate treatment shall be applicable only if 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.

Payment of Bonus out of Allocable Surplus

Section 31 provides for bonus to be payable out of the *allocable surplus* as follows:-

(1) The bonus shall be paid out of the allocable surplus which shall be an amount equal to sixty per cent. in case of a banking company and 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.

(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.

Computation of Gross Profits

Section 32 of the Code provides for computation of gross profits as follows-

The gross profits derived by an employer from an establishment in respect of the accounting year shall,—

(a) in the case of a banking company, be calculated in the manner as may be prescribed by the Central Government;

(b) in any other case, be calculated in the manner as may be prescribed by the Central Government.

Computation of Available Surplus

Section 33 defines how the available surplus is computed for the purpose of bonus distribution as follows-

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:

Provided that the available surplus in respect of the accounting year commencing on any day in a year after the commencement of this Code 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 the provisions of section 35, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom the amount of bonus which the employer has paid or is liable to pay to his employees in accordance with the provisions of this Code for that year.

Sums Deductible from Gross Profits

Section 34 of the Code provides for sums deductible from gross profits as prior charges as follows-

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

(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.

Calculation of Direct Tax payable by Employer

Section 35 of the Code provides for calculation of direct tax payable by the employer as follows:-

For the purposes of this Code, 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:—

(a) ***Exclusions:*** in calculating such tax no account shall be taken of—

(i) *Carried forward loss:* 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) *Arrears of depreciation:* 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) ***Definition of a company in which public is substantially interested:*** 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) ***Individuals and Hindu Undivided Families:*** 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) ***Export profits rebate:*** 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) ***Other rebates and deductions:*** 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.

Set on and Set off of Allocable Surplus

Section 36 introduces the mechanism of **set on and set off** in relation to allocable surplus for bonus computation so that bonus payments remain **equitable and stable across accounting years,** balancing fluctuations in profitability by carrying forward excesses or deficiencies as follows:-

(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, be carried forward. It can be 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. The carried forward is subject to a ceiling limit of twenty per cent of the total salary or wage of the employees employed in the establishment in that accounting year,

(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 this Code shall apply to all other cases not covered in above provisions for the purpose of payment of bonus under this Code.

(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.

Adjustment of Customary or Interim Bonus against Bonus payable under this Code

Section 37 of the Code provides for adjustment of customary or interim bonus against bonus payable under this Code as follows:-

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 Code 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 Code in respect of that accounting year and the employee shall be entitled to receive only the balance.

Deduction of Certain Amounts from Bonus Payable

Section 38 of the Code provides for deduction of certain amounts on account of misconduct of employee from bonus payable as follows:-

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 Code in respect of that accounting year only, and the employee shall be entitled to receive the balance, if any.

Time Limit for Payment of Bonus

Section 39 of the Code provides for the time limit within which bonus shall be paid as follows:-

(1) The employer shall pay all amounts payable to an employee by way of bonus under this Code by crediting it in the bank account of the employee within a period of eight months from the close of the accounting year.

It is 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. However, the total period so extended shall not in any case exceed two years.

(2) Notwithstanding anything contained above, 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.

It is 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 Code within a period of eight months from the close of the accounting year.

Application of this Chapter to Establishments in Public Sector in Certain Cases (Section 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.

(2) Save as otherwise provided in sub-section (1), nothing in this Chapter shall apply to the employees employed by any establishment in public sector.

Non-applicability of this Chapter

Section 41 of the Code provides for non-applicability of bonus provisions to certain categories of employees and establishments as follows:-

(1) *Where Chapter is not applicable:-* Nothing in this Chapter shall apply to—

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

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

(c) employees registered or listed under any scheme made under the *Dock Workers (Regulation of Employment) Act, 1948 (9 of 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, chambers 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 institutions 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;

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

(i) 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

Central Advisory Board and State Advisory Boards

Section 42 of the Code provides for the constitution, composition, and functions of the Central Advisory Board and State Advisory Boards as follows:-

(1) The Central Government shall constitute the Central Advisory Board which shall consist of persons to be nominated by the Central Government—

a) representing employers;

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

c) independent persons, not exceeding one-third of the total members of the Board; and

d) five representatives of such State Governments as may be nominated by the Central Government.

(2) One-third of the members referred above shall be women, and a member specified in clause (c) above shall be appointed by the Central Government as the Chairperson of the Board.

(3) The Central Advisory Board so constituted shall, from time to time, advise the Central Government on reference of issues relating to—

(a) fixation or revision of minimum wages and other connected matters;

(b) providing increasing employment opportunities for women;

(c) the extent to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf; and

(d) any other matter relating to this Code.

On such advice, the Central Government may issue directions to the State Government as it deems fit in respect of matters relating to issues referred to the Board.

(4) Every State Government shall constitute a State Advisory Board for advising the State Government—

(a) in fixation or revision of minimum wages and other connected matters;

(b) for the purpose of providing increasing employment opportunities for women;

(c) with regard to the extent to which women may be employed in such establishments or employments as the State Government may, by notification, specify in this behalf; and

(d) in any other matter relating to this Code, which the State Government may refer from time to time to the Board.

(5) The State Advisory Board may constitute one or more committees or sub-committees to look into issues pertaining to matters specified in clauses (a) to (d) of sub-section (4).

(6) The State Advisory Board and each of the committees and sub- committees thereof shall consist of persons—

a) representing employers;

b) representing employees, equal in number to the members specified in clause (a);and

c) independent persons, not exceeding one-third of the total members of the Board or committee or sub-committee, as the case may be.

(7) One-third of the members referred to in sub-section (6) shall be women, and one among the members specified in clause (c) of the said sub-section shall be—

(a) appointed by the State Government as the Chairperson of the Board;

(b) appointed by the State Advisory Board as the Chairperson of the committee or sub-committee, as the case may be.

(8) In tendering its advice in the matters specified in clause (b) or clause (c) above, the State Advisory Board shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, the need for providing increasing employment opportunities for women (including part-time employment), and such other relevant factors as the Board may think fit.

(9) The State Government may, after considering the advice tendered to it by the State Advisory Board and after inviting and considering the representations from establishments, employees, or any other person which that Government thinks fit, issue such directions as may be deemed necessary.

(10) The Central Advisory Board and the State Advisory Board shall respectively regulate their own procedure, including that of the committees and sub-committees constituted by the State Advisory Board, in such manner as may be prescribed.

(11) The terms of office of the Central Advisory Board and the State Advisory Board including that of the committees and sub-committees constituted by the State Advisory Board, shall be such as may be prescribed.

CHAPTER VI: PAYMENT OF DUES, CLAIMS AND AUDIT

Responsibility for Payment of Various Dues

Section 43 of the Code provides for principal responsibility of employers in payment of dues as follows: -

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

Provided that where such employer fails to make such payment in accordance with this Code, 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.

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.

Payment of Various Undisbursed Dues in case of Death of Employee

Section 44 provides for those undisbursed dues of an employee—such as wages, bonus, or other payments under the Code—to be properly settled in the event of the employee's death or when the employee's whereabouts are unknown. The provisions of the section are as follows: -

(1) Subject to the other provisions of this Code, all amounts payable to an employee under this Code 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 Code; 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 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 above provisions of the section, all amounts payable to an employee under this Code—

  (a) are paid by the employer to the person nominated by the employee; or

  (b) are deposited by the employer with the authority referred to in clause (b) above then, the employer shall be discharged of his liability to pay those amounts.

Claims under Code and Procedure thereof

Section 45 provides for the **mechanism for adjudication of claims** arising under the Code as follows:

(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 arise under the provisions of this Code.

(2) The authority so appointed, while deciding the claim, may order, having regard to the circumstances under which the claim arises, the payment of compensation in addition to the claim determined. Such compensation may extend to ten times the claim determined, The authority shall endeavour 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 the section, the authority shall issue a certificate of recovery to the Collector or District Magistrate of the district where the establishment is located. The Collector or District Magistrate, then, 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 above may be filed by—

   (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) Such application may be filed within a period of three years from the date on which claims referred in the section arise. Discretionary power is also vested in the authority entertain the application after three years on sufficient cause being shown by the applicant for such delay.

(7) The authority appointed the section for determining claim and compensation and the Appellate Authority appointed under sub-section (1) of section 49 shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents.

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 *Code of Criminal Procedure, 1973*.

Reference of Disputes under this Code

Section 46 of the Code provides for reference of disputes under this Code as follows-

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

(*a*) fixation of bonus or eligibility for payment of bonus under the provisions of this Code; or

(*b*) the application of this Code, 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 *Industrial Disputes Act, 1947.*

Presumption about Accuracy of Balance Sheet and Profit and Loss Account of Corporations and Companies

Section 47 of the Code provides for presumption about accuracy of balance sheet and profit and loss account of corporations and companies as follows: --

(1) Where, 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), are produced 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 (aa) of section 2 of the *Industrial Disputes Act, 1947*,

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:

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.

Audit of Account of Employers not being Corporations or Companies

Section 48 of the Code provides for audit of accounts of employers not being corporations or companies as follows:

(1) If the accounts of a non-corporate employer are audited by an auditor qualified under Section 141 of the Companies Act, 2013, and produced before the authority, Appellate Authority, Tribunal, or arbitrator, as the case may be, dealing with any claim, dispute or appeal with respect to bonus payable under this Code between such a non- corporate employer, and his employees , then the provisions of section 47 shall, so far as may be, apply to the accounts so audited.

(2) The authority, Appellate Authority, Tribunal or arbitrator may, by order, direct the employer to get his accounts audited when it 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, Thereupon the employer shall get the 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 comply with such direction.

(3) Where such employer fails to get the accounts audited in pursuance of directions stated above, the authority, Appellate Authority, Tribunal or arbitrator referred above 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 this section, 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), 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.

Appeal

Section 49 provides the framework for **appeals** against orders passed by the authority under Section 45 reinforcing principles of **natural justice and procedural fairness** as follows:

(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. Such an appeal shall be made within ninety days from the date of such order, in such form and manner as may be prescribed.

It is provided that the Appellate Authority may entertain the appeal after ninety days if it is 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.

Records, Returns and Notices

Section 50 of the Code provides for maintenance of records, returns, and notices by employers as follows: -

(1) Every employer of an establishment to which this Code 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.

(2) Every employer shall display a notice on the notice board at a prominent place of the establishment containing the abstract of this Code, 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 above provisions of sub-sections shall not apply in respect of the employer to the extent he employs not more than five persons for agriculture or domestic purpose.

It is provided that such employer, when demanded, shall produce before the Inspector-cum-Facilitator, the reasonable proof of the payment of wages to the persons so employed.

It is also explained that 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

Appointment of Inspector-cum-Facilitators and their Powers

Section 51 of the Code provides for the appointment of Inspector-cum-Facilitators and the powers conferred upon them as follows: -

(1) The Appropriate Government may, by notification, appoint Inspector-cum-Facilitators for the purposes of this Code who shall exercise the powers conferred on them under this section throughout the State or such geographical limits assigned in relation to one or more establishments situated in such State 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.

(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 Code electronically.

(3) Without prejudice to the above provisions, the Appropriate Government may, by notification, confer such jurisdiction of randomised selection of inspection for the

purposes of this Code to the Inspector-cum-Facilitator as may be specified in such notification.

(4) Every Inspector-cum-Facilitator appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the *Indian Penal Code.*

(5) The Inspector-cum-Facilitator may—

(a) advise employers and workers relating to compliance with the provisions of this Code;

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

(6) Subject to the above provisions, 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 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.

(7) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator under sub-section (5) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the *Indian Penal Code.*

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

CHAPTER VIII: OFFENCES BY COMPANIES

Cognizance of Offences

Section 52 provides for Cognizance of offences.

(1) No court shall take cognizance of any offence punishable under this Code, save on a complaint made by or under the authority of the Appropriate Government 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.

(2) Notwithstanding anything contained in the Code 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 Code.

Power of Officers of Appropriate Government to Impose Penalty in Certain Cases

Section 53 enumerates the power of officers of Appropriate Government to impose penalty in certain cases as follows:

(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 not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

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

Penalties for Offences

Section 54 provides with Penalties for offences.

(1) Any employer who—

(a) pays to any employee less than the amount due to such employee under the provisions of this Code 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 Code 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 Code 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 Code 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 Code.

Offences by Companies

Section 55 lays the framework for **corporate liability** under the Code as follows:-

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

It is provided that the above provision shall not render any such person liable to any punishment if he proves that the offence was committed without his knowledge or he exercised all due diligence to prevent the commission of such offence.

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

Explanation.— *For the purposes of this section—*

(a) "company" means any body corporate and includes—

(i) a firm; or

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

(iii) other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

Composition of Offences

Section 56 of the Code provides for the composition of offences as follows:-

(1) Notwithstanding anything contained in the *Code of Criminal Procedure, 1973*, an application may be made for compounding of any offence punishable under this Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine for such compounding of offence, the accused person shall file an application either before or after the institution of any prosecution, to a Gazetted Officer, as the Appropriate Government may, by notification, specify. Such offences may be compounded by a Gazetted Officer for a sum of fifty per cent of the maximum fine provided for such offence, in the manner as may be prescribed.

(2) Nothing contained above shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date—of commission of a similar

offence which was earlier compounded; 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 above 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.

(7) Any person who fails to comply with an order made by the officer under the section shall be punishable with a sum equivalent to twenty per cent of the maximum fine provided for the offence, in addition to such fine.

(8) No offence punishable under the provisions of this Code shall be compounded except under and in accordance with the provisions of this section.

CHAPTER IX: MISCELLANEOUS

Bar of Suits

Section 57 prescribes the bar of Suits. It states that:

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—

(a) forms the subject of claims under section 45;

(b) has formed the subject of a direction under this Code;

(c) has been adjudged in any proceeding under this Code;

(d) could have been recovered under this Code.

Protection of Action taken in Good Faith

Section 58 provides that 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 Code.

Burden of Proof

Section 59 states that:

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 authorised by this Code from the wages of an employee, the burden to prove that the said dues have been paid shall be on the employer.

Contracting Out

Section 60 lays down the provision with regards to Contracting out.

Any contract or agreement whereby an employee relinquishes the right to any amount or the right to bonus due to him under this Code 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 Code.

Effect of Laws Agreements, etc. in consistent with this Code

As per Section 61 of the Code 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, settlement or contract of service.

Delegation of Powers

Section 62 provides with Delegation of powers by the Appropriate Government as follows:

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

(a) where the Appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;
(b) where the Appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

Exemption of Employer from Liability in Certain Cases

Section 63 provides that where an employer is charged with an offence under this Code, 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—

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

Protection against Attachments of Assets of Employer with Government.

Section 64 safeguards employer against attachments of assets. It states that:

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.

Power of Central Government to give Directions

Section 65 states that the Central Government may, for carrying into execution of the provisions of this Code in the State give directions to the State Government, and the State Government shall abide by such directions.

Saving

Section 66 provides that nothing contained in this Code 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.

Power of Appropriate Government to make Rules (Section 67)

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

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

(*a*) the 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 Central Advisory Board and the State Advisory Board, including that of the committees and sub-committees constituted by the State Advisory Board, under sub-section (*10*) of section 42;

(*t*) the terms of office of members of the Central Advisory Board, the State Advisory Board, including that of the committees and sub-committees constituted by the State Advisory Board, under sub-section (*11*) of section 42; (*u*) the authority and manner of depositing with suc 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 Code.

(3) The Central Government may, subject to the condition of previous publication, make rules for,—

(*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; and

(*i*) the manner of holding an enquiry under sub-section (*1*) of section 53.

