

PART II: INDUSTRIAL AND LABOUR LAWS



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Chapter-14 Constitution and Labour Laws



Under the Constitution of India, Labour is a subject in the Concurrent List and, therefore, both the Central and the State governments are competent to enact legislations subject to certain matters being reserved for the Centre.

REGULATORY FRAMEWORK

- Constitution of India

INTRODUCTION

- ☐ The **Constitution of a country** is the **fundamental law of the land**.
- ☐ It is under this **fundamental law** that **all other laws** are **made and executed**.
- ☐ **Every organ of the State**, be it the **executive**, the **legislative**, or the **judiciary**, derives its **authority from the Constitution**.
- ☐ There is **no authority, no department, or branch of the State** which is **above the Constitution**.
- ☐ No authority has been vested with **unfettered and unrestricted powers** by the **Constitution**.
- ☐ The **trinity of the Indian Constitution**, namely the **Preamble**, the **Fundamental Rights**, and the **Directive Principles of the State Policy**, embody the **fundamental principles**.
- ☐ These **fundamental principles** provide **guidance to all legislations**, including the **labour legislations**.

CONSTITUTIONAL BEARING ON INDUSTRIAL LAWS AND INDUSTRIAL RELATIONS

- ☐ **Industrial relations** affect not merely the **interest of labour and management**, but also the **social and economic goals** to which the **State** is committed to **materialise**.
- ☐ Therefore, it develops within the **province and function of the State** to **regulate these relations** in **society desirable channels**.
- ☐ The **extent of State control or intervention** is determined by the **stage of economic development**.
- ☐ In **developed economy**, **work stoppages** to settle **claim** may not have much impact, unlike in **developing economy**.



- ❑ Countries like the **U.S. and England**, etc., with **advanced and free market economy** only lay down **bare rules** for observance of **employers and workers**, giving them **freedom to settle their disputes**.
- ❑ In the **U.S.**, **State intervention in industrial dispute** is eliminated except in cases of **actual or threatened workers' stoppages** that may **imperil the national economy, health or safety**.
- ❑ However, in **developing economy**, the **State's rules** cover a **wider area of relationship** and there is **equally greater supervision** over the **enforcement of these rules**.
- ❑ This is emphatically so in **developing countries with labour surplus**.
- ❑ It is a **concern of the State** to achieve a **reasonable growth rate in the economy** and to ensure the **equitable distribution thereof**.
- ❑ This process becomes more complex in a country with **democratic framework** guaranteeing **fundamental individual freedoms** to its citizens.
- ❑ Hence, a **State in a developing country** concerns itself not only with the **content of work rules** but also with the **framing of rules** relating to **industrial discipline, training, and employment**, and so on.
- ❑ The **founding fathers of the democratic Constitution of India** were fully aware about these **implications** while they laid emphasis to evolve a **welfare State embodying federal arrangement**.
- ❑ **Entries about labour relations** are represented in **all the three lists** in the **Constitution**.
- ❑ Yet the **most important ones** come under the **Concurrent List**.
- ❑ These are **industrial and labour disputes, trade unions**, and many aspects of **social securities and welfare** like **employers' liability, employees' compensation, provident fund, old age pensions, maternity benefit**, etc.
- ❑ Thus, the **Industrial Disputes Act, 1947**, the **Minimum Wages Act, 1948**, the **Employees' State Insurance Act, 1948**, etc., come under the **Concurrent List**.
- ❑ Some **States** have enacted **separate amendment Acts** to some of the above **legislations** to meet **local needs**.
- ❑ Such amendments are recommended either with the **assent of the President of India** or by **promulgating rules** pursuant to the **powers delegated by the Central Act**.
- ❑ Under the **rule-making powers** delegated by the **Centre**, the **States** have often been able to **adopt Central Acts to local needs** without the **President's assent**.
- ❑ The **Central Acts** often delegate such powers.
- ❑ For example, **Section 38 of the Industrial Disputes Act** delegates to the **appropriate government**, which in many cases is the **State Government**, the power to **promulgate rules** as may be needed for **making the Act effective**.
- ❑ Similarly, **Section 29 and Section 30 of the Minimum Wages Act** and **Section 26 of the Payment of Wages Act** delegated the **rule-making power** to the **State**.
- ❑ In pursuance to this, several **States** have promulgated **separate minimum wages rules** and **payment of wage rules**.

- ❑ The **Factories Act** also contains **similar provisions** and they have been **similarly availed of**.
- ❑ Further, the **goals and values** to be secured by **labour legislation and workmen** have been made clear in **Part IV, Directive Principles of the State Policy** of the **Constitution**.
- ❑ Thus, the **State shall secure a social order** for the **promotion of welfare of the people**.
- ❑ Certain **principles of policy** should be followed by the **State** towards securing:
 - **right to adequate means of livelihood**
 - **distribution of material resources of the community** to subserve the **common good**
 - **prevention of concentration of wealth** via the **economic system**
 - **equal pay for equal work** for **both men and women**
 - **health and strength of workers**, including **men, women and children**, are **not abused**
 - **participation of workers in management of industries**
 - **just and humane conditions of work**
 - **protection of childhood and youth** against **exploitation** and against **moral and material abandonment**
- ❑ By and large, **industrial and labour legislations** have been directed towards the **implementation of these directives**.
- ❑ The **Factories Act, 1948, ESI Act, 1948, Employees' Compensation Act, 1923 / OSHWC Code, 2020** are focused on:
 - **regulation of employment of women and children in factories**
 - **just and humane conditions of work**
 - **protection of health**
 - **compensation for injuries sustained during work**
- ❑ The **Minimum Wages Act, 1948** and the **Payment of Wages Act, 1936 / Code on Wages, 2019** regulate **wage payment**.
- ❑ The **Payment of Bonus Act, 1965** seeks to **bridge the gap** between the **minimum wage** and the **living wage**.
- ❑ However, the **directives** relating to **distribution of wealth, living wages, equal pay for equal work, public assistance**, etc., have **not been generally implemented as yet**.



SOCIAL JUSTICE AND INDUSTRIAL LAWS

- The **Preamble of the Constitution** highlights the concept of **socio-economic justice**, being the **main objectives of the State** required by the Constitution.
- **Article 38 of the Constitution** provides the concept of **social justice** by providing that the **State shall strive to promote the welfare of the people** by securing and protecting, as effectively as it may, a **social order** in which **justice, social, economic and political** shall inform all institutions of the national life.
- **Article 39** says that it shall be the **duty of the State** to apply certain **principles of social justice** in making laws.

- "The concept **social and economic justice** is a **living concept of revolutionary import**, it gives **sustenance to the rule of law**, meaning and significance to the ideal of the **welfare state**." (**Justice Gajendragadkar** in *State of Mysore v. Workers of Gold Mines*, AIR 1958 SC 923).
- In the **economic sphere**, **social justice** means **opportunities in greater measure to the poor and the needy** for the betterment of their **social and economic conditions**.
- "It does not mean **making rich man poor** in order to make **poor men rich**. It does not mean that **all wealth should be shared equally**; **provision of basic minimum to all** in response to **life and living facilities** for promoting one's own values and manner worth are the **essential contents of social justice**." (**K. N. Bhattacharya**, *Indian Plans, A Generalist Approach* (1963), p. 97).
- It is the **responsibility of both the State and the citizens** to work **hand in hand** for achieving **social justice**.
- "The **State has constitutional responsibilities** and the **citizens have moral responsibility** and the **combination of the two types of responsibilities** tend to create an **ideal society worthy to live in**." (**Chakradhar Jha**, *Judicial Review of Legislative Acts* (1974), p. 254).



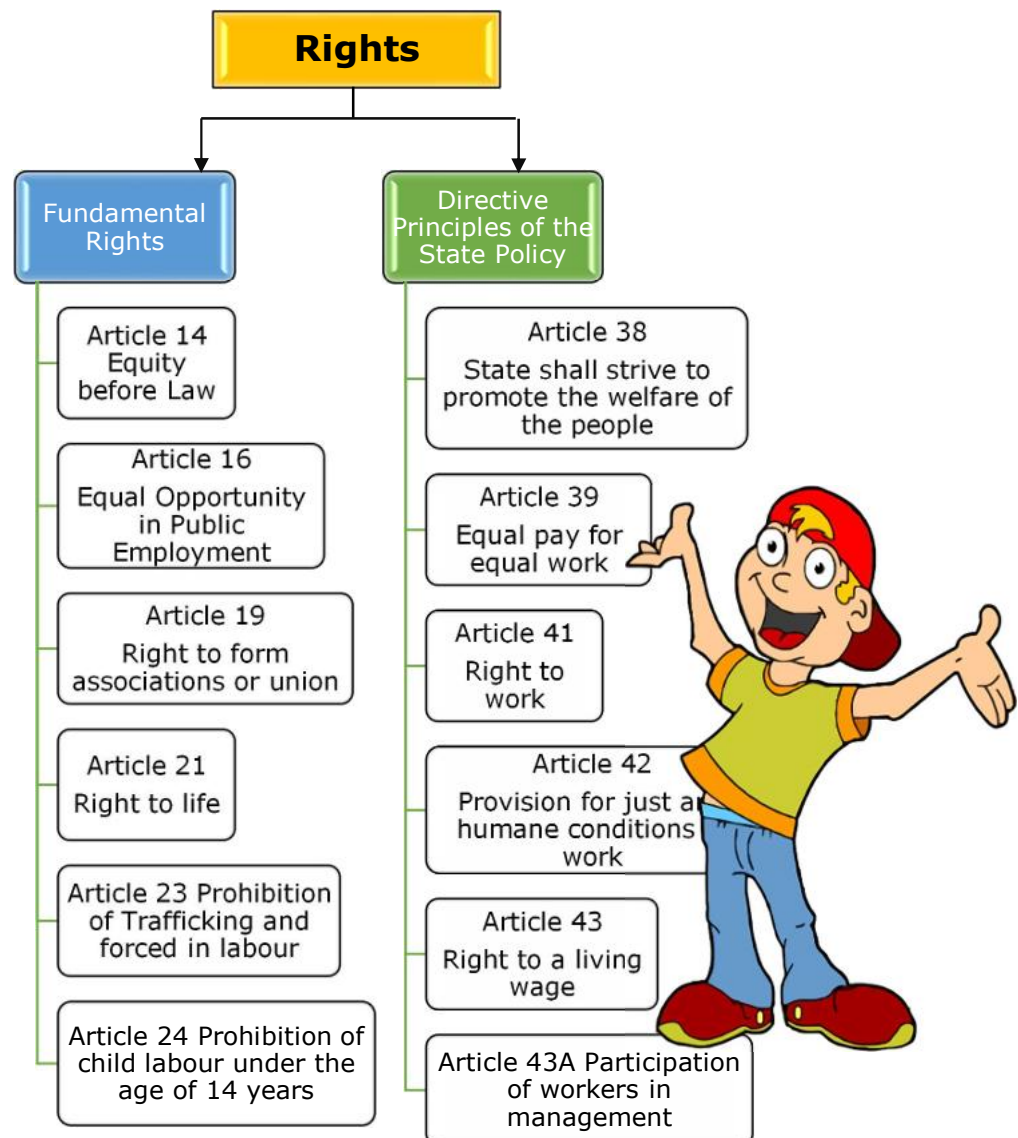
Industrial laws are socio-economic justice oriented