(4) Every rule made by the Central Government under this section 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 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.

(5) Every rule made by the State Government under this section shall, as soon as possible after it is made, be laid before the State Legislature.

Power to Remove Difficulties

Section 68 relates to power to remove difficulties. It states that:

(1) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Code, as may appear to be necessary for removing the difficulty. 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 Code.

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

Repeal and Savings

Section 69 provides**:**

(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.

(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 Code and shall be in force to the extent they are not contrary to the provisions of this Code till they are repealed under the corresponding provisions of this Code or by the notification to that effect by the Central Government.

(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.

SALIENT FEATURES OF CODE ON WAGES (CENTRAL) RULES, 2026

The Code on Wages (Central) Rules, 2026, serves as a comprehensive framework for the implementation of the Code on Wages, 2019. It supersedes several older regulations, including the Minimum Wages (Central) Rules, 1950, Payment of Wages (Procedure) Rules, 1937, Equal Remuneration Rules, 1976 and the Payment of Bonus Rules, 1975.

The following is a gist of the key provisions of the Rules:

I. **Wage Calculation and Working Hours**

The rules establish standardized methods for calculating wages and defining a normal workday to ensure consistency across establishments.

Feature	Regulation Detail
Normal Working Day	8 hours of work, with a weekly limit of 48 hours.
Weekly Rest Day	One day of rest per week (ordinarily Sunday). If working less than six days, rest includes Saturday and Sunday.
Calculation Method	Monthly Wage: Daily rate × 26. Hourly Wage: Daily rate ÷ 8.
Overtime	Paid at twice the normal rate of wages for work on rest days.
Night Shifts	Where an employee works on a shift which extends beyond midnight, a rest day for night shift workers consists of 24 consecutive hours starting from the end of the shift.

II. **Floor Wages and Minimum Wages:** The Central Government is empowered to fix the floor wages by consulting the Central Advisory Board taking into account the minimum living standards (food, clothing and housing).

III. **Variable Dearness Allowance (VDA):** Revised twice a year (before April 1st and October 1st) based on the Average Consumer Price Index for Industrial Workers.

IV. **Skill Categorization:** Occupations are classified into four categories:
1) **Unskilled Occupation**: Work needing only basic operating experience, no special skills.
2) **Semi-skilled Occupation**: Work requiring some skill learned on the job, usually done under guidance or supervision.
3) **Skilled Occupation**: Work requiring competence gained through training or experience, involving judgment and initiative.
4) **Highly Skilled Occupation**: Work demanding advanced expertise, perfection, and responsibility, acquired through intensive training or long experience.

V. **Payment of Bonus**
The rules clarify the responsibilities regarding bonus payments, particularly for contractual labor.

- **Contractual Responsibility:** If a contractor fails to pay the bonus, the company or firm or association or other person who is the proprietor of the establishment, must pay the minimum bonus upon confirmation of the failure.

- **Set-on and Set-off:** The rules provide a mechanism for carrying forward surplus (up to 20% of total wages) or deficits in bonus funds for up to four accounting years.

VI. **Deductions and Fines**

Strict procedures are in place to prevent arbitrary deductions from an employee's salary.

- **Limit on Deductions:** Total deductions (fines, loss recovery, advances) cannot exceed 50% of the employee's wages in a given period.
- **Recovery of Advances:** Advances given after employment begins are recoverable in installments, provided employer does not breach the 50% deduction ceiling.
- **Intimation of deduction:** Employers must intimate electronically or in writing to the employee concerned regarding their intention of making deduction seeking their reply within a period of 7 days.

VII. **Claims and Appeals**

A structured process is provided for employees to address grievances regarding discrimination.

- **Claims (Form II):** A single application can be filed for a group of employees in the same establishment.
- **Appeals (Form III):** Any person aggrieved by a claim order can appeal to the appellate authority within a specified timeframe, though employers must deposit the claimed amount before the appeal is admitted.

VIII. **Statutory Compliance (Registers and Forms)**

Employers are required to maintain specific records, which can be kept in physical or electronic form.

Form No.	**Purpose**
Form I	Employee Register containing codes, designations, and UAN details.
Form IV	Register of Wages, Overtime, Fines and Deductions to track all financial transactions.
Form V	Wage Slip to be issued to employees on or before payment of wages.
Form VII	Nomination Form for an employee to designate who receives dues in case of death.
Form IX	Attendance Register-cum-Muster Roll

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LESSON 6
SOCIAL SECURITY LEGISLATIONS

INTRODUCTION

The Second National Commission on Labour, submitted its report in June, 2002 and recommended that the existing set of labour laws should be broadly amalgamated into different groups. These Groups are (a) industrial relations; (b) wages; (c) social security; (d) safety; and (e) welfare and working conditions.

Further, the Code on Social Security, 2019 was referred to the Parliamentary Standing Committee on Labour on 24th December, 2019 and the Committee has submitted its report on 31st July, 2020 with its recommendations. After incorporating the suggestions of the Committee, a fresh Bill, namely, the Code on Social Security, 2020 was introduced and passed by the Parliament. The Bill received the assent of Hon'ble President of India on 28th September, 2020.

The purpose of this Code is to extend social security to all employees and workers either in the organised or unorganised or any other sectors and for other related matters.

This Code amalgamates and incorporates the following existing nine laws:

(i) *The Employee's Compensation Act, 1923*
(ii) *The Employees' State Insurance Act, 1948*
(iii) *The Employees' Provident Funds and Miscellaneous Provisions Act, 1952*
(iv) *The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959*
(v) *The Maternity Benefit Act, 1961*
(vi) *The Payment of Gratuity Act, 1972*
(vii) *The Cine-Workers Welfare Fund Act, 1981*
(viii) *The Building and Other Construction Workers' Welfare Cess Act, 1996*
(ix) The Unorganised Workers' Social Security Act, 2008

The provisions of the Code majorly came into effect on 21st November, 2025.

S. No.	**Provisions of the Code**
1.	Sections 1 to 14
2.	sub-sections (1) and (2) of section 15
3.	clause (c) of sub-section (1) of section 16
4.	sections 17 to 141
5.	section 143, except the provisions of the Code specified at serial number (v) of S.O. 2060 (E), dated the 3rd May, 2023
6.	sections 144 to 163
7.	Items 1 and 2 and items 4 to 9 of sub-section (1) of section 164

The following provisions have come into force *w.e.f.* 3rd day of May, 2023:

(i) sub-section (3) of section 15, in so far as it relates to the Employees' Pension Scheme, 1995;

(ii) clause (a) of sub-section (1) of section 16, in so far as it relates to the Employees' Pension Scheme, 1995;

(iii) clause (b) of sub-section (1) of section 16;

(iv) sub-section (2) of section 16, in so far as it relates to the Employees' Pension Scheme, 1995;

(v) section 143, in so far as it applies in giving effect to the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 16 in relation to the Employees' Pension Scheme, 1995;

(vi) sub-section (1) of section 164 to repeal the corresponding provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) specified in item 3 thereof; and

(vii) clause (b) of sub-section (2) of section 164 in so far as it relates to the Employees' Pension Scheme, 1995.

Also, section 142 came into force *w.e.f.* 3rd May, 2021.

SALIENT FEATURES OF THE CODE

According to the Press Release by PIB dated 21st November, 2025 on the subject India's Labour Reforms: Simplification, Security, and Sustainable Growth, the major highlights of this Code is as follows:

Expanded ESIC (Employees' State Insurance) Coverage: ESIC now applies pan-India, eliminating the criteria of "notified areas." Establishments with fewer than 10 employees may voluntarily opt in with mutual consent of employers and employees. Coverage would be mandated for hazardous occupation and extended to plantation workers.

Time-bound EPF (Employees' Provident Fund) Inquiries: A five-year limit has been set for initiating EPF inquiries and recovery proceedings, to be completed within two years (extendable by one). Suo-moto reopening of cases has been abolished, ensuring timely resolution.

Reduced EPF Appeal Deposit: Employers appealing EPFO orders now need to deposit only 25% of the assessed amount (down from 40–70%), reducing financial burden and ensuring ease of business and access to justice.

Self-assessment for Construction Cess: Employers can now self-assess cess liabilities in respect to Building and Other Construction Work, previously assessed by the notified Government authority. It reduces procedural delays and official intervention.

Inclusion of Gig and Platform Workers: New definitions are included- "aggregator," "gig worker," and "platform worker" to enable social security coverage. Aggregators to contribute 1- 2% of annual turnover (capped at 5% of payments to such workers).

Social Security Fund: A dedicated fund to finance schemes for unorganised, gig, and platform workers, covering life, disability, health, and old-age benefits has been proposed. The amount collected through the compounding of offences will be credited to this Fund and used by the Government.

Expanded Definition of Dependents: Coverage extended to maternal grandparents and in case of female employees it also includes dependent parents-in-law, broadening family benefit access.

Uniform Definition of Wages: "Wages" now include basic pay, dearness allowance, and retaining allowance; 50% of the total remuneration (or such percentage as may be notified) shall be added back to compute wages, ensuring consistency in calculating gratuity, pension, and social security benefits.

Commuting Accidents Covered: Accidents during travel between home and workplace are now deemed employment-related, qualifying for compensation.

Gratuity for Fixed-Term Employees: Fixed-term employees become eligible for gratuity after one year of continuous service (earlier five years).

Inspector-cum-Facilitator System: Introduces randomized web-based, algorithm-driven inspections for transparency and wider compliance. Inspectors now act as facilitators to support adherence and reduce harassment.

Decriminalization & Monetary Fines: The code has replaced imprisonment with monetary fines for certain offences. The employer will be given mandatory 30 days' notice for compliance before taking any legal action.

Compounding of Offences: First-time offences punishable with fines are compoundable- for fine-only: 50% of maximum fine and for fine/imprisonment cases: 75% of maximum fine- reducing litigation and improving ease of doing business.

Digitization of Compliance: Mandates electronic maintenance of records, registers, and returns, cutting costs and improving efficiency.

Vacancy Reporting: Employers shall report vacancies to specified career centres before recruitment, promoting transparency in employment opportunities.

Important Definitions

- "**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 **[Section 2(2)]**
  For example: Zomato, Blinkit, Uber etc.
- "**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 **[Section 2(4)]**

- "**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 **[Section 2(7)]**

- "**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—
  - persons who seek to employ employees;
  - persons who seek employment;
  - occurrence of vacancies; and
  - persons who seek vocational guidance and career counselling or guidance to start self-employment **[Section 2(9)]**

- "**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. **[Section 2(19)]**

- "**Corporation**" means the Employees' State Insurance Corporation constituted under Section 5. **[Section 2(22)]**

- "**Dependant**" means any of the following relatives of deceased employee, namely:—

(a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother:

Provided that for the purposes of Chapter IV, a legitimate adopted son, who has not attained the age of twenty-five years, shall be dependant of the deceased employee;

(b) if wholly dependant on the earnings of the employee at the time of his death, a legitimate or adopted son or a daughter who has attained the age of eighteen years and who is infirm; except for the purposes of Chapter IV wherein the word "eighteen" occurring in this sub-clause shall be deemed to have been substituted by the word "twenty-five";

(c) if wholly or in part dependent on the earnings of the employee at the time of his death,—
  (i) a widower;
  (ii) a parent other than a widowed mother;

(iii) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;
(iv) a minor brother or an unmarried sister or a widowed sister if a minor;
(v) a widowed daughter-in-law;
(vi) a minor child of a pre-deceased son;
(vii) a minor child of a pre-deceased daughter where no parent of the child is alive, or;
(viii) a grandparent if no parent of the employee is alive.

Explanation.—*For the purposes of sub-clause (b) and items (vi) and (vii) of sub-clause (c), references to a son, daughter or child include an adopted son, daughter or child, respectively.* **[Section 2(24)]**

- "**Dock Work**" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes— (i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port; (ii) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; and (iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area in board the ship or in the docks. **[Section 2(25)]**

- "**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,—
  - for the purposes of Chapter IV, if the employee is an insured or insurable employee under section 28 whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India; and
  - for the purposes of Chapter VII, whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India. **[Section 2(28)]**

- "**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.

  Explanation.—*For the purposes of Chapter III, where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.* **[Section 2(29)]**

- "**Factory**" means any premises including the precincts thereof—
  - 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
  - whereon twenty or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on, but does not include a mine, or a mobile unit belonging to the Armed Forces of the Union, railways running shed or a hotel, restaurant or eating place.

  Explanation 1.—For computing the number of employees for the purposes of this clause, all the employees in (different groups and relays) a day shall be taken into account.
  Explanation 2.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof. **[Section 2(32)]**

- "**Family**" means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:—
  - a spouse;
  - a minor legitimate or adopted child dependent upon the employee or an unorganised worker, as the case may be;
  - a child who is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, and who is—
    - receiving education, till he attains the age of twenty-one years; and
    - an unmarried daughter
  - a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganized worker, as the case may be, so long as the infirmity continues;
  - 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. **[Section 2(33)]**

- "**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 **[Section 2(34)]**

- "**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 **[Section 2(35)]**

- "**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. **[Section 2(36)]**

- "**Inter-State Migrant Worker**" means a person who is employed in an establishment and who—
  - has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or
  - 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. **[Section 2(41)]**

- "**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. **[Section 2(42)]**

- "**National Social Security Board**" means the National Social Security Board for Unorganised Workers constituted under sub-section (1) of section 6. **[Section 2(49)]**

- "**Occupier**" in respect of a factory means the person who has ultimate control over the affairs of the factory:
  Provided that—
  a. in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

b. in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;
c. in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier; [Section 2(52)]

- "**Plantation**" means—
  a. any land used or intended to be used for—
     (i) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;
     (ii) growing any other plant, which admeasures five hectares or more and in which ten or more persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification, so directs.

     Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the piece of land first mentioned shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more;
  b. any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares:
     Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and
  c. offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (a) and sub-clause (b); but does not include factory on the premises; **[Section 2(59)]**

- "**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 **[Section 2(60)]**

- "**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. **[Section 2(74)]**

- "**Self-Employed Worker**" means any person who is not employed by an employer, but engages himself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government. **[Section 2(75)]**

- "**Social Security Organisation**" means any of the following organisations established under this Code, namely:—
  - the Central Board of Trustees of Employees' Provident Fund constituted under section 4;
  - the Employees' State Insurance Corporation constituted under section 5;
  - the National Social Security Board for Unorganised Workers constituted under section 6;
  - the State Unorganised Workers' Social Security Board constituted under section 6;
  - the State Building and other Construction Workers' Welfare Boards constituted under section 7; and
  - any other organisation or special purpose vehicle declared to be the social security organisation by the Central Government. **[Section 2(79)]**

- "**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. **[Section 2(85)]**

- "**Unorganised Worker**" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act, 1947 or Chapters III to VII of this Code **[Section 2(86)]**

- "**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. **[Section 2(88)]**

- "**Wage Worker**" means a person employed for remuneration in the unorganized sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and the State Government, as the case may be. **[Section 2(90)]**

Applicability of the Social Security Code

Related Chapter number	Chapter Name	Applicability
III	Employees' Provident Fund	Every establishment in which twenty or more employees are employed.
IV	Employees' State Insurance Corporation	Every establishment in which ten or more persons are employed other than a seasonal factory: Provided that Chapter IV shall also be applicable to an establishment, which carries on such hazardous or life threatening occupation as notified by the Central Government, in which even a single employee is employed: Provided further that an employer of a plantation, may opt the application of Chapter IV in respect of the plantation by giving willingness to the corporation, where the benefits available to the employees under that Chapter are better than what the employer is providing to them: Provided also that the contribution from the employers and employees of an establishment shall be payable under section 29 on and from the date on which any benefits under Chapter IV relating to the Employees State Insurance Corporation are provided by the Corporation to the employees of the establishment and such date shall be notified by the Central Government.
V	Gratuity	(a) every factory, mine, oilfield, plantation, port and railway company; and (b) every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such shops or establishments as may be notified by the Appropriate Government from time to time.
VI	Maternity Benefit	(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government; and (b) to every shop or establishment in which ten or

		more employees are employed, or were employed, on any day of the preceding twelve months; and such other shops or establishments notified by the Appropriate Government.
VII	Employee's Compensation	Subject to the provisions of the Second Schedule, it applies to the employers and employees to whom Chapter IV does not apply.
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Every establishment which falls under the building and other construction work.
IX	Social Security for Unorganised Workers'	Unorganised sector, unorganised workers', gig worker, platform worker.
XIII	Employment Information and Monitoring	Career centres, vacancies, persons seeking services of career centres and employers.

- **Applicability of Chapter relating to Provident Fund by Agreeing:** Notwithstanding anything contained in sub-section (4) or above, where it appears to the Central Provident Fund Commissioner, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter III should be made applicable to that establishment, the Central Provident Fund Commissioner, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement:

  However, where the employer of an establishment to which the provisions of Chapter III applied under this sub-section desires to come out of such applicability, he may make an application to the Central Provident Fund Commissioner and the Central Provident Fund Commissioner shall, if satisfied that there is an agreement between the employer and majority of the employees to this effect, make the provisions of that Chapter inapplicable to such establishment, in such manner and subject to such conditions as may be prescribed by the Central Government.

- **Power of Central Government to extend the applicability:** The Central Government may, after giving not less than two months' notice of its intention so to do, by notification, apply the provisions of this Code to any establishment employing not less than such number of persons as may be specified in the notification.

- **Applicability of Chapter relating to Employees State Insurance by Agreeing**: Notwithstanding anything contained in sub-section (4), where it appears to the Director General of the Corporation, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter IV should be made applicable to that establishment, the Director General of the Corporation, may, by notification, apply the

provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement:

However, where the employer of an establishment to which the provisions of Chapter IV applied under this sub-section desires to come out of such applicability, he may make an application to the Director General of the Corporation and Director General of the Corporation shall, if satisfied that there is an agreement between the employer and majority of the employees to this effect, make the provisions of that Chapter inapplicable to such establishment, in such manner and subject to such conditions as may be prescribed by the Central Government.

Further, 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.

Employer and Employee

Who is an Employer?

Employer means a person (i) who employs, (ii) whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in:

- his establishment and
- where the establishment is carried on by any department of the Central Government or the State Government, the authority specified, by the head of such department, in this behalf or where no authority is so specified, the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority.

The word Employer within its meaning 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.

Who is an Employee?

i. Employee means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages
ii. That person must be employed by an establishment, either directly or through a contractor,
iii. He must be employed to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work,
iv. It does not matter whether the terms of employment are express or implied, and
v. Employee also includes a person declared to be an employee by the Appropriate Government,

vi. Employee does not include any member of the Armed Forces of the Union.

However, the maximum ceiling limit for falling under the definition of Employee for the purpose of Chapter III and Chapter IV is to be provided by the Central Government by way of the Rules. But, for the purposes of counting of employees for the coverage of an establishment under Chapter III and Chapter IV, the employees, whose wages are more than the wage ceiling so notified by the Central Government, shall also be taken into account.

For the purpose of Chapter VII (EMPLOYEES' COMPENSATION), 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 the State Government may by notification add to the said Schedule.

Social Security Organisations (Chapter – II)

Social security organisations under this code are responsible for providing, managing, and delivering social security benefits. Important social security organisations are listed below:

- Board of Trustees of Employees' Provident Fund
- Employees' State Insurance Corporation
- National Social Security Board
- State Unorganised Workers' Board
- State Building Workers' Welfare Boards
- State Board, Regional Boards, local committees etc

EMPLOYEES' PROVIDENT FUND (CHAPTER – III)

Officers of Central Board *i.e.* Board of Trustees of the Employees' Provident Fund (Section 14)

- Central Provident Fund Commissioner *i.e.* Chief Executive Officer of the Board
- Financial Advisor and Chief Accounts Officer
- Additional Central Provident Fund Commissioners
- Deputy Provident Fund Commissioners
- Regional Provident Fund Commissioners
- Assistant Provident Fund Commissioners
- Other Officers

Schemes by the Central Government (Section 15)

The Central Government may frame (including modifications) the following schemes under this chapter:

Scheme	Purpose
Employees' Provident Fund Scheme	Scheme: • for which the provident funds shall be established under this Chapter for employees or for any class of employees; and

	• for specifying the establishments or class of establishments to which the said scheme shall apply.
Employees' Pension Scheme	Providing for: • Superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies • Widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; and • Nominee pension
Employees' Deposit Linked Insurance Scheme	For providing life insurance benefits to the employees of any establishment or class of establishments to which this Chapter applies
Any other scheme(s)	For providing social security benefits under this Code to self-employed workers or any other class of persons

Establishment of the Fund and Contribution of Employer and Employee (Section 16)

Type of Funds under Chapter III (Employees Provident Fund)		
Provident Fund	Pension Fund	Deposit Linked Insurance Fund

Provident Fund

The Central Government may establish a provident fund for the purpose of Provident Fund Scheme. The employer's contribution shall be **ten per cent. of the wages** for the time being payable to each of the employees (whether employed by him directly or by or through a contactor) and the Employee's contribution shall be **equal to the contribution payable by the employer** in respect of him. However, Employee's contribution may be more than 10 percent if he desires but subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution.

Further, the Central Government may specify establishment(s) or class of establishment(s) where the contribution for both Employee and Employer may be 12 percent in place of 10 percent as mentioned above.

Also, the Central Government can specify separate rates of contribution for separate class of Employees.

Pension Fund

The Central Government may establish a Pension Fund for the purpose of Pension Scheme. The following sums to be paid to this fund:

- Such sums **not exceeding eight and one-third per cent. of the Employee's wages** or such per cent. of wages as may be notified by the Central Government, from the Employer's Contribution to be paid to this fund.
- Such sums payable as contribution to the Pension Fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 143 to which the pension scheme applies.
- Such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify.

Deposit-Linked Insurance Fund

The Central Government may establish Deposit-Linked Insurance Fund for Insurance Scheme. In this fund, there shall be paid by the employer in respect of every such employee in relation to whom he is the employer, such amount, **not being more than one per cent. of the wages** or such per cent. of wages as may be notified by the Central Government.

Further, the employer shall also pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under this clause, as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under the Insurance Scheme.

Contribution in respect of Employees and Contractors (Section 17)

The amount of contribution:

- (that is to say, the employer's contribution as well as the employee's contribution in pursuance of any scheme and the employer's contribution in pursuance of the Insurance Scheme) and
- any charge for meeting the cost of administering the fund paid or payable by an employer in respect of an employee employed by or through a contractor

may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

However, the contractor may recover the Employee's contribution from the such employee.

Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in section 17(*1*) from the wages payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

Priority of Payment of Contributions over other Debts (Section 19)

Notwithstanding anything contained in any other law for the time being in force, any amount due under Chapter III 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.

Non-application of Chapter III to Certain Organisations (Section 20)

Chapter III shall not apply:

- to any establishment registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State relating to co-operative societies employing less than fifty persons and working without the aid of power; or
- to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or
- to any other establishment set up under any Central or State or any other law for the time being in force and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that law governing such benefits; or
- to the employees who, immediately before the commencement of this Code, were receiving benefits of Provident Fund under any Central or State enactment.

Further, if the Central Government is of the opinion that having regard to the financial position of any class of establishment or other circumstances of the case, it is necessary or expedient so to do, it may, by notification and subject to such conditions, as may be specified in the notification, exempt, whether prospectively or retrospectively, that class of establishments from the operation of this Chapter for such period as may be specified in the notification.

Authorising Certain Employer to Maintain Provident Fund Accounts (Section 21)

The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer by an order in writing, to maintain a provident fund account in relation to the establishment, in such manner as may be prescribed by the Central Government and subject to such terms and conditions as may be specified in the Provident Fund Scheme.

However, no authorisation as mentioned above shall be made if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Code during the three years immediately preceding the date of such authorisation.

Further, the employer in relation to such establishment shall maintain such account, submit such return, deposit the contribution in such manner, provide for such facilities for inspection,

pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Provident Fund Scheme.

The authorization under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Code. However, before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard.

Case Law

The date of establishment of a factory is the date when the factory starts its manufacturing process. A change in the ownership does not shift the date of establishment. A mere change in the partnership deed, does not mean that a new business has come into existence for the purpose of Section 16(1) (P.G. Textile Mills v. Union of India (1976) 1 LLJ 312).

Transfer of Accounts (Section 22)

Where an employee,—

- employed in an establishment to which this Chapter applies, relinquishes his employment therefrom and obtains employment in any other establishment to which this Chapter applies or not; or
- employed in an establishment to which this Chapter does not apply, relinquishes his employment therefrom and obtains employment in an establishment to which this Chapter applies,

then, his accumulated amount in provident fund account or pension account, as the case may be, shall be transferred or dealt with in the manner as may be specified in the Provident Fund Scheme or the Pension Scheme, as the case may be.

Appeal to the Tribunal (Section 23)

Any person aggrieved by an order passed by any authority in regard to the following matters may prefer an appeal to the Tribunal constituted by the Central Government, namely:—

(*a*) determination and assessment of dues under section 125 relating to Chapter III; and
(b) levy of damages under section 128 relating to Chapter III.

Every such appeal shall be filed in such form and manner, within such time and accompanied by such fees as may be prescribed by the Central Government.

No such appeal by the employer shall be entertained by the Tribunal unless he has deposited with Social Security Organisation concerned twenty-five per cent. of the amount due from him as determined by an officer under section 125.

The Tribunal shall endeavour to decide the appeal within a period of one year from the date on which the appeal has been preferred.

Note: As per section 2(84), "Tribunal" means the Industrial Tribunal constituted by the Appropriate Government under section 7A of the Industrial Disputes Act, 1947.

EMPLOYEES STATE INSURANCE CORPORATION (CHAPTER – IV)

Principal Officers and Other Staff (Section 24)

- Director General of the Corporation
- Financial Commissioner
- Such other officers and employees as may be necessary for the efficient transaction of its business and for discharge of any other responsibilities assigned.

Employees' State Insurance Fund (Section 25)

(1) All contributions and user charges paid under this Chapter and all other moneys received on behalf of the Corporation shall be paid into a fund (hereinafter referred to as the Employees' State Insurance Fund) which shall be held and administered by the Corporation for the purposes of this Code.

(2) The user charges collected from the other beneficiaries referred to in section 44 shall be deemed to be contribution and shall form part of Employees' State Insurance Corporation.

(3) The Corporation may accept grants, donations, Corporate Social Responsibility Fund and gifts from the Central or any State Government, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Chapter.

(4) All moneys accruing or payable to the said Fund shall be deposited in such bank or banks as may be approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund.

Purposes for which Employees' State Insurance Fund may be Expended (Section 26)

1. Payment of benefits and provision of medical treatment and attendance to Insured Persons referred to in section 28 and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Chapter and the rules and regulations relating thereto and defraying the charges and costs in connection therewith;
2. Payment of fees and allowances to members of the Corporation, the Standing Committee, the Medical Benefit Committee or other Committees thereof;
3. Payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and staff of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Code relating to this Chapter;
4. Establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of Insured Persons referred to in section 28 and, where the medical benefit is extended to their families;

5. Payment of contributions to any State Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to Insured Persons referred to in section 28 and, where the medical benefit is extended to their families, their families, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;
6. Defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;
7. Defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Chapter;
8. Payment of any sums under any contract entered into for the purposes of this Code by Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;
9. Payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or staff for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;
10. Defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Code relating to this Chapter;
11. Defraying expenditure, within the limits prescribed by the Central Government after consultation with the Corporation, on measures for the improvement of the health and welfare of Insured Persons and for the rehabilitation and re-employment of Insured Persons referred to in section 28 who have been disabled or injured.

All Employees to be Insured (Section 28)

Subject to the provisions of this Code, every employee in an establishment to which this Chapter applies shall be insured in such manner whether electronically or otherwise, as may be prescribed by the Central Government.

An employee whether insured or insurable as above in respect of whom contributions are or were payable and who is by reason thereof, entitled to any of the benefits provided under this Chapter, shall be called "Insured Person".

Case Law

In the case of *Royal Talkies Hyderabad v. E.S.I.C., AIR 1978 SC 1476*, there was a canteen and cycle stand run by private contractors in a theatre premises. On the question of whether the theatre owner will be liable as principal employer for the payment of E.S.I. contributions, the Supreme Court held that the two operations namely keeping a cycle stand and running a canteen are incidental or adjuncts to the primary purpose of the theatre and the workers engaged therein are covered by the definition of employee as given in E.S.I. Act. The Supreme Court observed that the reach and range of Section 2(9) is apparently wide and deliberately transcends pure contractual relationship.

In the case *Saraswath Films vs. Regional Director, E.S.I. dated 1st May, 2002*, the security guards engaged on the premises of cinema hall discharge the duty of checking tickets of

persons seeking entry into the hall, which work is directly and intrinsically a part of the work of the establishment. The Hon'ble Supreme Court Stated that "a person whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of services is also brought within the purview of the statute."

Contribution (Section 29)

The contribution payable under Chapter IV in respect of an employee shall comprise contribution payable by the employer and contribution payable by the employee and shall be paid to the Corporation.

The contributions shall be paid at such rates as may be prescribed by the Central Government. The wage period in relation to an employee shall be the unit as specified in the regulations in respect of which all contributions shall be payable under Chapter IV.

The contributions payable in respect of each wage period shall ordinarily fall due on the last day of the wage period, and where an employee is employed for part of the wage period, or is employed under two or more employers during the same wage period, the contributions shall fall due on such days as may be specified in the regulations.

Provisions as to Payment of Contributions by Employer etc. (Section 31)

The employer shall pay in respect of every employee, whether directly employed by him or by or through a contractor, both the employer's contribution and the employee's contribution.

Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Code and the rules and regulations, if any, made thereunder in this behalf, the employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by reduction from his wages and not otherwise. However, no such deduction shall be made from any wages other than such as relates to the period or part of the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period.

Notwithstanding any contract to the contrary, neither the employer nor the contractor shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.

Any sum deducted by the employer from wages under this Chapter shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted. The employer shall bear the expenses of remitting the contributions to the Corporation.

An employer, who has paid contribution in respect of an employee employed by or through a contractor, shall be entitled to recover the amount of the contribution so paid from the contractor, either by deduction from any amount payable to him by the employer under any contract, or as a debt payable by the contractor.

The contractor shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the employer before the settlement of any amount payable.

The contractor shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise subject to such conditions as specified in the proviso to section 31(*2*).

Subject to the provisions of this Code, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Chapter.