- 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 although 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**.
- This ensures 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 Limitations

- The **goals and values proclaimed under Part IV of the Constitution** are to be effectuated **consistent with the fundamental rights** enshrined in **Part III of the Constitution**.
- The **socio-economic reconstruction** should not give scope to **eat away the existence and worth of man**.
- The **fundamental rights** are envisaged with the overall object of **protecting individual liberty and democratic principles** based on **equality of all members of society**.
- The **State**, in its ebullience to evolve and streamline **socio-economic reforms**, is bound to **respect the dignity and worth of the citizens**.
- Without these **fundamental rights**, the **values of life** may be **stifled and annihilated**.
- Therefore, the **State cannot make laws inconsistent with the fundamental rights**.
- **Any law that contravenes fundamental rights**.

Constitution and Labour



CONSTITUTIONAL REMEDIES

- ❑ The **Constitution** also envisages **remedies for violation of fundamental rights**.
- ❑ **Article 32 and Article 226 of the Constitution** confer **writ jurisdiction** on the **Supreme Court** and **High Courts respectively** for **enforcement and protection of fundamental rights of an individual**.
- ❑ **Article 32** is itself a **fundamental right**.
- ❑ Apart from the **writ jurisdiction under Article 32**, the **Supreme Court** is envisaged with **discretionary jurisdiction** to entertain **appeal by special leave under Article 136** from **decree, sentence, or order** passed by any **court or tribunal in India**.
- ❑ **High Courts** are vested with **writ jurisdiction under Article 226** and the **power of superintendence** over all **courts and tribunals under Article 227**.
- ❑ A person **aggrieved by an award of the High Court** can appeal to the **Supreme Court** under **Article 132** if any **constitutional question** is involved or under **Article 133** in civil appeal.

Can a Trade Union move the High Court under Article 226 to redress the fundamental rights of its members?

- The issue **whether a Trade Union can move the High Court under Article 226** to redress the **fundamental rights of its members** was discussed by the **Rajasthan High Court** in *Jaipur Division Irrigation Employees Union v. State of Rajasthan and others* (1994) IILLJ 26 Raj.
- In this case, a **large number of the employees of the irrigation department** were declared **surplus**.
- The **Union challenged it** in this **writ petition**.
- The **Single Bench** held that the **petition is not maintainable**, holding that the **fundamental rights of the individual are not the rights of the union**.
- On **appeal**, the **Division Bench** reversed it.
- The **Division Bench** sent back the case to the **Single Bench** for **disposal of the writ petition** in accordance with the merits of the case.

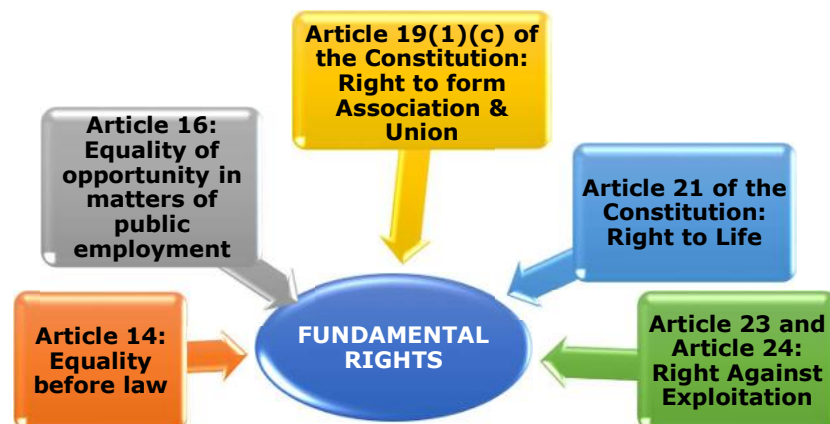
Locus Standi and Public Interest Litigation

- The **traditional concept of locus standi** underwent **sweeping changes** in the **modern age of public action and public interest litigation**.
- In the famous case of *S. P. Gupta and Ors. v. President of India and Ors.* (AIR 1982 SC 149), the question of **locus standi** was discussed.
- It was held that where a **legal wrong or a legal injury** is caused to a **person or to a determinate class of persons** by reason of **violation of any constitutional or legal right**, or any **burden is imposed** in **contravention of any constitutional or legal provision** or **without authority of law**, or any such **legal wrong or legal injury or illegal burden is threatened**,

- And such **person or determinate class of persons**, by reason of **poverty, helplessness or disability** or **socially or economically disadvantaged position**, is **unable to approach the Court for relief**,
- **Any member of the public** can maintain an **application for an appropriate direction, order or writ** in the **High Court under Article 226 of the Constitution of India** or in the **Supreme Court under Article 32 of the Constitution of India**,
- Seeking **judicial redress** for the **legal wrong or injury** caused to such **person or determinate class of persons**.

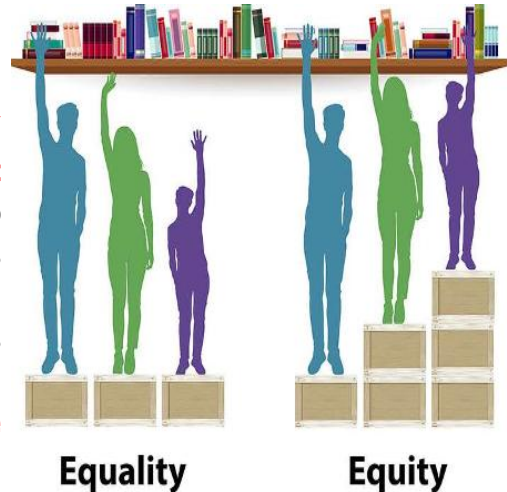
FUNDAMENTAL RIGHTS AND INDUSTRIAL RELATIONS

- **Articles 12 to 35 of the Constitution** pertain to the **Fundamental Rights of the people**.
- 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**.
- 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 had to be for work**.



Article 14: Equality before law

- **Equality** is one of the **magnificent corner-stones of Indian Democracy**.
- **Article 14 of the Constitution of India** reads as under:
"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."
- **Article 14** bars **discrimination** and prohibits **discriminatory laws**.
- The said **Article** is clearly in **two parts** —
 - it commands the **State not to deny to any person 'equality before law'**, and
 - it also commands the **State not to deny the 'equal protection of the laws'**.
- **Equality before law** prohibits **discrimination** and it is a **negative concept**.
- The concept of **'equal protection of the laws'** requires the **State to give special treatment to persons in different situations** in order to establish **equality amongst all** and it is **positive in character**.
- Therefore, the **necessary corollary** to this would be that **equals would be treated equally**, whilst **un-equals would have to be treated unequally**.



Judicial Pronouncements under Article 14

- In the case of *Air India v. Nargesh Meerza (1981 AIR 1829)*, **Regulation 46 and 47 of Indian Airlines regulations** were in question.
- These regulations provided that an **air hostess** will retire from service upon attaining the **age of 35 years** or on **marriage within 4 years of service** or **on first pregnancy, whoever found earlier**.
- The **Managing Director** had the **discretion** to extend the **age of retirement one year at a time**, beyond the age of retirement up to the **age of 45 years**, at his option, if the **air hostess was found medically fit**.
- It was held by the **Court** that the **clauses regarding retirement and pregnancy** of the regulation were **unconstitutional** and therefore **struck down**.
- The **retirement of air hostess on the ground of pregnancy** was **unreasonable and arbitrary** and it was in **violation of Article 14 of the Constitution of India**.

- In *D. S. Nakara v. Union of India (1983 AIR 130)*, the **Supreme Court** held **Rule 34 of the Central Services (Pension) Rules, 1972** as **unconstitutional** and it was **struck down**.

- The classification made between **pensioners retiring before a certain date** and **retiring after that date** was **not dependent upon any rational principle**.
- Such classification was **arbitrary** and **violated Article 14 of the Indian Constitution**.

Article 16: Equality of opportunity in matters of public employment

- **There shall be equality of opportunity for all citizens** in matters relating to **employment or appointment** to any **office under the State**.
- **No citizen** shall, on grounds only of **religion, race, caste, sex, descent, place of birth, residence or any of them**, be **ineligible for**, or **discriminated against** in respect of, any **employment or office under the State**.
- **Nothing in this article** shall prevent **Parliament** from making any law prescribing, in regard to a **class or classes of employment or appointment** to an office under the **Government** or any **local or other authority** within a **State or Union territory**, any **requirement as to residence** within that **State or Union territory** prior to such employment or appointment.
- **Nothing in this article** shall prevent the **State** from making any provision for the **reservation of appointments or posts** in favour of any **backward class of citizens** which, in the opinion of the **State**, is **not adequately represented** in the services under the **State**.
- **Nothing in this article** shall affect the operation of any law which provides that the **incumbent of an office** in connection with the affairs of any **religious or denominational institution** or any member of the **governing body thereof** shall be a person **professing a particular religion** or belonging to a **particular denomination**.