Benefits under Chapter IV (Section 32)

Subject to the provisions of this Code, the Insured Persons, their dependants or the persons hereinafter mentioned, as the case may be, shall be entitled to the following benefits, namely:

- Periodical payments to any Insured Person in case of his sickness certified by a duly appointed medical practitioner or by any other person possessing such qualifications and experience as the Corporation may, by the regulations, specify in this behalf (sickness benefit);
- Periodical payments to an Insured Person being a woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (maternity benefit);
- Periodical payments to an Insured Person suffering from disablement as a result of an employment injury sustained by him as an employee for the purposes of this Chapter and certified to be eligible for such payments by an authority specified in this behalf by the regulations (disablement benefit);
- Periodical payments to such dependants of an Insured Person who dies as a result of an employment injury sustained by him as an employee for the purposes of this Chapter, as are entitled under this Chapter (dependents' benefit);
- Medical treatment for and attendance on Insured Persons (medical benefit); and
- Payment to the eldest surviving member of the family of an Insured Person who has died, towards the expenditure on the funeral of the deceased Insured Person, or, where the Insured Person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased Insured Person (funeral expenses):

However, the amount of payment under this clause shall not exceed such amount as may be prescribed by the Central Government and the claim for such payment shall be made within three months of the death of the Insured Person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow.

The Corporation may, subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an Insured Person.

The qualification of a person to claim sickness benefit, maternity benefit, disablement benefit and dependants' benefit and the conditions subject to which such benefit may be given and the rate and period thereof, shall be such as may be prescribed by the Central Government.

Occupational Disease (Section 36)

(1) If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify by regulations in respect of each such employment, contracts any disease specified in such Part C as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury", arising out of and in the course of employment.

(2) Save as provided by sub-section (1), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(3) The provisions of sub-section (1) of section 34 shall not apply to the cases to which this section applies.

Dependants' Benefit (Section 38)

1. If an Insured Person dies as a result of an employment injury sustained as an employee under this Chapter (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit shall be payable to his dependants at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.
2. In case the Insured Person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.
3. Any decision awarding dependants' benefit under this Chapter may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Chapter due to any birth or death or due to the marriage, re-marriage, or ceasing of infirmity, or attainment of the age of twenty-five years by, a claimant and the Corporation may, on such review, direct that the dependants' benefit be continued, increased, reduced or discontinued.

Medical Benefit (Section 39)

1. An Insured Person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the Insured Person or treatment as in-patient in a hospital or other institution.
2. The Corporation may establish medical education institutions, including colleges, dental colleges, nursing colleges and the training institutes for its officers and staff with a view to improve the quality of their services shall require its students to furnish a bond for serving the Corporation in the prescribed manner.
3. The medical education institutions and training institutes may be run by the Corporation itself or on the request of the Corporation, by the Central Government, any State Government, Public Sector Undertaking of the Central Government or the State Government or any other body notified by the Central Government.
4. The Corporation may, in order to take preventive and curative measures for welfare of the Insured Persons, carry out such occupational and epidemiological surveys and studies for assessment of health and working conditions of Insured Persons in such manner as may be specified in the regulations.

Provision of Medical Treatment by State Government or by Corporation (Section 40)

1. The State Government shall provide for Insured Persons and (where such benefit is extended to their families) their families in the State, reasonable medical, surgical and obstetric treatment and with the approval of the Corporation, may arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.
2. Where the incidence of sickness benefit payment to Insured Persons in any State is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the State Government in such proportion as may be fixed by agreement between them and the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the State Government.
3. The Corporation may enter into an agreement with a State Government in regard to the nature and scale of the medical treatment that should be provided to Insured Persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to Insured Persons between the Corporation and the State Government.
4. In default of agreement between the Corporation and any State Government as aforesaid, the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator who shall be appointed by the Central Government in consultation with the State Government.

5. The State Government may, in addition to the Corporation under this Code, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury.
6. The Corporation may establish and maintain in a State such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of Insured Persons and (where such medical benefit is extended to their families), their families.
7. The Corporation may enter into agreement with any local authority, private body or individual in regard to the provision of medical treatment and attendance for Insured Persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.
8. The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to Insured Persons and (where such medical benefit has been extended to their families), to their families.
9. The Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to Insured Persons and (where such medical benefit is extended to their families), to the families of such Insured Persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.
10. In respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the Appropriate Government.

Corporation's Rights when an Employer Fails to Register, etc. (Section 42)

If any employer:

(a) fails or neglects to insure under section 28, an employee at the time of his appointment or within such extended period as may be prescribed by the Central Government, as a result of which the employee becomes disentitled to any benefit under this Chapter; or
(b) insures under section 28, an employee on or after the date of accident which resulted in personal injury to such employee which has the effect of making such employee disentitled to receive any dependants benefit or disablement benefit from the Corporation; or
(c) fails or neglects to pay any contribution which under this Chapter he is liable to pay in respect of any employee and by reason thereof such employee becomes disentitled to any benefit or becomes entitled to a benefit on a lower scale,

then, the Corporation may, on being satisfied in the manner prescribed by the Central Government that the benefit is payable to the employee, pay to the employee benefit at such rate to which he is entitled or would have been entitled if the failure or neglect would not have occurred, and the Corporation shall be entitled to recover from the employer, subject to the employer being given an opportunity of being heard, the capitalised value of the benefit

paid to the employee, to be calculated in such manner as may be prescribed by the Central Government:

The capitalised value to be calculated may be adjusted for the payment of any contribution and interest or damages that the employer is liable to pay for delay in the payment of or non-payment of such contribution.

Liability of Owner or Occupier of Factories, etc., for Excessive Sickness Benefit (Section 43)

Where the Corporation considers that the incidence of sickness among Insured Persons is excessive by reason of—

(a) insanitary working conditions in a factory or other establishment or the neglect of the owner or occupier of the factory or other establishment to observe any health regulations enjoined on him by or under any enactment for the time being in force, or

(b) insanitary conditions of any tenements or lodgings occupied by Insured Persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactments for the time being in force,

then, the Corporation may send to the owner or occupier of the factory or other establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the Appropriate Government.

If the Appropriate Government is of the opinion that a *prima facie* case for inquiry is made out, it may appoint a competent person or persons to hold an inquiry into the matter.

If upon inquiry, it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the Insured Persons is due to the default or neglect of the owner or occupier of the factory or other establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine, the amount of the extra expenditure incurred as sickness benefit as well as the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

A determination may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

Constitution of Employees' Insurance Court (Section 48)

(1) The State Government shall, by notification, constitute an Employees' Insurance Court for such local area as may be specified in the notification.

(2) The Employees' Insurance Court shall consist of such number of Judges as the State Government may think fit.

(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.

(4) The State Government may appoint the same Court for two or more local areas or two or more Employees' Insurance Courts for the same local area.

(5) Where more than one Employees' Insurance Court has been appointed for the same local area, the State Government may by general or special order regulate the distribution of business between them.

Matters to be decided by Employees' Insurance Court (Section 49)

Any question or dispute or claim arising out of following matters shall be decided by the Employers' Insurance Court:

(a) whether any person is an employee within the meaning of this Code relating to this Chapter or whether he is liable to pay the employee's contribution; or
(b) the rate of wages or average daily wages of an employee for the purposes of this Chapter; or
(c) the rate of contribution payable by an employer in respect of any employee under this Chapter; or
(d) the person who is or was the employer in respect of any employee for the purposes of this Chapter; or
(e) the right of any person to any benefit under this Chapter and as to the amount and duration thereof; or
(f) any direction issued by the Corporation on a review of any payment of dependants' benefit under this Chapter; or
(g) any other matter which is in dispute between an employer and the Corporation relating to this Chapter, or between an employer and a Contractor relating to this Chapter or between a person and the Corporation relating to this Chapter or between an employee and an employer or Contractor relating to this Chapter, in respect of any contribution or benefit or other dues payable or recoverable under this Code relating to this Chapter; or
(h) claim for the recovery of contributions from the employer under this Code relating to this Chapter; or
(i) claim under sub-section (8) of section 41 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; or
(j) claim against an employer under section 42; or
(k) order of the Appellate Authority under section 126 in respect of Chapter IV; or
(l) claim by an employer to recover contributions from any contractor under this Code relating to this Chapter; or
(m) any other claim for the recovery of any benefit admissible under this Chapter.

No matter which is in dispute between an employer and the Corporation in respect of any contribution or any other dues under this Chapter shall be raised by the employer in the Employees' Insurance Court unless he has deposited with that Court fifty (50) per cent. of the amount due from him as claimed by the Corporation. However, the Employees' Insurance Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited.

No Civil Court shall have jurisdiction to decide or deal with any question or dispute as specified above or to adjudicate on any liability which by or under this Code relating to this Chapter is to be decided by a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court.

GRATUITY (CHAPTER – V)

Payment of Gratuity (Section 53)

Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—
(a) on his superannuation; or
(b) on his retirement or resignation; or
(c) on his death or disablement due to accident or disease; or
(d) on termination of his contract period under fixed term employment; or
(e) on happening of any such event as may be notified by the Central Government.

However, in case of working journalist as defined in clause (*f*) of section 2 of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years.

Moreover, 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.

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.

Amount of Gratuity

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.

Further,

- In the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account.
- 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.
- In the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on *pro rata* basis.

The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government. 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.

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.

Forfeiture of Gratuity

Notwithstanding anything contained in section 53(*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.

Continuous Service (Section 54)

(A) An employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Code.

(B) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (*A*), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—

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

(i) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

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

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

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

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

Explanation.— For the purposes of this clause, the number of days on which an employee has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947 (14 of 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.

Gratuity cannot be claimed on the basis of continuous service on being taken back in service after break in service of one and a half year on account of termination of service for taking part in an illegal strike, where the employee had accepted gratuity for previous service and later withdrawn from the industrial dispute (*Baluram v. Phoenix Mills Ltd., 1999 CLA Bom.19*).

Nomination (Section 55)

1. Each employee, who has completed one year of service, shall make, a nomination and distribute the amount of gratuity payable to him under this Chapter amongst more than one nominee, if applicable.
2. 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.
3. 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.

4. A nomination may be modified by an employee at any time, after giving to his employer a written intimation of his intention to do so in such form and in such manner as may be prescribed.
5. 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, in respect of such interest.

Determination of Amount of Gratuity (Section 56)

Application for payment of gratuity

A person who is eligible for payment of gratuity under Chapter V 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.

Duty of the Organisation to Pay Gratuity

As soon as gratuity becomes payable, the employer shall, whether an application referred above 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.

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.

Interest in case of Non-payment

If the amount of gratuity payable is not paid by the employer within the period specified, 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.

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.

Payment of gratuity in case of dispute

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.

Where there is a dispute with regard to any matter or matters specified above, 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.

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.

The competent authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

As soon as may be after a deposit is made, 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.

Any person aggrieved 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.

However, 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.

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, or deposits with the Appellate Authority such amount.

The Appropriate Government or the Appellate Authority, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify, or reverse the decision of the competent authority.

Compulsory Insurance for Payment of Gratuity (Section 57)

Requirement for Insurance

With effect from such date as may be notified by the Appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the exemption provisions of section 57(*2*), obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity under Chapter V, from any insurance company regulated by the Insurance Regulatory and Development Authority. However, different dates may be appointed for different establishments or class of establishments or for different areas.

Exemption from the Insurance Provisions

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.

Consequence of Non-payment of Gratuity or premium

Where an employer fails to make any payment by way of premium in respect of the insurance or by way of contribution to an approved gratuity fund, 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.

MATERNITY BENEFIT (CHAPTER – VI)

Prohibition of Working and Employment of Women during Certain Period (Section 59)

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 and No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

Without prejudice to the provisions of section 62, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do, during the period specified in section 59(*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.

The period referred above 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.

For the purposes of this section, the expression "any work of arduous nature" shall mean any work which involve or require strenuous effort or is difficult and tiring in nature.

Right to Payment of Maternity Benefit (Section 60)

Right of Maternity Benefits

Subject to the other provisions of this Code, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day.

"The average daily wage" means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, subject to the minimum rate of wage fixed or revised under the Code on Wages, 2019.

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. For calculating the period, 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.

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. However, 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.

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.

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.

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.

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.

Every woman entitled to the payment of maternity benefit under Chapter VI, shall, notwithstanding the application of Chapter IV to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 32. [Section 61]

Notice of Claim for Maternity Benefit and Payment thereof (Section 62)

Notice by women employee

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.

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.

Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

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.

Maternity Benefits Payment Timelines

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.

Maternity benefit in case of death of a woman (Section 63)

If a woman entitled to maternity benefit or any other amount under Chapter VI, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (*3*) of section 60, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 62 and in case there is no such nominee, to her legal representative.

Payment of Medical Bonus (Section 64)

Every woman entitled to maternity benefit under Chapter VI shall also be entitled to receive from her employer a medical bonus of three thousand five hundred rupees or such amount as may be notified by the Central Government, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

Leave for Miscarriage etc. (Section 65)

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.

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.

A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy shall, on production of such proof as may be prescribed by the Central Government, be entitled, in addition to the period of absence allowed to her under section 62, or, as the case may be, to leave with wages at the rate of maternity benefit for a maximum period of one month.

Other Benefits

Nursing breaks (Section 66): Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of such duration as may be prescribed by the Central Government, for nursing the child until the child attains the age of fifteen months.

Creche facility (Section 67): 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.

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. An establishment may avail common crèche facility of the Central Government, State Government, municipality or private entity or provided by non-Governmental organisation or by any other organisation or group of establishments who may pool their resources for setting up of common crèche in the manner as they may agree for such purpose.

Every establishment to which this Chapter applies shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit available under this Chapter.

Dismissal for absence during pregnancy unlawful (Section 68): When a woman absents herself from work in accordance with the provisions of Chapter VII, 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.

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 Chapter VI, shall not have the effect of depriving her of the maternity benefit or medical bonus.

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.

Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed, may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to the competent authority, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, or discharged or dismissed, shall be final.

No deduction of wages in certain cases (Section 69): No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Chapter shall be made by reason only of

(*a*) the nature of work assigned to her by virtue of the provisions contained in section 59; or

(*b*) breaks for nursing the child allowed to her under the provisions of section 66.

Forfeiture of maternity benefit (Section 70): A woman who works for remuneration during the period she has been permitted by an employer to absent herself for availing the maternity benefits provided under Chapter VI shall not be entitled to receive maternity benefit for such period.

Duties of employer (Section 71): An abstract of the provisions of Chapter VI and the rules relating thereto in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

Power of Inspector-cum-Facilitator to direct payments to be made (Section 72): Any woman claiming that:

(*a*) maternity benefit or any other amount to which she is entitled under this Chapter and any person claiming that payment due under this Chapter has been improperly withheld;
(*b*) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Chapter,
may make a complaint to the Inspector-cum-Facilitator.

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.

Any person aggrieved by the order of the Inspector-cum-Facilitator 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.

The decision of the authority, where an appeal has been preferred to it or of the Inspector-cum-Facilitator where no such appeal has been preferred, shall be final.

EMPLOYEE'S COMPENSATION (CHAPTER – VII)

Compensation to Employees

Reports of fatal accidents and serious bodily injuries (Section 73): When notice is required to be given to any authority from employer of any accident which results in death or serious bodily injury, the person required to give the notice shall, within seven days, send a report to the competent authority giving the circumstances attending the death or serious bodily injury. However, when the State Government has so specified, the person required to give the notice may instead of sending such report to the competent authority send it to the authority to whom he is required to give the notice.

Employer's liability for compensation (Section 74): 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 Chapter VII.