Scope and Application of Article 16

- **Article 16** assures **equality of opportunity in matters of public employment** and prevents the **State** from any sort of **discrimination** on the grounds of **religion, race, caste, sex, descent, place of birth, residence or any of them**.
- This **Article** also provides the **autonomy to the State** to grant **special provisions** for the **backward classes, under-represented States, SC & ST** for posts under the **State**.
- **Local candidates** may also be given **preference in certain posts**.
- **Article 16** is an **instance of the application** of the **general rule of equality before law** laid down in **Article 14**.
- The concept of **equal protection and equal opportunity** undoubtedly **permeates the whole spectrum** of an individual's employment from

appointment, through **promotion and termination**, to the **payment of gratuity and pension**.

- **Equality is for equals**, that is to say, those who are **similarly circumstanced** are entitled to an **equal treatment**, but the principle of **equality under Articles 14 and 16** cannot be carried **beyond a point**.
- There is **no bar of reasonable classification** of various employees and there is **no question of equality between separate and independent classes of employees**.
- The **Court** cannot interfere with a **promotion policy** unless it is **vitiated by arbitrariness or discrimination**; a **Court or Tribunal** cannot issue **directions in this regard**.

Equal Pay for Equal Work – Judicial Interpretation

- In the case of *Mewa Ram Kanojia v. All India Institute of Medical Sciences and Ors. (AIR 1989 SC 1256)*, the **Court observed** that the doctrine of '**Equal Pay for Equal Work**' is **not an abstract one**.
- It is **open to the State** to prescribe **different scales of pay** for different posts having regard to **educational qualifications, duties and responsibilities of the post**.
- The principle of '**Equal Pay for Equal Work**' is applicable when **employees holding the same rank**, performing **similar functions** and discharging **similar duties and responsibilities**, are **treated differently**.
- The application of the doctrine would arise where **employees are equal in every respect** but they are **denied equality** in matters relating to the **scale of pay**.
- While considering the question of application of the principle of '**Equal Pay for Equal Work**', it has to be borne in mind that it is **open to the State to classify employees** on the basis of **qualifications, duties and responsibilities** of the posts concerned.
- If the **classification has reasonable nexus** with the **objective sought to be achieved**, namely **efficiency in the administration**, the **State would be justified** in prescribing **different pay scales**.
- If the **classification does not stand the test of reasonable nexus** and is grounded on **unreal and unreasonable basis**, it would be **violative of Articles 14 and 16 of the Constitution**.

Article 19(1)(c) of the Constitution: Right to form Association & Union

- **Article 19(1)(c)** speaks about the **Fundamental right of citizen to form associations and unions**.
- Under **clause (4) of Article 19**, however, the **State may by law impose reasonable restrictions** on this right in the interest of **public order, morality**, or the **sovereignty and integrity of India**.



- The **right of association** pre-supposes **organization** as an organization or **permanent relationship between its members** in matters of **common concern**.
- It thus includes the **right to form companies, societies, partnership, trade union and political parties**.
- The **right guaranteed** is not merely the **right to form association** but also to **continue with the association as such**.
- The **freedom to form association** implies also the **freedom to form or not to form, to join or not to join, an association or union**.

Judicial Interpretation

All India Bank Employees v. National Industrial Tribunal 1962 SCR (3) 269

- The **Court held** that the **object for which labour unions are brought into being and exist** is to ensure **collective bargaining by labour with the employers**.
- The necessity for this has arisen from an **incapacity stemming from the handicap of poverty** and consequent **lack of bargaining power in workmen as compared with employers**, which is the **reason for the existence of labour organizations**.
- **Collective bargaining**, in order to be **effective**, must be enforceable by **labour withdrawing its co-operation from the employer**.
- There is consequently a **fundamental right to strike**, a right which is a **natural deduction from the right to form unions** guaranteed by **sub-clause (c) of clause (1) of Article 19**.
- As **strikes** produce **economic dislocation of varying intensity or magnitude**, a system has been devised by which **compulsory industrial adjudication** is substituted for the **right to strike**.
- This is the **ratio underlying the provisions of the Industrial Disputes Act, 1947**, under which the **Government is empowered**, in the event of an **industrial dispute** which may ultimately lead to a **strike or lock-out**, or when such **strikes or lock-outs occur**, to **refer the dispute to an impartial Tribunal for adjudication**.
- The Act contains a provision **banning and making illegal strikes or lock-outs during the pendency of the adjudication proceedings**.
- The provision of an **alternative to a strike** in the shape of **industrial adjudication** is a **restriction on the fundamental right to strike** and it would be **reasonable and valid only if it were an effective substitute**.

Damyanti Naranga v. Union of India 1971 SCR (3) 840

- The **Court observed** that the **right to form association necessarily implies** that the persons forming the society have also the **right to continue to be associated** with only those whom they **voluntarily admit in the association**.
- The **right guaranteed by Article 19(1)(c)** cannot be confined to the **initial stage of forming an association**.

- If it were so confined, the **right would be meaningless**, because as soon as an association is formed, a **law may be passed interfering with its composition**, so that the **association formed may not be able to function at all**.
- The right can be **effective only if it is held to include** within it the **right to continue the association with its composition** as **voluntarily agreed upon** by the persons forming the association.
- **Article 19(4)**, on the face of it, **cannot be called in aid to claim validity for the Act**.

Article 21 of the Constitution: Right to Life

- **Article 21 of the Constitution of India** reads as: **"No person shall be deprived of his life or personal liberty except according to a procedure established by law."**
- **Article 21** assures every person the **right to life and personal liberty**.
- The term **'life'** has been given a **very expansive meaning**.
- The term **'personal liberty'** has been given a **very wide amplitude**, covering a **variety of rights** which go to constitute the **personal liberty of a citizen**.
- Its **deprivation** shall only be **as per the relevant procedure prescribed in the relevant law**, but the **procedure has to be fair, just and reasonable**.
- The **right to life** enshrined in **Article 21** has been **liberally interpreted** so as to mean **something more than mere survival and mere existence or animal existence**.
- It therefore includes **all those aspects of life** which go to make a **man's life meaningful, complete and worth living**.
- In the **course of time**, **Article 21** has come to be regarded as the **heart of Fundamental Rights**.
- **Article 21** has **enough of positive content** in it and it is **not merely negative in its reach**.
- This **liberal interpretation of Article 21 by the judiciary** has led to **two very spectacular results within the last two decades**, viz.:



(1) Directive Principles activated and made enforceable

- Many **Directive Principles**, which as such are **not enforceable**, have been **activated** and have become **enforceable**, such as:
 - **Right to livelihood**
 - **Right to live with human dignity**
 - **Right to medical care**
 - **Health of labour**

- Sexual harassment
- Right to health
- Economic Rights

(2) Implied Fundamental Rights

- The **Supreme Court** has **implied a number of Fundamental Rights** from **Article 21**.

Olga Tellis & Ors v. Bombay Municipal Corporation

AIR 1986 SC 180

- The **Court held** that the **main plank of petitioners' argument** is that the **right to life guaranteed by Article 21 includes the right to livelihood**.
- If petitioners are **evicted from their slum and pavement dwellings**, they will be **deprived of their livelihood**, and therefore **eviction is tantamount to deprivation of life** and **unconstitutional**.
- The Court **assumed factual correctness** of petitioners' claim for argument purposes.
- The **sweep of the right to life conferred by Article 21** is **wide and far reaching**.
- **Life** does not merely mean that it **cannot be extinguished**, e.g., by **execution of death sentence**, which is only **one aspect of the right to life**.
- An **equally important facet** of the right to life is the **right to livelihood**, because **no person can live without the means of living**, i.e., **means of livelihood**.
- If **right to livelihood** is not part of **constitutional right to life**, one could easily **deprive a person of life** by **taking away livelihood**.
- Such **deprivation** would **denude life of effective content and meaningfulness** and **make life impossible to live**.
- The **nexus between life and livelihood** explains **massive migration from villages to cities**, as people **struggle for survival**, i.e., **struggle for life**.
- **Douglas J. in Baksey**: Right to work is the **most precious liberty** because it **sustains and enables a man to live**.
- **Field, J. in Munn v. Illinois (1877)**: Life means **more than mere animal existence**, and **inhibition against deprivation of life extends to all those faculties by which life is enjoyed**.

D.K. Yadav v. J.M.A. Industries Ltd

1993 SCR (3) 930

- **Court held** that **Article 21 clubs life with liberty and dignity of person with means of livelihood**, without which dignity is **reduced to animal existence**.
- **Procedure established by law** must conform with **minimum fairness and processual justice**, preventing **legislative callousness** and ensuring **opportunity to be heard and fair defence**.

- **Termination of service** affects not only **employee's livelihood**, but also **career and livelihood of dependents**.

Before taking **action ending tenure of an employee/workman**, **fair play** requires **reasonable opportunity to put forth his case** and **domestic enquiry** complying with **principles of natural justice**.

Paschim Banga Khet Mazdoor Samity v. State of West Bengal **AIR 1996 SC 2426**

- A **mazdoor** fell from a running train, was seriously injured, and **shifted among government hospitals**, eventually **admitted in private hospital** at a cost of **Rs. 17,000/-**.
- Filing a **writ petition under Article 32**, the **Supreme Court ruled**:
 - Constitution envisages **welfare state**, where **primary duty of government** is to provide **adequate medical facilities**.
 - **Government discharges obligation** by running **hospitals and health centres** for those in need.
 - **Article 21 imposes obligation on State** to **safeguard the right to life of every person**.
 - **Preservation of human life** is **paramount**.

Vishakha & Ors. v. State of Rajasthan **1997 6 SCC 241**

- A **woman was assaulted and harassed at workplace**.
- **Supreme Court observed**:
 - Each incident **violates fundamental rights** of **Gender Equality** and **Right of Life and Liberty**.
 - Violation occurs under **Articles 14, 15, and 21**.
 - Logical consequence: **violation of Article 19(1)(g)**: Right to **practice profession or carry out any occupation, trade, or business**.

Article 23 and Article 24: Right Against Exploitation

Article 23: Prohibition of Forced Labour

- **Article 23(1): Traffic in human beings, begar, and other similar forms of forced labour** are **prohibited** and **contravention is punishable by law**.
- **Article 23(1) proscribes three unsocial practices**:
 1. **Begar**
 2. **Traffic in human beings**
 3. **Forced labour**
- **Begar**: Compulsory work **without payment**; labour or service a person is **forced to give without remuneration**.