However, the employer shall not be so liable—

(*a*) in respect of such injury which does not result in the total or partial disablement of the employee for a period exceeding three days; and

(*b*) in respect of such injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to—

(*i*) the employee having been at the time thereof under the influence of drink or drugs, or

(*ii*) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or

(*iii*) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

Compensation in case of death of or injury in plantation (Section 75): If death or injury is caused to any worker or a member of his family as a result of the collapse of a house provided by the employer in a plantation, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to a natural calamity, the employer shall be liable to pay compensation under section 76 and the Sixth Schedule, so far as may be applicable.

Case Laws

In the case of *Sukhai v. Hukam Chand Jute Mills Ltd., A.I.R. 1957 Cal. 601*, it was observed: "If a workman suffers as a result of an injury from a physical defect which does not in fact reduce his capacity to work but at the same time makes his labour unsaleable in any market reasonably accessible to him, there will be either total incapacity for work when no work is available to him at all or there will be a partial incapacity when such defect makes his labour saleable for less than it would otherwise fetch. The capacity of a workman may remain quite unimpaired, but at the same time his eligibility as an employee may be diminished or lost if such a result ensure by the reason of the results of an accident, although the accident has not really reduced the capacity of the workman to work. He can establish a right to compensation, provided he proves by satisfactory evidence that he has applied to a reasonable number of likely employers for employment, but had been turned away on account of the results of the accident visible on his person."

If after the accident a worker has become disabled, and cannot do a particular job but the employer offers him another kind of job, the worker is entitled to compensation for partial disablement (*General Manager, G.I.P. Rly. v. Shankar, A.I.R. 1950 Nag. 307*).

The expression incapacitates a workman for all work does not mean capacity to work or physical incapacity. If due to any physical defect, a workman is unable to get any work which a workman of his class ordinarily performs, and has thus lost the power to earn he is entitled to compensation for total disablement (Ball v. William Hunt & Sons Ltd., 1912 A.C. 496). It is immaterial that the workman is physically fit to perform some work. Thus, where a workman, though physically capable of doing the work cannot get employment in spite of his best efforts, he becomes incapacitated for all work and hence entitled to compensation for total disablement.

Loss of physical capacity is co-extensive with loss of earning capacity but loss of earning is not so coextensive with loss of physical capacity as he may be getting the same wages even though there may be loss of physical capacity. In a case permanent partial disability caused to a workman in accident while working on ship, e.g. getting pain in his left hand and experiencing difficulty in lifting weights, it was held that workman can be said to have lost his earning capacity even though getting same amount of wages as before Mangru Palji v. Robinsons, 1978 Lab. I.C. 1567 (Bom.). Where it is not a scheduled injury the loss of earning capacity must be proved by evidence.

Where the workman, a driver of bus belonging to the employer was involved in an accident which resulted in an impairment of the free movement of his left hand disabling him from driving vehicles, it was held that this is not one of the injuries mentioned in the 1st Schedule which are accepted to result in permanent total disablement. In the present case the workman was also capable of performing duties and executing works other than driving vehicles. Nature of injury to be determined not on the basis of the work he was doing at the time of accident (Divisional Manager KSRTC v. Bhimaiah, 1977 II L.L.J. 521).

In the case of *Smt. Sunderbai v. The General Manager, Ordinance Factory Khamaria, Jabalpur, 1976 Lac. I.C. 1163 (MP),* the Madhya Pradesh High Court has clarified the difference between accident and injury. Accident means an untoward mishap which is not expected or designed by workman, 'Injury' means physiological injury. Accident and injury are distinct in cases where accident is an event happening externally to a man, e.g., where a workman falls from the ladder and suffers injuries. But accident may be an event happening internally to a man and in such cases accident and injury coincide. Such cases are illustrated by failure of heart and the like, while the workman is doing his normal work. Physiological injury suffered by a workman mainly due to the progress of disease unconnected with employment may amount to an injury arising out of and in the course of employment if the work, that the workman was doing at the time of the occurrence of the injury contributed to its occurrence. The connection between employment must be furnished by ordinary strain of ordinary work if the strain did in fact contribute to accelerate or hasten the injury. The burden of proof is on applicant to prove the connection of employment and injury.

It is well settled that the concept of "duty" is not limited to the period of time the workman actually commenced his work and the time he downs his tools. It extends further in point of time as well as place. But there must be nexus between the time and place of the accident and the employment. If the presence of the workman concerned at the particular point was so related to the employment as to lead to the conclusion that he was acting within the scope of employment that would be sufficient to deem the accident as having occurred in the course of employment *[Weaver v. Tradegar Iron and Coal Co. Ltd., (1940) 3 All, ER 15]*.

Amount of Compensation (Section 76)

The amount of compensation shall be:

- **In case of death:** 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.

- **In case of Permanent Total Disablement:** 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.

  However, the Central Government may enhance the amount of compensation in both the above situations.

  "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.
- **In case of permanent partial disablement:** 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.
- **In case of temporary disablement:** 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 section 76(*4*).

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.

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. On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

If the injury of the employee results in his death, the employer shall, in addition to the compensation as mentioned above, deposit with the competent authority a sum of not less than fifteen thousand rupees or such amount as may be prescribed by the State Government, for payment of the same to the eldest surviving dependant of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependant

or was not living with his dependant at the time of his death, to the person who actually incurred such expenditure.

When Compensation to be Paid (Section 77)

Compensation under section 76 shall be paid as soon as it falls due. 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.

In case employer defaults in paying the compensation

Where any employer is in default in paying the compensation due under Chapter VII 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.

However, an order for the payment of damages shall not be passed without giving a reasonable opportunity to the employer to show cause as to why it should not be passed.

The interest and the damages payable under sub-section (*3*) shall be paid to the employee or his dependant.

Method of Calculating Monthly Wages for purposes of Compensation (Section 78)

For the purposes of Chapter VII, 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:

In case of continuous period of at least 12 months: 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.

$1/12^{th}$ of total wages during last twelve months

In case of period less than 1 months: 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.

Average monthly amount during the twelve months 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

In other cases: In other cases including cases in which it is not possible for want of necessary information to calculate the monthly wages under immediate above clause, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

"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.

Half-monthly Payments Reviews and Commutation

Review (Section 79): Any half-monthly payment payable under this Chapter, either under an agreement between the parties or under the order of a competent authority, may be reviewed by the competent authority, on the application either of the employer or of the employee accompanied by the certificate of a medical practitioner that there has been a change in the condition of the employee or, subject to such conditions as may be prescribed by the State Government, on application made without such certificate.

Any half-monthly payment may, on review under section 79, subject to the provisions of Chapter VII, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the employee is entitled less any amount which he has already received by way of half-monthly payments.

Commutation of half-monthly payments (Section 80): Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the competent authority be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the competent authority, as the case may be.

Distribution of Compensation (Section 81)

Payment of Compensation through the competent authority in certain cases

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.

However, in 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.

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. The receipt of the competent authority shall be a sufficient discharge in respect of any compensation deposited with him.

Notice and Claim (Section 82)

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.

The want of or any defect or irregularity, in a notice given, 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.

However, 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, 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.

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.

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.

Further, 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.

Special Provisions relating to Accidents Occurring Outside Indian Territory (Section 83)

Applicability

(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.

Notice of the Accident

The notice of the accident by a person injured may be served on the following persons, as if they were the employer—

(a) in case of accident where the person injured is a seamen, but not the master of the ship, on the master of the ship;
(b) in case of accident where the person injured is a member of crew of an aircraft, but not the captain of the aircraft, on the captain of the aircraft;
(c) in case of persons recruited by companies registered in India and working as such abroad, on the local agent of the company;
(d) in case of persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees, on the local agent of the owner of the motor vehicle, in the country of the accident.

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.

Claim of Compensation

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.

However, the competent authority may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

Other Provisions

Where an injured employee is discharged or left behind in any part of India or in any foreign country, then, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused.

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.

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.

Failure to give a notice or make a claim or commence proceedings within the time required by this section shall not be a bar to the maintenance of proceedings under this Chapter in respect of any personal injury, if such proceedings under this Chapter are commenced within one month from the date on which the certificate of the State to that effect Government was furnished to the person commencing the proceedings.

Medical Examination (Section 84)

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 Chapter VII shall, if so required, submit himself for such examination from time to time. However, an employee shall not be required to submit himself for examination by a medical practitioner at more than such frequent interval as may be prescribed by the State Government.

If an employee, on being required to do so by the employer under section 84(*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.

If an employee, before the expiry of the period within which he is liable under section 84(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. However, 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.

When an employee, whose right to compensation has been suspended, dies without having submitted himself for medical examination as required, the competent authority may, if he thinks fit, direct the payment of compensation to the dependants of the deceased employee.

Where 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, the waiting period shall be increased by the period during which the suspension continues.

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.

Compensations in case of Employees through Contracting (Section 85)

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.

Where the employer is liable to pay compensation under section 85, 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.

Nothing in section 84 shall be construed as preventing an employee from recovering compensation referred above from the contractor instead of the employer.

The provisions of section 84 shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the employer has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of Employer against Stranger (Section 86)

Where an employee has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 85 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Registration of Agreements (Section 89)

Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman, or a person under a legal disability, a memorandum thereof shall be sent by the employer to the competent authority, who shall, on being satisfied as to its genuineness, record the memorandum in a register, electronically or otherwise, in such manner as may be prescribed by the Appropriate Government.

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the competent authority of notice to the parties concerned;

(b) the competent authority may at any time rectify the register;

(c) where it appears to the competent authority that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, the competent authority may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as the competent authority thinks just in the circumstances.

An agreement for the payment of compensation which has been registered as above 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.

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 Chapter VII, and notwithstanding anything contained in the proviso to section 76(1), 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.

Form of Application (Section 93)

Where an accident occurs in respect of which liability to pay compensation under Chapter VII arises, a claim for such compensation may, subject to the provisions of this Chapter, be made before the competent authority. Subject to this, 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.

Further, an application to a competent authority for claim or settlement 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.

The time-limit for the disposal of applications under this section and the costs incidental to the proceedings under this section to be imposed by the competent authority shall be such as may be prescribed by the State Government.

Appearance of Parties (Section 96)

Any appearance, application or act required to be made or done by any person before or to a competent authority (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by

- a legal practitioner or
- by an official of an Insurance Company or
- a registered Trade Union or
- by an Inspector-cum-Facilitator appointed under section 122(1) or
- by any other officer specified by the State Government in this behalf, authorised in writing by such person,
- or, with the permission of the competent authority,

by any other person so authorised.

Appeal against Order of Competent Authority (Section 99)

An appeal shall lie to the High Court from the following orders of a competent authority under Chapter VII, namely:—

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(b) an order awarding interest or damages under section 77;

(c) an order refusing to allow redemption of a half-monthly payment;

(d) an order providing for the distribution of compensation among the dependants of a deceased employee, or disallowing any claim of a person alleging himself to be such dependant;

(e) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (*2*) of section 85; or

(f) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions.

However, 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. Further, 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.

Moreover, 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.

The period of limitation for an appeal under this section shall be sixty days from the date of passing of the order. The provisions of section 5 of the Limitation Act, 1963 relating to extension of prescribed period on sufficient cause, shall be applicable to appeal under this section.

SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS (CHAPTER – VIII)

Levy and Collection of Cess (Section 100)

Levy of Cess

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.

The cost of construction shall not include the following:

(a) the cost of land; and

(*b*) any compensation paid or payable to an employee or his kin under Chapter VII.

Collection and proceeds of the Cess

The cess levied shall be collected from every employer undertaking building or other construction work in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority or such other authority notified by the State Government is required, as may be prescribed by the Central Government.

The proceeds of the cess shall be deposited by the local authority or such other authority notified by the State Government to the Building Workers' Welfare Board in such manner as may be prescribed by the Central Government. the cess leviable under this Chapter including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed by the Central Government on the basis of the quantum of the building or other construction work involved.

Interest Payable on Delay in Payment of Cess (Section 101)

If any employer fails to pay any amount of cess payable under section 100 within such time as may be prescribed by the Appropriate Government, such employer shall be liable to pay interest at such rate as may be prescribed by the Central Government, on the amount of cess, to be paid, for the period from the date on which such payment is due till such amount is actually paid.

Power to Exempt from Cess (Section 102)

Notwithstanding anything contained in Chapter VIII, the Appropriate Government may, by notification, exempt any employer or class of employers in a State from the payment of cess payable under this Chapter where such cess is already levied and payable under any corresponding law in force in that State.

Self-assessment of Cess (Section 103)

The employer shall, within sixty days or such period as may be notified by the Central Government of the completion of his each building and other construction work, pay such cess (adjusting the advance cess already paid under section 100) payable under Chapter VIII 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 section 123(d).

If the officer or the authority to whom or to which the return has been filed as per the above finds any discrepancy in the payment under the self-assessment and the payment required under the return, 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.

An order of assessment shall specify the date within which the cess shall be paid by the employer, if any.

Penalty for Non-payment of Cess within the Specified Time (Section 104)

If any amount of cess payable by any employer under section 103 is not paid within the date specified in the order of assessment, 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.

However, before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the

default was for any good and sufficient reason, no penalty shall be imposed under this section.

Appeal to Appellate Authority (Section 105)

Any employer aggrieved by an order of assessment made under section 103 or by an order imposing penalty made under section 104 may, within such time as may be prescribed by the Central Government, appeal to such Appellate Authority in such form and in such manner as may be prescribed by the Central Government. Every appeal preferred shall be accompanied by such fees as may be prescribed by the Appropriate Government. After the receipt of any appeal, the Appellate Authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

Every order passed in appeal under section 105 shall be final and shall not be called in question in any court of law.

Registration of Building Workers as Beneficiaries and Cessation

Registration as Beneficiary (Section 106)

Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be registered by the officer authorised by the Building Workers' Welfare Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government.

Cessation as a Beneficiary (Section 107)

A building worker who has been registered as a beneficiary under section 106 shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year. However, in computing the period of ninety days, 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.

Notwithstanding this, , 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.

For computing the period of three years as a beneficiary registered with a Building Workers' Welfare Board, there shall be added any period for which a person had been a beneficiary registered with any other such Board immediately before his registration with the Building Workers' Welfare Board.

Building and Other Construction Workers' Welfare Fund and its application (Section 108)

(1) There shall be constituted by a Building Workers' Welfare Board a fund to be called the Building and Other Construction Workers' Welfare Fund.

(2) Following shall be credited in the said fund—

(a) the amount of any cess levied under sub-section (1) of section 100;

(b) any grants and loans made to the Building Workers' Welfare Board by the Central Government; and

(c) all sums received by the Building Workers' Welfare Board from such other sources as may be decided by the Central Government.

(3) The Fund shall be applied for meeting the following –

(a) expenses of the Building Workers' Welfare Board in the discharge of its functions under sub-section (6) of section 7;

(b) salaries, allowances and other remuneration of the members, officers and other employees of the Building Workers' Welfare Board; and

(c) expenses on objects and for purposes authorised by this Code.

(4) 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.

SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS (CHAPTER – IX)

Framing of Schemes for Unorganized Workers (Section 109)

Schemes to be framed by Central Government

The Central Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—

(i) life and disability cover;

(ii) health and maternity benefits;

(*iii*) old age protection;

(iv) education; and

(v) any other benefit as may be determined by the Central Government.

Any scheme notified by the Central Government as mentioned above, may be—

(i) wholly funded by the Central Government; or

(ii) partly funded by the Central Government and partly funded by the State Government; or

(iii) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the Central Government; or

(iv) funded from any source including corporate social responsibility fund within the meaning of the Companies Act, 2013 or any other such source as may be specified in the scheme.