- **Withholding pay of a government employee as punishment** is invalid under Article 23:
 - **"To ask a man to work and then not to pay him any salary or wages savours of begar.** It is a **Fundamental Right** of a citizen **not to be compelled to work without wages."** (Suraj v. State of Madhya Pradesh, AIR 1960 MP 303)
- **Traffic in human beings (slavery):** **Buying and selling of human beings as chattels is constitutionally abolished.**
- **"Other similar forms of forced labour":** Interpreted **ejusdem generis**, i.e., similar in nature to **begar or traffic in human beings.**
- **Exception under Article 23(2):** **Compulsory service for public purposes** is allowed, **without discrimination** on **religion, race, caste, or class.**
- **Women may be exempted** from compulsory service; this is **not forbidden** under Article 23(2).
- **Expansive interpretation by Supreme Court** in **People's Union for Democratic Rights v. Union of India (AIR 1982 SC 1473, Asiad case):**
 - Article 23 intended to **abolish every form of forced labour**, even if **originates in a contract.**
 - Forced labour **violates human dignity** and **contrary to basic human values.**
- **Sanjit Roy v. State of Rajasthan, 1983 SCR (2) 271:**
 - Labour paid **less than minimum wages** is **forced labour** under Article 23.
 - Such persons are **entitled to approach higher judiciary** under **Articles 226 or 32** for **enforcement of fundamental rights**, including **payment of minimum wages.**

Article 24: Prohibition of Child Labour

- **Article 24:** **"No child below the age of fourteen years shall be employed in any factory, mine, or hazardous employment."**
- **Enforceable against private citizens.**
- **Consonance with Articles 39(e) and (f):** Protect **health and strength of workers** and **protect children against exploitation.**
- **Child Labour (Prohibition and Regulation) Act, 1986:**
 - **Prohibits employment of children in hazardous industries**
 - **Scope to extend prohibition to other sectors**
- **Peoples Union for Democratic Rights v. Union of India (AIR 1982 SC 1473, Asiad Workers case):**
 - Even though **Employment of Children Act, 1938** did not include **construction work**, construction is **hazardous.**
 - **Children under 14** cannot be employed in **hazardous occupations** under **Article 24.**
 - **Right under Article 24** is enforceable **even without implementing legislation.**
- **M.C. Mehta v. State of T.N. (AIR 1997 SC 699):**
 - Employers of **children below 14** must comply with **Child Labour Act.**

- Includes **compensation, employment of parents/guardians, and education of children.**
- **Article 39(f):** Importance of **protecting children from exploitation** and providing **opportunities for development.**
- **Alignment:** Articles 23 and 24 **prohibit forced labour** and **employment of children below 14**, supporting **Article 39(f).**

LABOUR LAWS AND REFERENCE TO DIRECTIVE PRINCIPLES OF STATE POLICY

- The **makers of the Constitution** realized that in a **poor country like India, political democracy** would be **useless without economic democracy.**
- Accordingly, they **incorporated provisions** in the Constitution to **ameliorate the socio-economic condition of the masses.**
- India is now in an **era of welfare state** which seeks to **promote the prosperity and well-being of the people.**
- **Directive Principles** strengthen and promote this concept by laying down **socio-economic goals** which the **government must strive to achieve.**
- **Purpose of Directive Principles:**
 - To **usher in social and economic democracy**
 - To **obligate the state to take positive action to promote the welfare of the people**
 - To **achieve economic democracy**
- **Directive Principles** give **directions to legislatures and the executive** regarding the **exercise of their powers.**
- **Non-enforceability by courts:**
 - Unlike **Fundamental Rights (Part III), Directive Principles (Part IV)** are **not enforceable** in courts.
 - Reason: They **impose positive obligations** on the state, which faces **financial and other restraints.**
 - **Constitution-makers** believed in **awakened public opinion** rather than court enforcement as the **ultimate sanction** for fulfillment.
- **Fundamental nature:**
 - Though not enforceable by courts, **Directive Principles are 'fundamental' in the governance of the country.**
 - The **State is under obligation to apply them in making laws.**
 - The **State must make laws and use administrative machinery to achieve these principles.**
- **Judicial approach:**
 - Courts increasingly follow an **integrative approach** between **Fundamental Rights and Directive Principles.**
 - **Both should be read together**, as **Directive Principles define the scope and ambit of Fundamental Rights.**
 - Directive Principles are used to **broaden and give depth to Fundamental Rights** and to **imply additional rights** beyond those explicitly stated.
- **Relevant Articles for industrial legislation:**

- **Articles 38, 39, 41, 42, and 43**
- These are considered the **substratum or 'magna carta' of industrial jurisprudence.**
- They define the **responsibility of the Government (Central and State)** towards **labour**:
 - To **secure social order**
 - To ensure **living wages** in accordance with the **economic and political conditions of the country**

Social Order Based on Socio-Economic Justice

- **Article 38(1)** directs the **state** to strive **"to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life."**
- **Article 38(2)** directs the **state** to strive **"to minimise the inequalities in income,"** and endeavour **"to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also groups of people residing in different areas or engaged in different vocations."**
- **Article 38** needs to be **read along with Article 14.**
- This **directive** reaffirms what has been declared in the **Preamble to the Constitution**, viz., the **function of the Republic is to secure, inter alia, social, economic and political justice.**
- On the **concept of equality** envisaged by Article 38, the **Supreme Court** observed in **Sri Srinivasa Theatre v. Govt. of Tamil Nadu, AIR 1992 SC 999**:
 - **"Equality before law is a dynamic concept having many facets."**
 - **One facet** – the most commonly acknowledged – is that **there shall be no privileged person or class and that none shall be above law.**
 - **Another facet**, of immediate relevance, is the **obligation upon the State to bring about, through the machinery of law, a more equal society envisaged by the Preamble and Part IV of our Constitution [viz. Directive Principles].**
 - **Equality before law** can be predicated meaningfully **only in an equal society**, i.e., in a **society contemplated by Article 38 of the Constitution.**
- Reading **Articles 21, 38, 42, 43, 46 and 48A together**, the **Supreme Court** concluded in **Consumer Education & Research Centre v. Union of India (AIR 1995 SC 923)**:
 - **"Right to health, medical aid to protect the health and vigour of a worker while in service or post retirement is a Fundamental Right...to make the life of the workman meaningful and purposeful with dignity of person."**
 - **Health of the worker** enables him to **enjoy the fruit of his labour**, keeping him **physically fit and mentally alert** for a **successful life economically, socially and culturally.**

- **Medical facilities** to protect the **health of the workers** are therefore the **fundamental and human rights of the workmen**.
- **Article 38** is always **supplemented** and must be **read with Article 39**, which lays down the **guidelines and principles for achieving such social order**.

Equal Pay for Equal Work

- **Article 39** requires the **state**, in particular, to direct its policy towards securing:
 - (a) That all **citizens**, irrespective of **sex**, equally have the **right to an adequate means of livelihood**.
 - (b) That the **ownership and control of the material resources of the community** are so distributed as best to **subserve the common good**.
 - (c) That the operation of the **economic system** does not result in the **concentration of wealth and means of production** to the **common detriment**.
 - (d) That there is **equal work for both men and women**.
 - (e) That the **health and strength of workers**, men and women, and **tender age of children** are not abused, and that **citizens are not forced by economic necessity** to enter **avocations unsuited to their age or strength**.
 - (f) That **children** are given **opportunities and facilities** to **develop in a healthy manner** and in conditions of **freedom and dignity**, and that **childhood and youth** are **protected against exploitation** and against **moral and material abandonment**.
- In the case of **Randhir Singh v. Union of India (1982 AIR 879)**, the **Supreme Court** held:
 - The principle of **"Equal pay for equal work though not a fundamental right"** is certainly a **constitutional goal**.
 - **Article 39(d)** of the Constitution proclaims **"equal pay for equal work for both men and women"** as a **Directive Principle of State Policy**.
 - The **doctrine of equal pay for equal work** is equally applicable to **persons employed on a daily wage basis**.
 - They are also entitled to the **same wages as other permanent employees** in the department employed to do the **identical work**.
 - The doctrine of **'equal pay for equal work'** cannot be put in a **strait jacket**.
 - Different **scales of pay** in the same **cadre of persons doing similar work** can be fixed if there is a **difference in the nature of work done** and regarding **reliability and responsibility**.

In the case of **Dhirendra Chamoli and Anr. v. State of U.P. (AIR 1982 SC 879)**, the **Court** stated:

- The fact that these **employees accepted employment** with full knowledge that they will be paid **only daily wages** and will not get the **same salary and**

conditions of service as other Class IV employees **cannot provide an escape to the Central Government** to avoid the **mandate of equality enshrined in Article 14**.

- **Article 14** declares that there shall be **equality before law** and **equal protection of the law**, and implicit in it is the principle that there must be **equal pay for work of equal value**.
- Employees in the service of **different Nehru Yuvak Kendras** performing the **same duties as Class IV employees** must therefore get the **same salary and conditions of service** as Class IV employees.
- It **makes no difference** whether they are appointed in **sanctioned posts or not**. So long as they are performing the **same duties**, they must receive the **same salary and conditions of service** as Class IV employees.

National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) vs. Union of India and Ors. (19.03.2018 - SC) (2018) 5 SCC 607

- **Petition filed regarding non-implementation of:**
 - **Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act)**
 - **Building and Other Construction Workers' Welfare Cess Act, 1996 (Cess Act)**
- **Petitioner's contention:**
 - **Non-implementation violates Articles 15(3), 39(e) and (f), 45 and 47** of the Constitution.
 - These Articles **impose a primary responsibility on the State** to ensure that **all needs of workers are met** and that their **basic rights are fully protected**.
- **Supreme Court held:**
 - **BOCW Act and Cess Act** are **social justice legislations**.
 - Enacted keeping in mind the **Directive Principles of State Policy**, particularly:
 - **Article 39** – securing the **health and strength of workers**
 - **Article 42** – **just and humane conditions of work**
 - **Article 21 – life of dignity** is a **fundamental right** for all, including **construction workers**.
 - Laws enacted by **Parliament must be adhered to**; **Rule of law** and **human rights and dignity of building and construction workers** must be respected.
 - Avoid **complete breakdown of the BOCW Act** and **serious violations of Part III of the Constitution** guaranteeing **fundamental rights**.

Bandhua Mukti Morcha and Ors. vs. Union of India and Ors. (21.02.1997 - SC) (1997) 10 SCC 549

- **Petitioner's main contention:**

- **Employment of children in any industry or hazardous industry** violates:
 - **Article 24**
 - **Articles 39(e) and 45**
 - **Preamble of the Constitution**
- **Court stated:**
 - Constitutional perspectives for **abolition of child labour** and protection of **children below 14 years** in industries.
 - **Government directed to evolve principles and policies for progressive elimination** of child employment in:
 - **Factories, mines, or any other industry** (organised or unorganised labour).
- **Government actions to ensure compliance:**
 1. **Compulsory education** to all children, either by the industry itself or in coordination with the **State Government**, with **convenient timings** for education.
 2. **Facilities for secondary, vocational, professional, and higher education.**
 3. **Periodical health check-up** for employed children.
 4. **Provision of nutrient food.**
 5. **Entrust responsibilities for implementation** of these principles.
 6. **Periodical reports** of progress submitted to the **Registry of the Supreme Court.**

SOCIAL SECURITY PROVISIONS

- **Article 41** requires the **state**, within its **economic capacity and development**, to make effective provision for securing:
 - **Right to work**
 - **Right to education**
 - **Public assistance** in cases of:
 - **Unemployment**
 - **Old age**
 - **Sickness and disablement**
 - **Other cases of undeserved want**
- **Social security** is guaranteed under **Articles 39, 41, and 43** of the Constitution.



Legislations and Schemes for Social Security

1. **Employees' State Insurance Act, 1948**
 - **Pioneering legislation** in social insurance
 - Provides **benefits in cash**, except **medical benefits**, which are in **kind**
2. **Employees' Provident Funds and Miscellaneous Provisions Act, 1952**
 - **Social security measure**

- Provides **substantial security** and **timely monetary assistance** to **industrial employees and their families**

3. Maternity Benefit Act, 1961

- Provides **maternity leave with full wages**
- Ensures **security of employment**

4. Payment of Gratuity Act, 1972

- Provides a **scheme for the payment of gratuity** to employees in:
 - **Factories, mines, oil fields, plantations, ports, railways, shops, and establishments**

Employment and Workers' Education Initiatives

1. Apprentices Act, 1961

- **Supplement institutional training** by **on-the-job training**
- Regulates **training arrangements in industry**

2. Employment Exchanges (Compulsory Notification of Vacancies) Act, 1969

- Obligates **employers to notify vacancies** in their establishments to the **prescribed employment exchanges** before filling them

3. Voluntary Workers Education Scheme, 1958

- Educates workers in **trade union philosophy and methods**
- Promotes **physical awareness of problems, privileges, and obligations** as **workers and citizens**

WORKING CONDITIONS

- **Article 42** requires the **state** to make provision for securing:
 - **Just and humane conditions of work**
 - **Maternity relief**
- **Significance:**
 - Provides the **basis of the large body of labour law** in India
 - Supreme Court references **Articles 42 and 43** to emphasize **deep concern for welfare of workers**
 - By reading **Article 21** with Directive Principles including **Article 42**, the Court gave **broad connotation to Article 21** to include:
 - **Right to live with human dignity**



LIVING WAGE

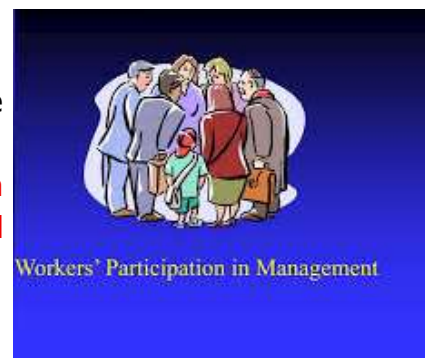
- **Article 43** requires the **state** to endeavour to secure:
 - **Work** for all **workers, agricultural, industrial, or otherwise**

- **A living wage**
- **Conditions of work ensuring:**
 - **Decent standard of life**
 - **Full employment of leisure**
 - **Social and cultural opportunities**
- Promotion of **cottage industries** on an **individual or co-operative basis** in rural areas
- **Significance:**
 - Imposes **obligation to ensure provision of living wage** in all sectors
 - Enunciates the doctrine that **employees are entitled as of right to certain reliefs**
- **Definition of wages:**
 - **Living wage:** Enables **male earner** to provide for **himself and his family**:
 - **Food, clothing, shelter**
 - **Education for children**
 - **Protection against ill-health**
 - **Essential social needs**
 - **Measure of insurance against misfortunes including old age**
 - **Minimum wage:** Covers only the **bare physical needs** of **worker and family**
 - **Minimum wage** to be fixed in an industry **irrespective of capacity to pay**
 - Fixation of **minimum wage** is in **public interest**
 - Does **not restrict right to carry on trade** under **Article 19(1)(g)** (Edward Mills Co. v. Ajmer, AIR 1955 SC 25)



WORKERS PARTICIPATION IN MANAGEMENT

- **Article 43-A** (42nd Amendment, 1976) provides:
 - **State shall take steps**, by suitable legislation or other means, to secure:
 - **Participation of workers in management of industrial establishments**



CASE LAWS

Janapareddy Surya Narayana & Ors. vs. Municipal Administration and Urban Development & Ors. (APHC, 16.04.2021)

- **Issue:** Petition challenging **RC. No. 16394/P.O. (Balyam)** dated **19.06.2017** as **illegal, arbitrary, and violative** of **Articles 14, 16, 21 & 39(d)**.
- **Petitioners:** Part-time workers / NMRs engaged on **outsourcing basis**.

- **Contention:** Paid **meagre salary**, denied **equal pay** despite working **full 8 hours**.
- **Court Observations:**
 - Part-time/NMR workers **working full 8 hours** are **entitled to equal pay** under **Article 39(d)**.
 - Paying lower salary while exploiting **unemployment situation is arbitrary and discriminatory (violates Article 14)**.
- **Decision:**
 - Court **directed respondents to regularize services** of petitioners.
 - **Extend minimum time scale of pay** for 8-hour duties **on par with regular employees**.
 - Case **partly decided in favour of petitioners**.

Chapter-15

Evaluation of Labour Legislation and Need of Labour Code



REGULATORY FRAMEWORK

- ☐ Code on Wages 2019
- ☐ Code on Social Security, 2020
- ☐ Occupational Safety, Health and Working Conditions Code, 2020 Industrial Relations Code, 2020

INTRODUCTION

- ☐ The law relating to **labour and employment in India** is primarily known under the broad category of **"Industrial Law"**.
- ☐ **Industrialization** is considered to be one of the **key engines** to support the **economic growth** of any country.
- ☐ A **plethora of labour laws** have been established to:
 - Ensure **health, safety and welfare of workers**
 - **Protect workers against oppressive terms**, as an **individual worker is economically weak** and has **little bargaining power**
 - **Encourage and facilitate workers** in the organization
 - **Deal with industrial disputes**
 - **Enforce social insurance and labour welfare schemes**, and alike
- ☐ **Reforms in labour laws** are an **ongoing process** to:
 - Update the **legislative system**
 - Address the **need of the hour**
 - Make laws **more effective, flexible and in sync** with the **emerging economic and industrial scenario**
- ☐ The **Second National Commission on Labour** recommended that the **existing Labour Laws** should be **broadly grouped** into **four or five Labour Codes** on a **functional basis**.
- ☐ Accordingly, the **Government** has taken steps for **drafting four Labour Codes** on:
 - **Wages**
 - **Industrial Relations**
 - **Social Security & Welfare**
 - **Occupational Safety, Health and Working Conditions**
- ☐ These Labour Codes aim at **simplifying, amalgamating and rationalizing** the **relevant provisions** of the **existing Central Labour Laws**.

HISTORY OF LABOUR LAWS

- The **need for better working conditions**, the **right to organise**, and **employer demands to limit employee rights** and **keep labour costs down** led to the **development of labour law**.
- When **employees band together** to demand **better pay**, or when laws impose **requirements like equal opportunity or health and safety standards**, **employers' costs may rise**.
- **Trade unions and worker organisations** may become **political forces**, which some **companies may find objectionable**.
- Therefore, **labour law at any one time** is both:
 - A **result of conflicts** between **various interests in society**, and
 - A **component of such conflicts**
- The **labour movement** played an **instrumental role** in the **enactment of laws protecting labour rights** in the **19th and 20th centuries**.
- **Labour rights** have been **integral to social and economic development** since the **industrial revolution**.

International Labour Organisation (ILO)

- **International Labour Organisation (ILO)** is one of the **first organisations** to deal with **labour issues**.
- The **ILO** was established as an **agency of the League of Nations** following the **Treaty of Versailles**, which ended **World War I**.
- **Post-war reconstruction** and **protection of labour unions** occupied the attention of many nations **during and immediately after World War I**.
- In **Great Britain**, the **Whitley Commission**, a subcommittee of the **Reconstruction Commission**, recommended in its **July 1918 Final Report** the establishment of **"industrial councils"** throughout the world.



INDIA AND ILO

- **India** is a **founder member** of the **International Labour Organization (ILO)**.
- India has been **actively contributing** to the **evolution of global policy on labour welfare**.
- The **ILO** came into existence in **1919**, and **India** has been a **permanent member of the ILO Governing Body since 1922**.
- At present, the **ILO has 187 Members**.
- A **unique feature of the ILO** is its **tripartite character**, where:
 - **Governments**,
 - **Workers**, and
 - **Employers** participate at **every level of the organisation**.

Evaluation of Labour Legislation and Need of Labour Code

- Even after **75 years of Independence**, about **90% of workers** are employed in the **unorganized sector** without access to **social security**.
- The **total number of workers**, including **organized and unorganized sectors**, is **more than 50 crores**.
- Earlier, the **working class** was **entangled in multiple labour legislations**.
- The **Central Government** has taken a **revolutionary and historical step** by **codifying 29 labour laws into 4 Labour Codes**.
- The objective is to provide **security, respect, health, and welfare measures** to workers **with ease** and **freedom in the true sense**.