Schemes to be framed by State Government

The State Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—

(i) provident fund;

(ii) employment injury benefit;

(*iii*) housing;

(iv) educational schemes for children;
(v) skill upgradation of workers;
(vi) funeral assistance; and
(*vii*) old age homes.

Any scheme notified by the State Government as above may be—

(a) wholly funded by the State Government; or

(b) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the State Government; or

(c) funded from any source including corporate social responsibility fund referred to in clause (*iv*) of sub-section (*3*) of section 109 or any other such source as may be specified in the scheme.

The State Government may seek financial assistance from the Central Government for the schemes framed by it and the Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

Helpline, Facilitation Centre, etc., for Unorganized Workers, Gig Workers and Platform Workers (Section 112)

The Appropriate Government may set up a toll free call centre or helpline or such facilitation centres as may be considered necessary from time to time to perform any or more of the following functions, namely:—

*(a)*to disseminate information on available social security schemes for the unorganised workers, gig workers and platform workers;

*(b)*to facilitate filing, processing and forwarding of application forms for registration of unorganised workers, gig workers and platform workers;

*(c)*to assist unorganised workers, gig workers and platform workers to obtain registration; and

*(d)*to facilitate the enrolment of the registered unorganised workers, gig workers and platform workers in the social security schemes.

Registration of Unorganized Workers, Gig Workers and Platform Workers (Section 113)

Every unorganised worker, gig worker or platform worker shall be required to be registered for the purposes of Chapter IX, 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.

Every eligible unorganised worker, gig worker or platform worker 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. However, 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.

A registered unorganised worker, gig worker or platform worker shall be eligible to avail the benefit of the concerned scheme framed under Chapter IX.

Schemes for Gig Works and Platform Workers (Section 114)

The Central Government may frame and notify, from time to time, suitable social security schemes for gig workers and platform workers on matters relating to:
(a) life and disability cover;
(b) accident insurance;
(c) health and maternity benefits;
(d) old age protection;
(e) crèche; and
(f) any other benefit as may be determined by the Central Government.

Every scheme framed and notified as above 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.

Funding of the schemes

Any scheme notified by the Central Government as above, may be—
(a) wholly funded by the Central Government; or
(b) partly funded by the Central Government and partly funded by the State Government; or
(c) wholly funded by the contributions of the aggregators; or
(d) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the aggregators, as may be specified in the scheme framed by the Central Government; or
(e) funded from corporate social responsibility fund within the meaning of Companies Act, 2013 (18 of 2013); or
(f) any other source.

Contribution by Aggregator

The contribution to be paid by the aggregators for the funding referred to in clause (*ii*) of sub-section (*1*) of section 141, shall be at such rate not exceeding two per cent., but not less than one per cent., as may be notified by the Central Government, of the annual turnover of every such aggregator who falls within a category of aggregators, as are specified in the Seventh Schedule.

Provided that the contribution by an aggregator shall not exceed five per cent. of the amount paid or payable by an aggregator to gig workers and platform workers.

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.

The date of commencement of contribution from aggregator under this section shall be notified by the Central Government.

Aggregators and their classification

As per section 2(2) of the Code, "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. The classification of the Aggregators as per the seventh schedule is as follows:

1. Ride sharing services
2. Food and grocery delivery services
3. Logistic services
4. e-Market place (both market place and inventory model) for wholesale/retail sale of goods and/or services (B2B/B2C)
5. Professional services provider
6. Healthcare
7. Travel and hospitality
8. Content and media services
9. Any other goods and services provider platform

FINANCE AND ACCOUNTS (CHAPTER – X)

Accounts (Section 115)

Each of the Social Security Organisations shall maintain proper accounts of its income and expenditure in such form and in such manner as the Appropriate Government may, after consultation with the Comptroller and Auditor-General of India, specify.

Audit (Section 116)

1. The accounts of each of the Social Security Organisations shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the respective Social Security Organisation to the Comptroller and Auditor-General of India.
2. The accounts of a Social Security Organisation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Social Security Organisation which shall along with its comments on the audit report of the Comptroller and Auditor-General of India forward the same to the Appropriate Government.

Budget Estimates (Section 117)

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 which shall also contain provisions adequate for the discharge of the liabilities incurred and for the maintenance of a working balance, 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.

Annual Report (Section 118)

1. Each of the Social Security Organisations shall submit to the Appropriate Government an annual report of its work and activities and the budget finally adopted by the Social Security Organisation.
2. The Appropriate Government shall cause a copy of the annual report, budget and the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the respective Social Security Organisation thereon to be laid before each House of Parliament or the State legislature, as the case may be.

Valuation of Assets and Liabilities (Section 119)

Each of the fund maintained by a Social Security Organisation or by an establishment under this Code shall have a valuation of its assets and liabilities made by a valuer or actuary, as the case may be, appointed, with the prior approval of the Appropriate Government, by such Social Security Organisation or the establishment, as the case may be, in the following manner, namely:—

(a) in case of Central Board, annually;
(b) in case of Corporation, once in every three years;
(c) in case of any other Social Security Organisation or establishment, as specified by the Appropriate Government, by order.

Holding of Property, etc, by Social Security Organisation (Section 120)

(1) A Social Security Organisation (except Corporation) may acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation is established.
(2) 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 from time to time re-invest or realise such investments.
(3) In case of Provident Fund, Pension Fund or Insurance Fund, such investment, reinvestment or realisation shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.
(4) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the Appropriate Government and on such terms as may be prescribed by such Government, raise loans and take measures for discharging such loans.

(5) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the Appropriate Government and on such terms as may be prescribed by such Government, constitute for the benefit of its officers and staff or any class of them, such provident or other benefit funds as it may think fit. In case of officers and staff of the Central Board, such terms shall be specified in the Provident Fund Scheme.

Writing off of Losses (Section 121)

Subject to the conditions as may be prescribed by the Appropriate Government, where any of the Social Security Organisations is of the opinion that the amount of contribution, cess, interest and damages due to it, under this Code, is irrecoverable, the concerned Social Security Organisation may sanction the writing off of the said amount in such manner as may be prescribed by the Appropriate Government.

In the case of Provident Fund, Pension Fund or Insurance Fund, such writing off shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.

AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY (CHAPTER – XI)

Appointment of Inspector-cum- Facilitators and their Powers (Section 122)

1. The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters, and the Appropriate Government for the purposes of other provisions of this Code, may by notification, appoint Inspector cum-Facilitators.

2. The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters and the Appropriate Government in respect of other provisions of this Code, may, by notification, lay down an inspection scheme which may provide for generation of a web-based inspection and calling of information relating to the inspection under this Code electronically and such scheme shall, inter alia, have provisions to cater to special circumstances for assigning inspections and calling for information from the establishment or any other person.

3. The Central Government and the appropriate may, by notification, confer such jurisdiction of randomised selection of inspection for the purposes of this Code, to the Inspector-cum-Facilitators as may be specified in such notification.

4. Without prejudice to the powers of the Central Government or the Appropriate Government, as the case may be, under this section, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, 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;

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

(c) provisions for special inspections based on such parameters as may be notified; and

(d) the characteristics of employment relationships, the nature of work and characteristics of the workplaces based on such parameters as may be notified.

5. The Inspector-cum-Facilitator may subject to the instructions or guidelines issued by the Appropriate Government from time to time –
   (a) advice the employers and employees relating to compliance with the provisions of this Code;
   (b) inspect the establishments as assigned to him under the provisions of this Code.
   (c) 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.
   (d) 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;
   (e) 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;
   (f) bring to the notice of the Appropriate Government defects or abuses not covered by any law for the time being in force.

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

7. The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure, as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.

Maintenance of Records, Registers, Returns, etc. (Section 123)

Maintenance of Register

An employer of an establishment shall

(*a*) maintain records and registers in the form prescribed by the Appropriate Government, electronically or otherwise, containing such particulars and details with regard to persons employed, muster roll, wages and such other particulars and details, in such manner, as may be prescribed by the Appropriate Government including—

(i) number of days for which work performed by employees;

(ii) number of hours of work performed by the employees;

(*iii*) wage paid;

(iv) leave, leave wages, wages for overtime work and attendance;

(*v*) employees identification number, by whatever nomenclature it may be called;

(*vi*) number of dangerous occurrences, accidents, injuries in respect of which compensation has been paid by the employer and the amount of such compensation relating to Chapter IV and Chapter VII, respectively;
(*vii*) statutory deductions made by employer from the wages of an employee in respect of Chapter III and Chapter IV;
(*viii*) details as to cess paid in respect of building and other construction work;
(*ix*) total number of employees (regular, contractual or fixed term employment) on the day specified;
(x) persons recruited during a particular period;
(xi) occupational details of the employees; and
(*xii*) vacancies for which suitable candidates were not available during the specified period.

Other Compliances

An employer of an establishment shall:

1. Display notices at the workplaces of the employees in such manner and form as may be prescribed by the Appropriate Government
2. issue wage slips to the employees, in electronic forms or otherwise; and
3. 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.

However, the matters to be provided under the rules required to be made under this section relating to Chapter III shall, instead of providing them in rules to be made by the Central Government, be provided in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme.

Moreover, the forms of records and registers and that of the returns to be filed under Chapter IV shall be specified in the regulations instead of providing them in the rules.

Employer not to Reduce Wages due to Charges under this Code (Section 124)

No employer in relation to an establishment to which this Code or any scheme framed thereunder applies shall, by reason only of his liability for the payment of any contribution under this Code, or any charges thereunder reduce whether directly or indirectly, the wages of any employee to whom the provisions of this Code or any scheme framed thereunder applies or the total quantum of benefits to which such employee is entitled under the terms of his employment, express or implied.

Assessment and Determination of Dues from Employer (Section 125)

The Central Government may, by notification, authorise, such officers of the Central Board or the Corporation, as the case may be, not below the rank of Group 'A' officer of that Government, to function as the Authorised Officers for the purposes of Chapter III or Chapter IV, as the case may be, who may, by order:

(a) in a case where a dispute arises regarding the applicability of Chapter III or Chapter IV, as the case may be, to an establishment, decide such dispute; and

(b) determine the amount due from any employer under any provision of Chapter III or Chapter IV, as the case may be, or the schemes, or rules, regulations made under such Chapter; and

(c) for any of the purposes relating to clause (*a*) and clause (*b*), conduct such inquiry, as he may deem necessary for such purposes.

However, no proceeding under this sub-section shall be initiated after the expiry of the period of five years from the date on which the dispute referred to in clause (*a*) is alleged to have been arisen or, as the case may be, the amount referred to in clause (*b*) is alleged to have been due from an employer.

Notwithstanding anything contained in the Code of Civil Procedure, 1908, the inquiry, as far as practicable, shall be held on day-to-day basis and endeavour shall be made to ensure that the inquiry is concluded within a period of two years.

However, where the inquiry is not concluded within the said period of two years, the Authorised Officer conducting such inquiry shall record the circumstances and reasons for not having concluded so and submit the circumstances and reasons so recorded to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or such other officer authorised by him in this behalf.

Moreover, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, after considering the circumstances and the reasons which have been submitted by the Authorised Officer may grant an extension for a period up to one year to conclude the said inquiry.

Also, also that the inquiries which are pending immediately before the date of commencement of this Code shall be concluded by the Authorised Officer within a period not exceeding two years from the date of such commencement.

Further, no order shall be made unless the employer concerned is given a reasonable opportunity of representing his case.

Where the employer, employee or any other person required to attend the inquiry fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so by the Authorised Officer conducting the inquiry, such inquiry officer may decide the applicability of the relevant provisions of this Code or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.

Where an order is passed against an employer *ex parte*, he may, within three months from the date of communication of such order, apply to the Authorised Officer for setting aside such order and if the Authorised Officer is satisfied that the show cause notice was not duly served or that such employer was prevented by any sufficient cause from appearing when the inquiry was held, the Authorised Officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry.

However, no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the Authorised Officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the

Authorised Officer. No order passed under this section shall be set aside on any application unless notice thereof has been served on the opposite party.

Appeal against order of Authorised Officer relating to Chapter IV (Section 126)

If an employer is not satisfied with the order referred to in section 125 and relates to Chapter IV, he may prefer an appeal to the Appellate Authority not below the rank of the Joint Director of the Corporation as may be provided by regulations, within sixty days from the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation.

However, the Appellate Authority shall decide the appeal within a period of six months from the date of preferring the appeal.

And, if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulations.

Interest on Amount Due (Section 127)

Except where expressly provided otherwise in this Code, the employer shall be liable to pay simple interest at such rate as may be notified from time to time by the Central Government, from the date on which any amount has become due under this Code till the date of its actual payment.

Power to Recover Damages (Section 128)

Where an employer makes default in the payment of any contribution which he is liable to pay in accordance with the provisions of Chapter III or Chapter IV, or any scheme framed thereunder or in the transfer of accumulations under Chapter III, or in the payment of any charges payable under any other provision of this Code, the Central Provident Fund Commissioner or the Director General of the Corporation, or such other officer as may be authorised, by notification, by the Appropriate Government, may levy on, and recover from, the employer by way of damages, an amount not exceeding the amount of arrears, in such manner as may be specified in the regulations for the purposes of Chapter IV and in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, such levy and recovery shall be in the manner as may be specified in the respective schemes framed by the Central Government.

However, before levying and recovering such damages, the employer shall be given an opportunity of being heard. Also, the Central Board or the Corporation, may reduce or waive the damages levied under this section in relation to an establishment for which a resolution plan or repayment plan recommending such waiver has been approved by the adjudicating authority established under the Insolvency and Bankruptcy Code, 2016 subject to the terms and conditions as may be specified by notification, by the Central Government.

Recovery of Amount Due (Section 129)

1. Any amount due from an employer or any other person in relation to an establishment including any contribution or cess payable, charges, interest, damages, or benefit or any

other amount may, if the amount is in arrear, be recovered in the manner specified in this section and sections 130 to 132.

2. Where any amount is in arrear under this Code, the Authorised Officer, or the competent authority, as the case may be, shall issue to the Recovery Officer, a certificate electronically or otherwise, specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below, namely:—

   (a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, of the employer;

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

   (c) appointing a receiver for the management of the movable or immovable properties of the defaulter.

The attachment and sale of any property under this section shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount or arrears specified in the certificate, the Recovery Officer may move such proceeding against the property of the employer for recovery of the whole or any part of such arrears.

3. The Authorised Officer or the competent authority, as the case may be, may 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.

4. Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officer and the Recovery Officer to whom a certificate is sent by the Authorised Officer or the competent authority, as the case may be –

   (a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

   (b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

   he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified by him, specifying the amount to be recovered, to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the Authorised Officer or the competent authority, as the case may be.

OFFENCES AND PENALTIES

Penalties for Failure to Pay Contribution (Section 133)

(i) Where any person 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:

However, the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term.

Clause (*a*) is provided below-

"(a) being an employer, fails to pay any contribution which he is liable to pay under this Code or rules, regulations or schemes made thereunder"

(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;

Clause (*g*) is provided below-

"(g) fails to pay any amount of gratuity to which an employee is entitled under this Code"

(*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

Clause (*d*), (*f*), (*i*), (*k*), (*l*) and (*o*) are provided below-

"(d) in contravention of the provisions of Chapter IV or Chapter VI or rules, regulations or schemes made or framed under this Code respectively, relating to such Chapters, dismisses, discharges, reduces in rank or otherwise penalises a woman employee; or

(f) obstructs any Inspector-cum-Facilitator or other officer or staff of the Central Board or the Corporation or other Social Security Organisation or a competent authority in the discharge of his duties; or

or

(i) fails to provide any maternity benefit to which a woman is entitled under this Code; or

(k) fails to produce on demand by the Inspector-cum-Facilitator any register or document in his custody kept in pursuance of this Code or the rules, regulations or schemes made or framed thereunder; or

(l) fails to pay the cess for building workers which he is liable to pay under this Code; or

(o) dishonestly makes a false return, report, statement or information to be submitted thereunder; or"

(*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.