NEED TO BRING IN NEW LEGISLATIONS

- **Labour** is covered under the **Concurrent List of the Constitution**.
- Therefore, **rules governing labour** can be passed by both the **Parliament** and the **State Legislatures**.
- According to the **Central Government**, more than **100 State laws** and **40 Central laws** govern labour-related issues such as:
 - **Resolution of labour disputes**
 - **Working conditions**
 - **Social security**
 - **Pay**
- **Labour Reforms** remained **untouched during the economic reforms of 1991**.

Second National Commission on Labour

- The **Second National Commission on Labour** submitted its **Report in 2002**.
- It highlighted the **multiplicity of Labour Laws in India**.
- It recommended that at the **Central level**, Labour Laws should be **codified into 4 or 5 Labour Codes**, namely:
 - **Industrial Relations**
 - **Wages**
 - **Social Security**
 - **Safety**
 - **Welfare and Working Conditions**
- Although **discussions were held**, **no serious initiative** was taken during **2004–2014**.



Acceleration of Labour Code Reforms

- **Brainstorming on Labour Codes** was **fast-tracked** when **GST** as "**One Nation One Tax**" was implemented.
- Reforms were aligned with the motto: "**Sabka Saath, Sabka Vikas aur Sabka Vishwas**".

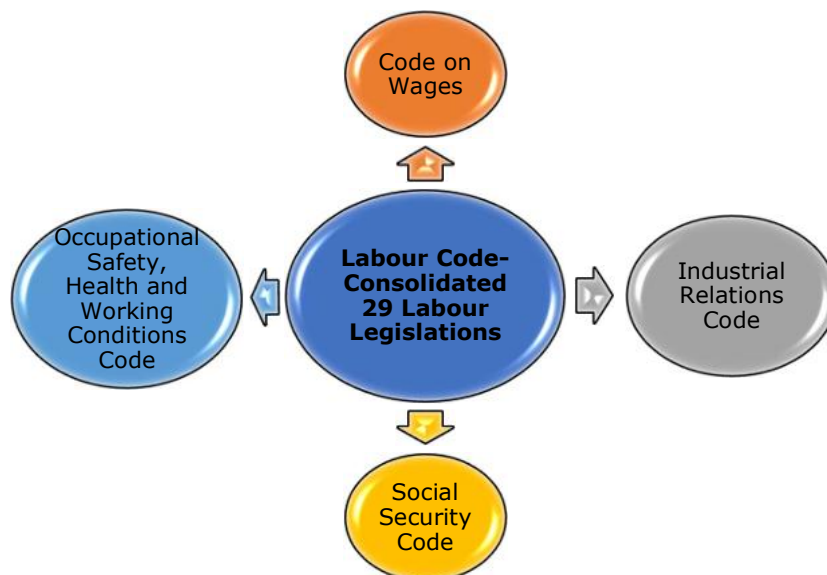
- Following this **progressive thinking**, **Labour Law reforms** were **speeded up**.

Consultative and Legislative Process

- Extensive discussions** were held by the **Ministry of Labour and Employment** before initiating reforms.
- Under the **pre-legislative consultative policy**, all **draft Labour Codes** were uploaded on the **Ministry's website** for:
 - Stakeholders**
 - Public consultation**
- During **2015–2019**, the Ministry conducted **9 tripartite discussions** involving:
 - Central Trade Unions**
 - Employers' Associations**
 - State Government representatives**
- All **four Bills** were examined by the **Parliamentary Standing Committee**, which gave its **recommendations**.

Enactment of Labour Codes

- To **codify 29 Central legislations**, the **Ministry of Labour and Employment** submitted **four Labour Code Bills** in 2019.
- The **Code on Wages, 2019** was **approved by Parliament**.
- The **Standing Committee on Labour** examined the **remaining three Bills** and submitted its **reports**.
- In **September 2020**, the Government **repealed the earlier Bills** and **enacted new ones**.
- Labour Codes were **categorized into four Codes**:
 - Code on Wages**
 - Industrial Relations Code**
 - Social Security Code**
 - Occupational Safety, Health and Working Conditions Code**



PURPOSE OF LABOUR LEGISLATION

□ **Labour legislation**, adapted to the **economic and social challenges** of the **modern world of work**, fulfils **three crucial roles**:

□ **First role:**

- Establishes a **legal system** that facilitates **productive individual and collective employment relationships**, and therefore a **productive economy**.

□ **Second role:**

- Provides a **framework** within which **employers, workers and their representatives** can interact on **work-related issues**.
- Serves as an **important vehicle** for achieving **harmonious industrial relations** based on **workplace democracy**.



□ **Third role:**

- Provides a **clear and constant reminder and guarantee** of **fundamental principles and rights at work** which have received **broad social acceptance**.
- Establishes the **processes** through which these **principles and rights** can be **implemented and enforced**.

OBJECTIVE OF LABOUR CODES

□ For the sake of **clarity, standardisation in terminology**, and **consistency in approach**, the **Commission** emphasized the **necessity to streamline and unify labour legislation**.

□ **Consolidation of labour laws** enables **more comprehensive labour coverage**, since **separate labour rules** apply to **different employment classifications** and **different thresholds**.

□ Based on the **recommendations of the National Commission on Labour (NCL)**, **four Labour Codes** were introduced in Parliament, namely:

- **Code on Wages**
- **Code on Industrial Relations**
- **Code on Social Security**
- **Code on Occupational Safety**

□ While the **Codes combine and streamline existing legislation**, there are **areas where they fall short**.

□ The **Codes on Social Security and Occupational Safety** continue to include **specific provisions** from the **statutes they replace**.

□ Even though the **Occupational Safety Code** contains **leave provisions for all employees, sales promotion employees** continue to receive **additional leave entitlements**, such as **earned medical leave at the rate of 1/18th of the period on duty**.

- Although the **definitions of various terms** are **largely rationalised**, they are **not consistent across all Codes**.
- For example, the definition of **"contractor"** is the same in:
 - **Code on Wages**
 - **Code on Occupational Safety**
 - **Code on Social Security** but **not the same** in the **Code on Industrial Relations**.
- After extensive discussions, **only 29 laws** have been **replaced by the four Labour Codes**.
- The **main challenge of labour reforms** is **facilitating employment growth while preserving employees' rights**.
- Important areas of discussion include:
 - **Coverage of small businesses**
 - **Cut-off points for prior approval of layoffs**
 - **Strengthening labour enforcement**
 - **Enabling flexible forms of labour**
 - **Supporting collective bargaining**
- With the passage of time, it is **necessary to update and simplify labour laws** to include provisions accommodating **new forms of employment**, such as **gig work**.

FEATURES OF LABOUR CODES

- **Applicability based on size of establishment:**
 - Most **labour rules** apply to **businesses above a particular size** (generally **10 or more workers**).
 - **Thresholds based on company size** ease the **burden of compliance** for businesses.
 - However, **fundamental protections** such as **pay, social security, and working conditions** should apply to **all businesses**.
 - Such **size-based limits** still exist in **some Labour Codes**.
- **Simplification of compliance system:**
 - Introduction of a **simple and accountable system**.
 - **One Registration, One License, and Single Return** for **all the Codes**.
- **Government approval for closure, lay-off, retrenchment:**
 - Earlier requirement applied to establishments employing **100 or more workers**.
 - This was considered to **restrict business exit** and **staff flexibility**.
 - The **Industrial Relations Code** increases this threshold to **300 workers**.
 - The **Government may further increase it by notification**.
- **Compliance burden and enforcement issues:**
 - **Multiplicity and complexity of labour laws** increased **compliance burden**.
 - **Weak enforcement, insufficient sanctions**, and **rent-seeking behaviour of inspectors** affected labour enforcement.
 - Some of these **issues are addressed by the Codes**.
- **Contract labour and fixed-term employment:**

- **Contract labour** has increased due to **economic factors and compliance requirements**.
- **Fundamental rights**, such as **guaranteed wages**, are often denied to **contract workers**.
- These concerns are **not fully addressed** by the Codes.
- **Fixed-term employment** is introduced by the **Industrial Relations Code** as a **new form of short-term labour**.

□ **Trade unions and collective bargaining:**

- There are **many registered trade unions**, but **no clear standards for recognition**.
- The **Industrial Relations Code** provides **provisions for recognition of trade unions** for **collective bargaining**.

□ **Simplification with limitations:**

- The **Codes simplify labour laws**, but **several gaps remain**.
- The **Code on Social Security** enables schemes for **gig and platform workers**.
- However, these **classifications lack clarity and precision**.

□ **Delegation of rule-making powers:**

- The **Codes delegate rule-making authority** on key matters such as:
 - **Applicability of social security schemes**
 - **Health and safety regulations**
- Debate exists on whether such decisions should rest with the **Legislature or the Executive**.

□ **Gender equality and equal pay:**

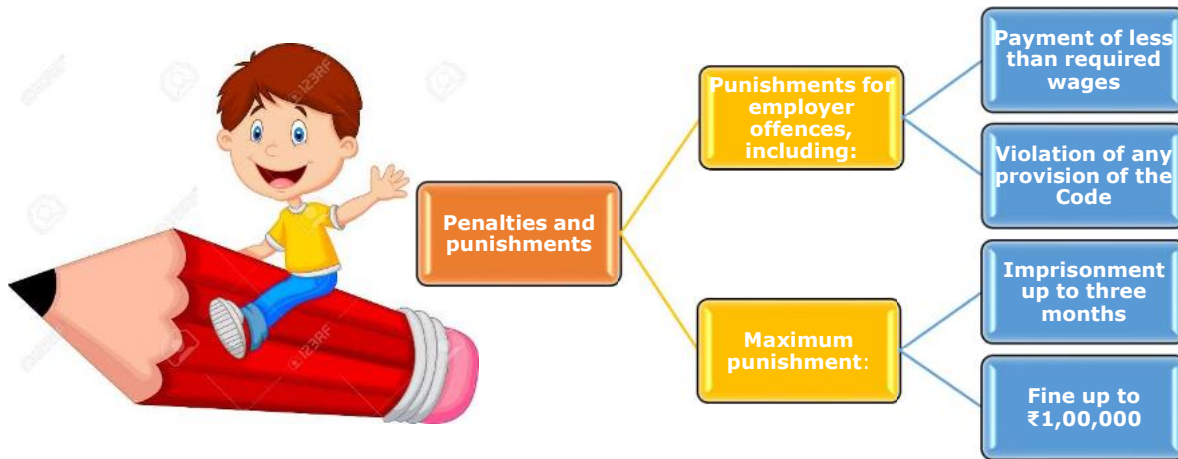
- The law **prohibits gender-based discrimination** in:
 - **Recruitment**
 - **Pay for same or similar work**
- **Work of similar nature** means work requiring the **same skill, effort, responsibility, and experience**.