Clause (*b*), (*c*), (*e*), (*h*), (*j*), (*m*), (*n*), (*p*) and (*q*) are provided below-

"(b) deducts or attempts to deduct from the wages of an employee, the whole or any part of employer's contribution; or

(c) in contravention of the provisions of this Code, reduces the wages or any privilege or benefits admissible to an employee; or

(e) fails or refuses to submit any return, report, statement or any other information required under this Code or any rules, regulations or schemes made or framed thereunder; or

(h) fails to pay any amount of compensation to which an employee is entitled under this Code; or

(j) fails to send to a competent authority a statement which he is required to send under Chapter VII; or

(m) is guilty of any contravention of or non-compliance with any of the requirements of this Code or the rules or the regulations or schemes made or framed thereunder in respect of which no special penalty is provided in this Chapter; or

(n) obstructs executive officer in exercising his functions under Chapter XIII; or

(p) fails or makes default in complying with any condition subject to which exemption under section 143 was granted; or

(q) fails to pay any administrative or inspection charges payable under any of the schemes framed under Chapter III"

Enhanced Punishment in Certain Cases after Previous Conviction (Section 134)

Whoever, having been convicted by a court of an offence punishable under this Code, commits the same offence shall, for second, or every subsequent such offence, be punishable with imprisonment for a term which may extend to two years and with fine of two lakh rupees.

However, where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation which under this Code he is liable to pay, he shall, for such second or subsequent offence, be punishable with imprisonment for a term which may extend to three years but which shall not be less than two years and shall also be liable to fine of three lakh rupees.

Offences by Companies (Section 135)

Where an offence under Chapter XII 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.

However, 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.

Notwithstanding anything contained above, 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.

"Company" means any body corporate, and includes a firm or other association of individuals; and "Director", in relation to a firm, means a partner in the firm.

Cognizance of Offences (Section 136)

No court shall take cognizance of an offence punishable under this Code, except on a complaint made by an aggrieved person or such officer as may be notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed thereunder, by the officer notified by the Appropriate Government.

However, no prosecution under this Code shall be instituted, except by or with the previous sanction of the authority notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed thereunder, the authority notified by the Appropriate Government.

No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under Chapter XII.

Further, a single complaint may be filed by more than one aggrieved persons if they are aggrieved by the same or similar offence committed at a place or different places within the jurisdiction of the court.

Prior Opportunity before Prosecution (Section 137)

Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator or any other officer notified for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the Appropriate Government, shall:

before initiation of prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to the employer to comply with the aforesaid relevant provisions by way of a written direction, which shall lay down a time period for such compliance, and, if the employer complies with the direction within such period, then, no such proceeding shall be initiated against the employer; but no such opportunity shall be accorded to an employer,

if the violation of the same nature of such provisions is repeated within a period of three years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of Chapter XII.

Compounding of Offences (Section 138)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973(Now Bharatiya Nagarik Suraksha Sanhita, 2023), any offence committed for the first time, punishable under Chapter XII, being an offence:

(i) punishable with fine only; or

(ii) punishable with imprisonment for a term which is not more than one year and also with fine,

may, on an application made, either before or after the institution of any prosecution, be compounded by an officer authorised by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the Appropriate Government, in such manner as may be prescribed by the Central Government on payment by the offender to the Appropriate Government the amount:

(i) in the case of an offence punishable with fine only, the half of the maximum fine provided for that offence; and

(ii) in the case of an offence punishable with imprisonment for a term which is not more than one year and also with fine, the three-fourth of the maximum fine provided for that offence.

Nothing contained above 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.

Every officer referred above shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the Appropriate Government.

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 and 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.

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 above, 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.

Any person who fails to comply with the order made by the officer referred above, 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.

EMPLOYMENT INFORMATION AND MONITORING (CHAPTER – XIII)

Reporting of Vacancies to Career Centres (Section 139)

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.

However, there is no obligation upon any employer to recruit any person through the career centre to fill any vacancy merely because such vacancy has been reported.

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 Chapter XII 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.

Further according to section 140, the requirement under section 139 shall not apply in relation to vacancies,—

(a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment in plantation; or
(b) in any employment in domestic service; or
(c) in any employment connected with the staff of Parliament or any State Legislature; or
(d) in any employment the total duration of which is less than ninety days; or
(e) in any class or category of establishments as may be notified by the Central Government; or
(f) in any establishment (other than Government establishment) with less than twenty or such number of employees as may be notified by the Central Government; and
(g) in any other employment as may be notified by the Central Government.

And, unless the Central Government, by notification direct, the provisions of Chapter XII 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.

MISCELLANEOUS (CHAPTER – XIV)

Social Security Fund (Section 141)

1. There shall be established by the Central Government a Social Security Fund for social security and welfare of the unorganised workers, gig workers and platform workers and the sources of the fund shall comprise of funding received—
   (i) under sub-section (3) of section 109;
   (ii) under sub-section (3) of section 114;
   (iii) from the composition of the offences under this Code relating to Central Government and from any other Social Security Fund established under any other central labour law.
2. A separate account shall be established and maintained for the funding mentioned under each head and the fund shall be expended for the purposes for which each separate account has been established and maintained.
3. There shall be established by the State Government a Social Security Fund for the welfare of the unorganised workers in which there shall be credited the amount received from—
   i. the composition of offences under this Code relating to the State Government; and
   ii. such other sources as may be prescribed by the State Government.

Application of Aadhaar (Section 142)

An employee or unorganised worker or any other person, as the case may be 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 (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, for the following under this Code or rules, regulations or schemes made or framed thereunder —

(a) registration as member or beneficiary; or
(b) seeking benefit whether in kind, cash or medical sickness benefit or pension, gratuity or maternity benefit or any other benefit or for withdrawal of fund; or
(c) availing services of career centre; or
(d) receiving any payment or medical attendance as Insured Person himself or for his dependants.

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.

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.

Power to Exempt Establishment (Section 143)

Notwithstanding anything contained in this Code, the Appropriate Government may, by notification, and subject to the conditions which may include the eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption, as may be prescribed by the Central Government in this behalf, grant exemption to an establishment or class of establishments (including factory or other establishments under the control of Central Government or State Government or local bodies) or employees or class of employees, from any or all of the provisions of this Code or the scheme framed thereunder as may be specified in the notification and may renew for further period such exemption by like notification.

However, no such exemption,—

(*i*) in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, without prior consultation with the Central Board; and
(ii) in respect of Chapter IV, without prior consultation with the Corporation,
shall be granted or renewed and the Central Board or the Corporation, as the case may be, shall on such consultation forward its view to the Appropriate Government within such time as may be prescribed by that Government.

The exemption granted as per the above shall only be granted if the employees in the establishment or class of establishments or an employee or the class of employees so exempted are otherwise in receipt of benefits substantially similar or superior to the benefits provided in the provisions of the Code or the scheme framed thereunder.

Where an exemption is granted under this section from operation of any or all the provisions of the Code or any of the scheme under Chapter III, to any establishment, class of establishments, employee or class of employees, the employer in relation to such establishment shall furnish such returns electronically in respect of persons employed, accounts maintained in respect of employees, investments made from the fund, provide facilities for inspection and pay such inspection charges as the Central Government may direct. And, 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, 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. Also, 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.

Transitional Provisions (Section 153)

Notwithstanding anything contained in this Code, the following organisations constituted or established under the enactments repealed under section 164, namely:

(*i*) the Central Board constituted under section 5A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;
(*ii*) Executive Committee constituted under section 5AA of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;
(*iii*) the Corporation established under section 3 of the Employees' State Insurance Act, 1948;
(*iv*) the Medical Benefit Council constituted under section 10 of the Employees' State Insurance Act, 1948;
(*v*) the Standing Committee of the Corporation constituted under section 8 of the Employees' State Insurance Act, 1948; and
(*vi*) the Board constituted under sub-section (*1*) of section 18 of the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996,
shall, after the commencement of this Code, continue to exercise the powers and discharge the functions of the corresponding organisations under this Code, respectively, the Central Board of Trustees for Employees Provident Fund constituted under section 4, the Executive Committee constituted under sub-section (*3*) of section 4, the Employees State Insurance Corporation, constituted under section 5, the Medical Benefit Committee constituted under sub-section (*5*) of section 5, the Standing Committee constituted under sub-section (*3*) of section 5, Building Workers' Welfare Board constituted under sub-section (*1*) of section 7.

This is as if such organisations constituted or, as the case may be, established under such repealed enactments, had been constituted under the respective provisions of this Code, till such corresponding organisations are constituted under this Code or till their respective time period under the repealed enactments expire, whichever is earlier.

Effect of Laws and Agreements Inconsistent with this Code (Section 161)

The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Code. However, where under any such award, agreement, contract of service or otherwise, a person is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Code.

Nothing contained in this Code shall be construed to preclude a person from entering into an agreement with his employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Code.

SALIENT FEATURES OF SOCIAL SECURITY (CENTRAL) RULES, 2026

The Social Security (Central) Rules, 2026, issued by the Ministry of Labour and Employment, provide a comprehensive framework for implementing the Code on Social Security, 2020. It supersedes several older Rules, including the Employee‘s Compensation Rules, 1924, Employees’ State Insurance (Central) Rules, 1950 and Payment of Gratuity (Central) Rules, 1972.

The following is a gist of the key provisions of the Rules:

- **Applicability:** Employers may apply to make chapter III (Employees' Provident Fund) or IV (Employees' State Insurance Corporation) inapplicable to an establishment if a majority of employees agree in writing.
- **Dependent Parents:** For social security purposes, parents are considered dependent if their total monthly income does not exceed INR 14,000.
- **Registration:** Every employer must register their establishment electronically on the Shram Suvidha Portal (Form-I of the Occupational Safety, Health and Working Conditions (Central) Rules, 2026). If the application is complete, a certificate (Form-III) is issued within 7 days from the date of submission of complete application.
- **Central Board (Employees' Provident Fund):** The Central Board administers the funds vested in it in accordance with the guidelines issued by the Central Government.
- **Executive Committee**: The Executive Committee includes a Chairperson, Central Government appointees, and elected representatives of employers and employees.
- **ESI Corporation:** Governs the Employees' State Insurance through a Standing Committee and a Medical Benefit Committee.
- **National Social Security Board:** Specifically tasked with the welfare of unorganised, gig, and platform workers.
- **Appeal to Tribunal:** Appeals against orders must be filed in Form-I accompanied by a fee of INR 2,000. The Registrar issues an acknowledgement of receipt of the appeal in Form-II.
- **Deposit Requirement:** Appeal by the employer to be entertained by the Tribunal unless he has deposited a sum equal to 25% of the amount due from him.
- **Contribution Rates:**

Contribution Type	**Rate (% of Wages)**
Employer's Contribution	3.25%
Employee's Share	0.75%

- **Sickness Benefit:** A person is qualified to claim sickness benefit for sickness if the contributions in respect of him were payable for not less than 78 days in the corresponding contribution period and entitled to receive such benefit at the rate of 70% of the Standard Benefit Rate.
- **Extended Sickness Benefit:** The daily rate of the extended sickness benefit of an insured person is 80% of the Standard Benefit Rate.
- **Disablement Benefit:** The daily rate of disablement benefit shall be 90% of the Standard Benefit Rate.
- **Funeral Expenses:** Reimbursable up to INR 20,000.
- **Gratuity invested for benefit of minor:** In the case of a nominee or an heir, who is minor, the competent authority invests the gratuity amount deposited with him by the employer for the benefit of such minor in term deposit with the State Bank of India or any nationalised bank.
- **Nomination:** Employees must submit Form-III within 90 days of completing one year of service.
- **Application for Gratuity:** An employee who is eligible for payment of gratuity must apply within a period of 30 days from the date the gratuity became payable in Form-IV to the employer.

- **Certificate:** Proof of pregnancy, childbirth, miscarriage, medical termination of pregnancy, tubectomy, or any illness arising from these conditions must be established through a certificate in Form-X, which can be issued by a registered medical practitioner, an Accredited Social Health Activist (ASHA), or a qualified Auxiliary Nurse and Midwife (ANM).
- **Nursing Breaks:** Two daily breaks of 15 minutes must be provided.
- **Crèche Facility:** Mandatory for establishments with 50 or more employees for the use of children under the age of 6 years, located within 1km of the establishment.
- **Cess Collection:** Every employer, within 60 days from the date of commencement of his work or payment of cess, furnish information in Form-XV to the assessing officer. Employers must pay an advance cess based on self-assessment certified by a Chartered Engineer.
- **Worker Eligibility building worker:** Workers aged 18-60 who worked for at least 90 days in the preceding twelve months are eligible for registration.
- **Registration:** Every unorganised worker, who has completed 16 years of age must be registered on the designated Portal of the Central Government.
- **Aggregator Duties:** Every aggregator pay provisional contribution as assessed in the designated account of the Social Security Fund in Form-XX, for the preceding year not later than the 30th June of the current year in which the contribution is payable.
- **Audit:** Comptroller and Auditor General of India audits all social security funds annually.
- **Record and Registers:** Employer of every establishment maintain, register –
    - of employees in Form – I of the Wages (Central) Rules, 2026;
    - of attendance-cum-muster roll in Form - IX of the Wages (Central) Rules, 2026;
    - of wages, overtime, advances, fines and deductions for damages and losses in Form – IV of the Wages (Central) Rules, 2026;
    - of women employees in Form – XXII.
- **Compounding of Offences:** An officer authorized by the Central Government may issue a compounding notice electronically in Form-XXIV for compoundable offences. The person receiving the notice may apply in Part III of Form-XXIV and must deposit the full compounding amount within 15 days of receipt of the notice.
- **Career Centres:** Appropriate governments may establish centres for job drives, career counselling, jobs surveys and fairs.
- **Vacancy Reporting:** Public and private sector establishments must report vacancies to career centres before filling them.
- **Injury Compensation:** the amount of compensation if not paid within 30 days, employers must pay simple interest at 12% per annum.
- **Exemptions:** Establishments offering superior benefits may apply for exemption from the benefits granted in the schemes framed under EPF/ESI rules, provided they have at least 500 contributory members.

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LESSON 9

INDUSTRIAL AND LABOUR LAWS AUDIT

INTRODUCTION

Audit under labour laws, which is necessitated, in direct consequences of its non-compliance in large scale. Even after over seven decades of attaining independence, India is still plagued with victimisation, non- compliance of labour legislations is still at large. An analysis of these practices reveals that many employers resort to short cut methods to avoid the compliances of labour legislations. Workers in India report many cases relating to non-compliance of labour legislation by employers.

Social Justice is guaranteed by the Preamble of our Constitution. The Directive Principles of State Policy also provides that it shall be endeavour of the State to promote the welfare of the people by effectively securing and protecting a social order in which social, economic and political justice shall inform all the institutions of national life.