□ **Advisory Boards:**

- **Central Advisory Board** consists of:
 - **Central and State Governments**
 - **Employers**
 - **Employees (equal in number to employers)**
 - **Independent persons**
 - **Five State Government representatives**
- **State Advisory Boards** include **employers, workers, and independent persons**.
- **Women shall constitute one-third** of the **total membership** of both Boards.
- Boards advise Governments on:
 - **Fixation of minimum wages**



○ **Enhancing employment opportunities for women**



ACTS SUBSUMED BY THE FOUR LABOUR CODES

Labour Code	Acts Subsumed
Code on Wages, 2019	☐ Payment of Wages Act, 1936 ☐ Minimum Wages Act, 1948 ☐ Payment of Bonus Act, 1965 ☐ Equal Remuneration Act, 1976
Occupational Safety, Health and Working Conditions Code, 2019	☐ Factories Act, 1948 ☐ Mines Act, 1952 ☐ Dock Workers (Safety, Health and Welfare) Act, 1986 ☐ Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 ☐ Plantations Labour Act, 1951 ☐ Contract Labour (Regulation and Abolition) Act, 1970 ☐ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 ☐ Working Journalist and other Newspaper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955 ☐ Working Journalist (Fixation of Rates of Wages) Act, 1958 ☐ Motor Transport Workers Act, 1961 ☐ Sales Promotion Employees (Condition of Service) Act, 1976 ☐ Beedi and Cigar Workers (Conditions of Employment) Act, 1966 ☐ Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
Industrial Relations Code, 2019	☐ Trade Unions Act, 1926 ☐ Industrial Employment (Standing Orders) Act, 1946 ☐ Industrial Disputes Act, 1947

Code on Social Security, 2019

- ☐ Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- ☐ Employees' State Insurance Act, 1948
- ☐ Employees' Compensation Act, 1923
- ☐ Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- ☐ Maternity Benefit Act, 1961
- ☐ Payment of Gratuity Act, 1972
- ☐ Cine-workers Welfare Fund Act, 1981
- ☐ Building and Other Construction Workers' Welfare Cess Act, 1996
- ☐ Unorganised Workers Social Security Act, 2008

Chapter-16

The Occupational Safety, Health and Working Conditions Code, 2020



INTRODUCTION

- The **Occupational Safety, Health and Working Conditions Code, 2020** represents one of India's most significant labour reforms.
- Enacted to streamline and modernise the regulatory landscape, the Code **consolidates 13 central labour laws into a single comprehensive statute**, making compliance simpler, uniform, and more transparent across the country.
- Pursuant to the recommendations of the **Second National Commission on Labour** and as a part of the **Labour Reform Initiatives**, 29 Labour Acts are being **amalgamated, simplified and rationalised** into four Codes, viz.:
 1. Code on Wages
 2. Occupational Safety, Health and Working Conditions Code
 3. Industrial Relations Code
 4. Code on Social Security
- The purpose is to make the existing Central Labour Acts **in sync with the changing economic and industrial scenario, technological advancements, and emerging need for wage security, social security, and better working conditions for workers.**
- As **18 Acts out of 29 Central Labour Acts are more than 50 years old** and a few of them are even 70 years old, a need was felt to:
 - Reduce the complexity
 - Provide uniform definitions
 - Minimise multiple authorities under various Acts
 - Bring transparency and accountability in the enforcement of Labour Laws
- The **Occupational Safety, Health and Working Conditions (OSHC) Code, 2019** was introduced in **Lok Sabha on 23rd July, 2019** by the Ministry of Labour & Employment after:
 - Inter-ministerial consultations
 - Suggestions received from the public/stakeholders
- The Code 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 Contract Labour (Regulation and Abolition) Act, 1970
3. The Mines Act, 1952	4. The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979
5. The Dock Workers (Safety, Health and Welfare) Act, 1986	6. The Working Journalist and other News Paper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955
7. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996	8. The Working Journalist (Fixation of Rates of Wages) Act, 1958
9. The Plantations Labour Act, 1951	10. The Motor Transport Workers Act, 1961
11. The Sales Promotion Employees (Conditions of Service) Act, 1976	12. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
13. The Cine Workers and Cinema Theatre Workers Act, 1981	

- The OSHWC Code, 2019 received **Presidential assent on September 28, 2020, and was published in the e-Gazette on September 29, 2020.**
- OSHWC Code was **notified by Central Government on 21st November 2025.**

**The Code
balances the
twin
objectives of:**

**Safeguarding worker rights
and safe working conditions**

**Creating a business-friendly
regulatory environment**

- This will **spur economic growth and employment**, thereby making India's labour market **more efficient, fair, and future-ready.**

Preamble

Objectives of the Code is envisaged in the Preamble of the code as "An Act to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and for matters connected therewith or incidental thereto."

SALIENT FEATURES OF THE CODE AND IMPACT OF THE CODE

Salient Features of the Code	Impact of the Code
The Code provides basic broad legislative framework with enabling provisions for framing rules, regulations, standards, and bye-laws.	Reduction of sections in the Code resulting in simple legislation with flexibility in changing the provisions in tune with emerging technologies and making the legislation dynamic.
One registration for an establishment instead of multiple registrations.	Centralized data base, ease of doing business, and provisions of online and deemed registration incorporated.
The Code is applicable to all establishments employing 10 or more workers except mine and dock where it is applicable on even 1 worker; Central and State Government offices excluded.	Enhances the coverage of safety and health provisions as establishments in service sector and other establishments are regulated by the Code.
Definition of Cine worker modified to include audio-visual workers; definition of working journalist modified to include electronic media journalists; definition of interstate migrant worker modified to include workers employed directly by employer besides those through contractor.	Enhances the coverage of Inter State Migrant Workers for benefits like housing, education, etc.; demand to make cine worker definition more inclusive addressed.
Definition of a family extended to include dependent grand-parents of the worker.	Due to increase in life expectancy, grandparents who are part of family will get welfare benefits, including compensation in case of death and under the Plantation Act.
Employers to provide free of cost annual health check-up for employees above prescribed age for prescribed tests; provision for appointment letter to every employee.	Employers to provide free of cost annual health check-up and appointment letter, strengthening worker welfare and formal employment.
Multiple committees under five labour Acts substituted by one National Occupational Safety and Health Advisory Board of tripartite nature with representation of employees, employers and State Governments.	Reduction in multiplicity of bodies/committees resulting in simplified and coordinated policy-making.
Enabling provision for constituting bi-partite Safety Committee in any class of	Promotes safe and healthy working conditions; participatory nature encourages implementation of decisions.

Salient Features of the Code	Impact of the Code
establishment by appropriate government.	
Minimum 50 per cent of penalty for contravention leading to death or serious Rehabilitation of injured worker and bodily injury may be given to victim or financial support to family of deceased. legal heirs by the Court.	
Uniform threshold envisaged for welfare provisions like crèche, canteen, first aid, welfare officer.	Revised thresholds – canteen: 100 employees, crèche: 50 workers, first aid: for all, welfare officer: 250 for factory/mines/plantation.
Women permitted to work beyond 7 PM and before 6 AM subject to safety, holidays, working hours and consent of woman worker.	Promotes gender equality; removes night work prohibition in mines, factories, plantation, beedi and cigar.
Single all India licence with 5 years validity, de-linked with work order, for contractors.	Ease of doing business, reduction in corruption, and reduced paper work.
One license for factory, contract labour and beedi and cigar establishments.	One license in place of multiple licenses.
Penalties rationalised and graded with enhanced fine amount.	Effective deterrent encouraging compliance of the Code.
Multiple returns and numerous registers under various labour laws.	Reduced maintenance of registers, reduced filing of returns, and promotion of e-governance.
Inspector cum facilitator assigned through randomised computer system and may seek online information and documents.	Delinking of inspector from geographical region and substitution of physical inspection through online mechanism.

PRELIMINARY

- ☐ Section 1 of the Code provides for the **title and applicability** of the Code.
- ☐ This Act may be called the **Occupational Safety, Health and Working Conditions Code, 2020.**
- ☐ The Code has vested power in the **Central Government** for notification with respect to **commencement of the Code** with **different dates** as may be considered appropriate.
- ☐ In exercise of the powers conferred by **sub-section (2) of section 1** of the Occupational Safety, Health and Working Conditions Code, 2020, the **Central Government appointed the 21st day of November, 2025** as the date on which the **provisions of the Code shall come into force.**

Where the Code is not applicable:

- Sub-section (3) of section 1 provides that 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.**

The **proviso** of the section makes the Code **applicable 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 the State Government**, as the case may be, is the **principal employer**.

DEFINATIONS

- **"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—
 - (i) **The Central Government** 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, telecommunication service, banking company or 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, authority, Central public sector undertakings, subsidiary companies or autonomous bodies, as the case may be.
 - **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** after the commencement of this Code; and
 - (ii) **The State Government** 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 the **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—
- animation, **cartoon depiction, audio-visual advertisement;**
 - **digital production** or any of the activities in respect of making thereof; and
 - **feature 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 whose **remuneration** in respect of such employment does not exceed, whether paid as **monthly wages or lump sum**, 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 and 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 and transmission towers.**
 - This includes such **other work**, and the power to notify **"other work"** has been vested in the **Central Government** by notification, but does **not include**:
 - building or other construction work 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
 - work where the **total cost 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 employment are **express or implied**, in connection with any **building or other construction work**, but does not include a person employed mainly in a **managerial, 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))**
- The emphasis is that the **Inspector should facilitate** giving **guidance to both the employer and the employee** for a **better working relationship**.