Directive Principles provide –

- that the State should direct its policies towards securing the right of citizens, men and women, to an adequate means of livelihood;
- that the ownership and control of material resources of the community be so distributed as best to subserve the common good;
- that the economic system should not result in the concentration of wealth and the means of production to the common detriment;
- that there should be equal pay for equal work for both men and women;
- that the State should endeavour to secure the health and strength of workers;
- that State should ensure that the tender age of children is not abused and citizens are not forced by economic necessity to enter avocations unsuited to their age and strength;
- that childhood and youth are protected from exploitation and from moral and material abandonment;
- that State shall secure to all workers living wage, decent standard of living and free enjoyment of leisure.

Labour Audit envisages a systematic scrutiny of records prescribed under labour legislations by an independent professional like Company Secretary in Whole Time Practice (hereinafter referred to as PCS), who shall report the compliance and non-compliance/extent of compliance and conditions of labour in the Indian industry/ Factory/ Other Commercial Establishments.

SCOPE OF LABOUR AUDIT

The audit should cover all labour legislations applicable to an Industry/factory or other commercial establishments. If a particular piece of labour legislation is not applicable to a specific employer, the same should distinctly be disclosed in the report of an Independent Professional like Company Secretary in Whole Time Practice.

METHODOLOGY OF CONDUCT OF LABOUR AUDIT

At the commencement of audit, the Independent Professional like Company Secretary in Whole Time Practice should define the scope of his audit. The scope will certainly differ from employer to employer. Accordingly, if the employer does not own a factory, the provisions of the Occupational Safety, Health and Working Conditions Code, 2020 will not be applicable. Similarly, certain factories in remote areas may not have the facilities of Employees State Insurance Corporation. In such cases, there is no need to ensure compliance of the Code on Social Security, 2020.

As stated Independent Professional like Company Secretary in Whole Time Practice should identify various Central and State Acts and Rules that are applicable to an employer. Based on such identification, he should commence scrutinising the compliance of provisions of various Acts/Rules. Checklist for compliance of each legislation has to be formulated before commencement of his audit.

STEPS INVOLVED IN LABOUR AUDIT

It is always recommended to get the insights of the business before performing any compliance activity by interviewing with concerned department.

Following must be the key areas of discussion to determine the applicability of Labour and Industrial law on the establishment:-

1. Nature of Business
2. Number of offices and branch
3. Number of employees (permanent and contractual both)
4. Status of registrations (if obtained)

Following Questionnaires may be kept in mind while conducting Labour Audit:

Sl No.	Audit Questionnaires	Coverage
1	Whether Four Labour Codes applicable only to Central Government Establishment?	No. "Labour" is a concurrent subject under the Constitution of India and its jurisdiction is clearly defined in the codes. The State Governments are Appropriate Government under all the four Labour Codes and they have to exercise their power as Appropriate Government.
2	Whether the definition of "Wages" applicable to all Labour Codes?	This single definition of wages applies across all four

		Labour Codes. The same definition applies uniformly for statutory calculations
3	Meaning of the term "Wages" and What are the components it would covers under Code on Wages, 2019	"Wages" covers: • All remuneration whether by way of salary, allowances or otherwise. These include Basic pay, Dearness allowance and Retaining allowance, if any. • If the allowances (except gratuity and retrenchment compensation) exceed 50% of all remuneration, the excess amount shall be added back to wages. • Performance based incentives, Employee Stock Option Plans (ESOPs), variable part of the component or reimbursement-based payments to the employee shall not be part of the wages.
4	Whether 50% rule for allowances?	• If the allowances and benefits together (except gratuity and retrenchment compensation) exceed 50% of the all remuneration, the excess amount shall be added back to wages. • Such added amount shall be treated as wages for statutory purposes.
5	When gratuity is payable to an employee?	Gratuity shall be payable on following events: • On termination • On superannuation (retirement due to age) • On resignation • On death or disablement due to accident or disease

		• On expiration of a fixed-term employment contract • On any other event notified by the Central Government.
6	Whether Gratuity calculation will be applicable prospectively or retrospectively?	Gratuity will be applicable w.e.f. 21st November, 2025 i.e. date of enforcement of the Code.
7	How is gratuity calculated?	• For every completed year of service or part thereof in excess of six months: • 15 days' wages per year (or such number as notified by Central Government) based on the rate of wages last drawn.
8	How is gratuity calculated in Special cases?	• ***Piece-rated employees:*** Daily wages calculated as average of total wages for the three months preceding termination (excluding overtime) • ***Seasonal employees:*** 7 days' wages per season • ***Fixed-term employment or deceased employees:*** Gratuity paid on pro-rata basis
9	Who will covered under the definition of worker as per Occupational Safety, Health and Working Conditions Code, 2020?	Any person, who is employed in a supervisory capacity drawing wages exceeding ₹18,000/- (or an amount as may be notified by the Central Government from time to time) is not included in the definition of worker.
10	What are Core and Non-core activities under Occupational Safety, Health and Working Conditions Code, 2020?	• Core and non-core activities are clearly defined under Section 57 the OSH & WC Code, 2020. • Principal employer may engage contract labour for core activities which are ordinarily carried out

		through contractor, or of intermittent nature or involve sudden increase in volume of work requiring time-bound completion.
11	Whether provisions related to registration of trade union covered under Chapter-III of IR Code 2020.	Provisions related to registration of trade union have been retained under Chapter-III of IR Code 2020.
12	What are the provisions for retrenchment workers under Industrial Relations Code, 2020?	• The provisions for mandatory one month notice and retrenchment compensation continue to exist. • Prior permission will be required for retrenchment by establishments having 300 or more workers.
13	Whether Fixed-Term Employment (FTE) is eligible for all benefit like regular employee?	• Fixed Term Employees will be eligible for all benefits (EPF, ESI, flexible working hours, timely and minimum wages) equal to permanent employees. • They will also be eligible for Gratuity on completion of one year of service. • Fixed Term Employee will get appointment letter directly from the employer enhancing their pride. This will also increase their employability as freshers can gain experience in a short span of time and enhance specialized skills.
14	Compounding of Offences under Industrial Relations Code, 2020	• Under the Chapter XII of Industrial Relations Code, 2020, several minor offences that previously attracted imprisonment or criminal liability have been decriminalized, and certain contraventions can now be compounded by

		paying a specified penalty (in case of first-time convictions). • Once an offence is compounded, no prosecution will be instituted against the offender for that offence.
15	How Industrial Relations Code, 2020 protect the interest of worker?	The Industrial Relations Code, 2020 protects the interest of workers through the provisions of negotiating unions/councils, works committee, Grievance redressal committee, requisite safeguards before retrenchment/lay-off and closure and effective dispute resolution mechanism.
16	Whether "sales promotion employees" & "Working Journalist" are not treated as "employees" and therefore not entitled to labour protections?	The Sales Promotion Employees & Working Journalist are legally recognized under the definition of 'worker' under the Industrial Relations Code, 2020.
17	What is the duration of working hours under Occupational Safety, Health and Working Conditions Code, 2020?	OSHWC Code prescribes 8 hours per day and 48 hours per week as standard, with some flexibility to extend daily hours with the consent of workers on payment of overtime, at twice the rate wages.
18	What is the threshold for definition of "factory" under Occupational Safety, Health and Working Conditions Code, 2020?	The threshold for definition of "factory" (20 or more with power and 40 or more without power)
19	What is the licensing threshold for employment of "contract labour" under Occupational Safety, Health and Working Conditions Code, 2020?	The licensing threshold for employment of "contract labour" under OSHWC Code is 50 or more.
20	What is the minimum criterion in terms of number of days for a worker to be eligible for	A worker should have worked for 180 or more

	annual leave with wages as per the provisions of Occupational Safety, Health and Working Conditions Code, 2020?	days in a calendar year to be eligible for annual leave with wages.
21	What are the benefits providing under Code on Social Security, 2020	Strengthens women-centric provisions: • 26 weeks of maternity leave • work from-home option and • crèche facilities.
22	Applicability of Employees' Provident Fund (EPF) under Code on Social Security, 2020	Code on Social Security, 2020 extends the coverage of the Employees' Provident Fund (EPF) with the provisions applying to all establishments that have 20 or more employees, regardless of the type of industry.
23	Whether "family" to include the mother-in-law and father-in-law under Code on Social Security, 2020?	The Code expands the definition of "family" to include the mother-in-law and father-in-law of a woman employee (subject to an income cap). It also includes a minor unmarried brother or sister who is wholly dependent on the insured person, if the parents are not alive.
24	ESI Coverage	ESI coverage has extended across India.
25	Applicability of ESI under Code on Social Security, 2020	• Applying to all establishments that have 10 or more employees, • regardless of the type of industry. • Voluntary ESIC membership is also allowed for establishments with fewer than 10 • employees, if both the employer and employees

		agree to join.
26	Maternity Benefit Entitlement	• Every woman employee who has worked for at least 80 days in the 12 months before the expected delivery is eligible for maternity benefit equal to her average daily wages during the leave period. • The maximum duration of maternity leave is 26 weeks, of which up to 8 weeks can be taken before delivery.
27	Documents to be checked to proof of maternity-related conditions.	Proof of maternity-related conditions such as pregnancy, delivery, miscarriage, or related illness has been simplified under the Code. Medical certificates can now be issued by: • A registered medical practitioner • An accredited social health activist (ASHA worker) • A qualified auxiliary nurse, or • A midwife
28	Nursing Breaks	After returning to work post-childbirth, a woman employee is entitled to two nursing breaks each day for nursing her child until the child attains 15 months of age.
29	Crèche Facility	Every establishment with 50 or more employees must provide a crèche facility within a prescribed distance. This requirement is now gender-neutral and applies to all types of

		establishments.
30	Maintenance of Records & Registers	The Code on Social Security, 2020 provides for maintaining all records, registers, and returns in electronic form.
31	Gig and Platform Workers	Gig and Platform Workers have been formally recognised. The Code mandates the framing of social security schemes for them, covering life insurance, disability insurance, health, maternity, and pension benefits. This will help gig and platform workers live with dignity and security.

Procedure for Labour Audit

1. Prepare the checklist, based on discussions for coverage of applicable Code /Laws.
2. After preparation of checklist, the independent professional has to check the compliances under Labour Code/Laws.

Following key areas must be covered while doing compliances and audit under labour law:-

1. Whether valid registration or license has been obtained. All dues to employees and workers are paid within timeline which include:
    - Floor Wages
    - Monthly Wages
    - Bonus Payment
    - Leave Allowances
    - Gratuity (in case of left out employee)
    - Overtime Payment.
2. Check whether leave benefit is entitled to eligible employees (Leaves such as Sick Leave, Casual Leave, Earned Leave, Festival Holidays and Maternity Leave).
3. Whether safety and security of employees are ensured (Medical Facility, First Aid Box, etc.).
4. Whether display requirements under the code have been complied.

5. Whether contribution under laws such as ESI, EPF, Labour Welfare Fund and Profession tax have been made on or before due date.

6. Check whether all required registers and records are maintained as prescribed under the laws.

7. Whether periodic returns are filed timely. Based on the review, any short coming and/or observation must be discussed with the management and their statements on corrective action plan should be recorded within expected timeline.

   This may be categorized further into High/ Medium/Low based on financial/ operational risk and penalties that may impose for non-compliances.

BENEFITS OF THE LABOUR AUDIT

Benefits to Labour

(a) Introduction of Labour Audit will boost the morale of the workers to a large extent.

(b) It will increase their Social Security.

(c) It will inculcate in workers a sense of belongingness towards their employer.

(d) It will secure timely payment of wages, gratuity, bonus, overtime, compensation etc. of the workers.

(e) Timely payment of entitlements will reduce absenteeism in the organisation.

Benefits to Employer

(a) Increased productivity in view of lower absenteeism in the enterprise. Higher the productivity, higher will be the profit.

(b) Status in the Society for the employer will increase, in view of the recognition that may be bestowed on them by the Government.

(c) Strict compliance of all labour legislation will be ensured by each of the employers, which, in turn, will reduce or even eliminate penalties / damages / fines that may be imposed by the Government.

(d) Co-operation of and understanding with the workers will improve labour relations. The congenial atmosphere is indispensable for good corporate governance.

Benefits to the Government

(a) Reduction in the number of field staff for inspection of Industries/Factories/ Commercial Establishments as most of their work will be done by an Independent Professional like Company Secretary in Whole Time Practice.

(b) Compulsory Labour Audit will ensure compliance of past defaults.

(c) In case the Government seeks to introduce filing fees for Compliance Report under Labour Legislation, the revenue of the Appropriate Government will rise phenomenally.

(d) India's image before the International Labour Organisation will improve as a country with negligible non-compliance of labour legislation.

ILLUSTRATIVE LIST OF LEGISLATIONS THAT MAY BE BROUGHT UNDER THE AMBIT OF LABOUR AUDIT

S. No.	Name of the Legislation	Coverage
1	**The Code on Wages, 2019**	● Annual Certificate provides that the wages were paid in accordance with the Code. ● Number of employees in the establishment who are governed by the Code. ● No deduction from wages has been made other than those authorised under the Code ● Calculation of Wage Period. ● Timely payment of bonus. ● Bonus is paid to the eligible persons. ● Whether the company paid minimum or maximum bonus. ● Whether the company is paying the wages in accordance with the provisions of the Code.
2	**The Code on Social Security, 2020**	● Timely deposit of Employer and Employee's dues. ● Reporting of cases where proceedings under the Code have been initiated against the Directors for recovery of dues. ● If the Employer has created its own trust, whether the terms of trust are more beneficial than those provided under the trust? ● Whether conditions imposed by PF Authority for the creation of Trust are satisfied? ● Whether liability for gratuity has been provided for in the Accounts maintained or not? ● Whether the company has formed any trust that would take care of the liability arising out of gratuity? ● Number of claims during the year for the payment of gratuity and time taken for its settlement. ● Whether the Gratuity has been paid in accordance with the provisions of the Code?

		● Whether any dispute exists/arises against the company for the non-payment of gratuity? If so, details thereof. ● Fatal Accidents to be reported. ● Time taken for payment for compensation. Disputes on settlement of compensation to be reported. ● Employee State Insurance Cover for meeting the liability. ● Pending Disputes under the Code and its nature along with a note on liability accepted by the Employer.
3	**The Industrial Relations Code, 2020**	● Certification that any industrial dispute arose during the year or not and manner of settlement of the same. Whether the dispute resulted in any closure of factory/ strike/lockout and if so the period therefore. ● Was there any reference of dispute to Arbitration under the Code and results of such reference? ● Whether the industry has adopted any unfair labour practice. ● Name of the protected workmen. Whether or not the industry is declared as Public Utility Services? ● Number of Registered Trade unions in operation in the factory and its affiliations to any All India Organisations of Trade Unions.
4	**The Occupational Safety, Health and Working Conditions Code, 2020**	● Whether the factory is registered as per the provisions of the Code. If so, registration number of the factory be given. ● Item of manufactures. ● Whether industry is hazardous or not? If so, steps suggested by appropriate government for safety has been complied with in to. ● Whether the provisions relating to Safety has been complied with or not. ● Whether the provisions relating to on Welfare has been taken care of. ● Whether working hours are in accordance with the provisions of the Code. ● Maintenance of proper records of Attendance and Leaves. ● Provisions relating to employment of women, young

		persons etc. are duly complied with. ● Whether the factory/establishment is covered by the provisions of the Code? ● Whether the factory/establishment has duly submitted all returns as per the provisions of the Code? ● Whether the establishment has duly applied for and obtained the certificate of registration before the employment of any contract labour? ● Whether all the contractors engaged by the establishment to supply workmen do possess valid licence? ● Any case of Occupational Disease reported in the factory or establishment.

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