- **“Competent Person”** means a **person or an institution** recognised by the **Chief Inspector-cum-Facilitator** for carrying out **tests, examinations and inspections** in an establishment, having regard to:
 - the **qualifications and experience** of the person and the **facilities available** at his disposal; or
 - the **qualifications and experience** of persons employed in such institution and the **facilities available** therein.
 - It is provided that in the case of **mines**, the competent person includes any person **authorised by the manager** referred to in **section 67** to supervise or perform any work, or supervise the operation of **machinery, plant or equipment**, and 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**.
- The definition of **“Contract Labour”** also **includes inter-State migrant worker**.
- The definition of **“Contract Labour”** keeps **outside its purview** a worker (other than a **part-time employee**) who is:
 - **regularly employed by the contractor** for any activity of his establishment;
 - whose employment is governed by **mutually accepted standards of conditions of employment**, including **engagement on permanent basis**; and
 - who gets **periodical increment in pay, social security coverage and other welfare benefits** in accordance with the law for the time being in force. **(Section 2 (1) (m))**

- **“Contractor”** in relation to an establishment, means a person who—

- undertakes to produce a **given result** for the establishment, other than a **mere supply of goods or articles of manufacture**, through **contract labour**; or
- **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))*
- The **strategically critical industries**, especially those involved in the **security of the nation**, have been kept under the **regulation of the Central Government**, such as **Atomic Power Generation** and **Defence Equipment Production**.

- **"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.
- The following shall **not be considered as essential or necessary activity**, if the establishment is not set up for such activity, namely:
 - sanitation works including **sweeping, cleaning, dusting, collection and disposal of waste**;
 - **watch and ward services**, including security services;
 - **canteen and catering services**;
 - **loading and unloading operations**;
 - running of **hospitals, educational and training institutions, guest houses, clubs** and the like, where these are **support services**;
 - **courier services** in the nature of support services;
 - **civil and other constructional works**, including maintenance;
 - **gardening and maintenance of lawns** and other like activities;
 - **housekeeping and laundry services** and other like activities in the nature of support services;
 - **transport services**, including ambulance services;
 - any activity of **intermittent nature**, even if it constitutes a core activity of the 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— (Section 2(1)(t))

- (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**.

Exclusion: Any member of the **Armed Forces of the Union** is specifically **excluded** from the definition of employee under the Code.

➤ **Employment in Mines:** Notwithstanding anything contained in this clause, 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 **gatherings 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**.

➤ **"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— **(Section 2(1)(u))**

- (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**.

➤ **"Establishment"** has been defined on the basis of **threshold of workers** as— **(Section 2(1)(v))**

- (i) A **place** where any **industry, trade, business, manufacturing or occupation** is carried on in which **ten or more workers** are employed;
- (ii) **Motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation**, in which **ten or more workers** are employed;
- (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);
- (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 **hazardous or life threatening activity** is being carried on, as may be **notified by the Central Government**.
- **It is further provided** 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**.

➤ **"Factory"** has been defined to mean any **premises** (based on **threshold of workers**) including the **precincts** thereof— **(Section 2(1)(w))**

- (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;
- (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;

- **Exclusions:** Does not include **mobile unit** belonging to the **Armed Forces of the Union, railways running shed**, or a **hotel, restaurant or eating place**.
- **Provided** that where under any **law in force in a State** before the commencement of this Code, the number of workers specified is **more or less** than that in clause (i) or (ii), then the **number specified under State law** shall prevail until amended by the competent Legislature.
- **Explanation I:** For computing the **number of workers**, all the workers (in **different groups and relays**) in a day shall be taken into account.
- **Explanation II:** The mere installation of an **Electronic Data Processing Unit** or a **Computer Unit** in any premises shall **not** be construed as **factory** if **no manufacturing process** is carried on there.

➤ **"Family"** when used in relation to a **worker**, means— **(Section 2(1)(x))**

- (i) **Spouse**
- (ii) **Children**, including **adopted children**, who are **dependent** upon the worker and have not completed **eighteen years of age**
- (iii) **Parents, grand-parents, widowed daughter, and widowed sister** dependent upon such worker
- **Explanation:** Dependents shall **not** be included if they are receiving **income** from prescribed sources.
- **Note:** Inclusion of **widowed daughter and widowed sister** ensures their **safety and security**.

➤ **"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**— **(Section 2(1)(y))**

- **Manufacturing process** means any process for, or incidental to, **making, finishing, packing, or otherwise treating** any article or substance with a view to its **use, sale, transport, delivery, or disposal** as finished products.

➤ **"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, intermediate or finished products, by-products, hazardous substances, wastes, effluents, or **spraying of pesticides, insecticides, or chemicals**— **(Section 2(1)(za))**

- (i) Cause **material impairment to health** of persons engaged in or connected therewith
- (ii) Result in **pollution of the general environment**

➤ **"Hazardous Substance"** means any **substance** or quantity prescribed by the **appropriate Government**, the **preparation or handling** of which may cause— **(Section 2(1)(zb))**

- **Physical or health hazards** to humans
- Harm to **other living creatures, plants, micro-organisms, property, or the environment**

➤ **"Industrial Premises"** means any **place or premises** (not being a **private dwelling house**), including the **precincts**, in which or 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 employed **directly** 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 merely **spiritual or religious**), whether or not— **(Section 2(1)(zd))**

- (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**.

Exclusions: Does not include—

- (a) Institutions owned or managed by organizations wholly or substantially engaged in **charitable, social or philanthropic services**
- (b) Any activity of the **appropriate Government** relatable to **sovereign functions**, including Departments of the **Central Government** dealing with **defence research, atomic energy, and space**
- (c) Any **domestic service**
- (d) Any other activity as may be **notified by the Central Government**

➤ **"Inspector-cum-Facilitator"** refers to an **Inspector** appointed under **sub-section (1) of Section 34**. **(Section 2(1)(ze))**

- The role of the Inspector is no longer confined to **inspections and penalties**.
- Emphasis is shifted to **enabling and facilitating employers** in achieving **compliance** with the law.

➤ **"Machinery"** means any **article** or combination of articles **assembled, arranged or connected** and which is **used or intended to be used** for— **(Section 2(1)(zg))**

- **Converting any form of energy to perform work, or**

- 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.

➤ **"Manufacturing Process"** means any **process** for— **(Section 2(1)(zi))**

- (i) **Making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating/adapting** any article or substance with a view to its **use, sale, transport, delivery, or disposal**
- (ii) **Pumping oil, water, sewage, or any other substance**
- (iii) **Generating, transforming, or transmitting power**
- (iv) **Composing, printing (letter press, lithography, offset, photogravure, screen printing, 3D/4D printing, prototyping, flexography), or book binding**
- (v) **Constructing, reconstructing, repairing, refitting, finishing, or breaking up ships or vessels**
- (vi) **Preserving or storing any article in cold storage**
- (vii) **Such other processes as the Central Government may notify**

➤ **"Occupier"** **(Section 2(1)(zs))**

- Means the person who has **ultimate control over the affairs of the factory**.
- The term occupier of a factory shall be construed as follows:
 1. **In the case of a firm or association of individuals** – Any one of the **individual partners or members** shall be deemed to be the occupier.
 2. **In the case of a company** – Any one of the **directors** shall be deemed to be the occupier, **excluding any independent director** as defined under Section 149(6) of the Companies Act, 2013.
 3. **In the case of a factory owned or controlled by the Central Government, State Government, or a local authority** – The person or persons **appointed to manage the affairs of the factory** by the respective Government or authority, or by such other authority as may be prescribed by the Central Government, shall be deemed to be the occupier.

➤ **"Principal Employer"** **(Section 2(1)(zz))**

- Where **contract labour** is employed or engaged, means:
 1. **In relation to any office or Department of the Government or a local authority** –
 - The **head of the office or department**, or
 - Any other **officer specified** by the Government or local authority for this purpose.
 2. **In a factory** –
 - The **owner or occupier** of the factory, or

- The **person named as the manager** of the factory, where such a designation exists.
- 3. **In a mine** –
 - The **owner or agent** of the mine.
- 4. **In relation to any other establishment** –
 - Any **person who is responsible for the supervision and control** of the establishment.

➤ **“Serious Bodily Injury” (Section 2(1)(zzg))**

- 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**.

➤ **“Standards”, “Regulations”, “Rules”, “Bye-Laws” and “Orders” (Section 2(1)(zzh))**

- Means **standards, regulations, rules, bye-laws, and orders** made or declared, as the case may be, **under this Code**.

➤ **“Wages” (Section 2(1)(zzj))**

- Means **all remuneration**, whether by way of salaries, allowances, or otherwise, expressed in terms of money or capable of being so expressed, which would be payable to a person employed if the terms of employment (express or implied) were fulfilled, in respect of his employment or work done therein.

Inclusive Components:

1. Basic pay
2. Dearness allowance
3. Retaining allowance, if any

Exclusions: The term “wages” shall **not include**:

- a. Any **bonus** payable under law, which does not form part of contractual remuneration.
- b. The **value of house accommodation**, supply of light, water, medical attendance, or other amenities excluded by order of the appropriate Government.
- c. **Employer’s contribution** to pension or provident fund, and accrued interest thereon.
- d. **Conveyance allowance** or value of travelling concession.
- e. Any sum paid to **defray special expenses** arising from the nature of employment.
- f. **House rent allowance**.

- f. Remuneration payable under any **award, settlement, or order** of a court or tribunal.
- g. **Overtime allowance**.
- h. **Commission** payable to the employee.
- i. **Gratuity** payable upon termination of employment.
- j. **Retrenchment compensation, retirement benefits, or ex gratia payments** made upon termination.

Provisos:

- For calculation of wages, if payments under exclusions (a) to (i) **exceed one-half** (or such percentage as notified by the Central Government) of the total remuneration, the excess shall be deemed remuneration and **added to wages**.
- For the purposes of **equal wages across genders** and for payment of wages, the emoluments specified in exclusions (d), (f), (g), and (h) shall be **taken into account**.

Explanation:

- Where an employee receives remuneration in kind in lieu of wages, the **value of such remuneration** shall be deemed part of wages, provided it does not exceed **15% of the total wages payable**.

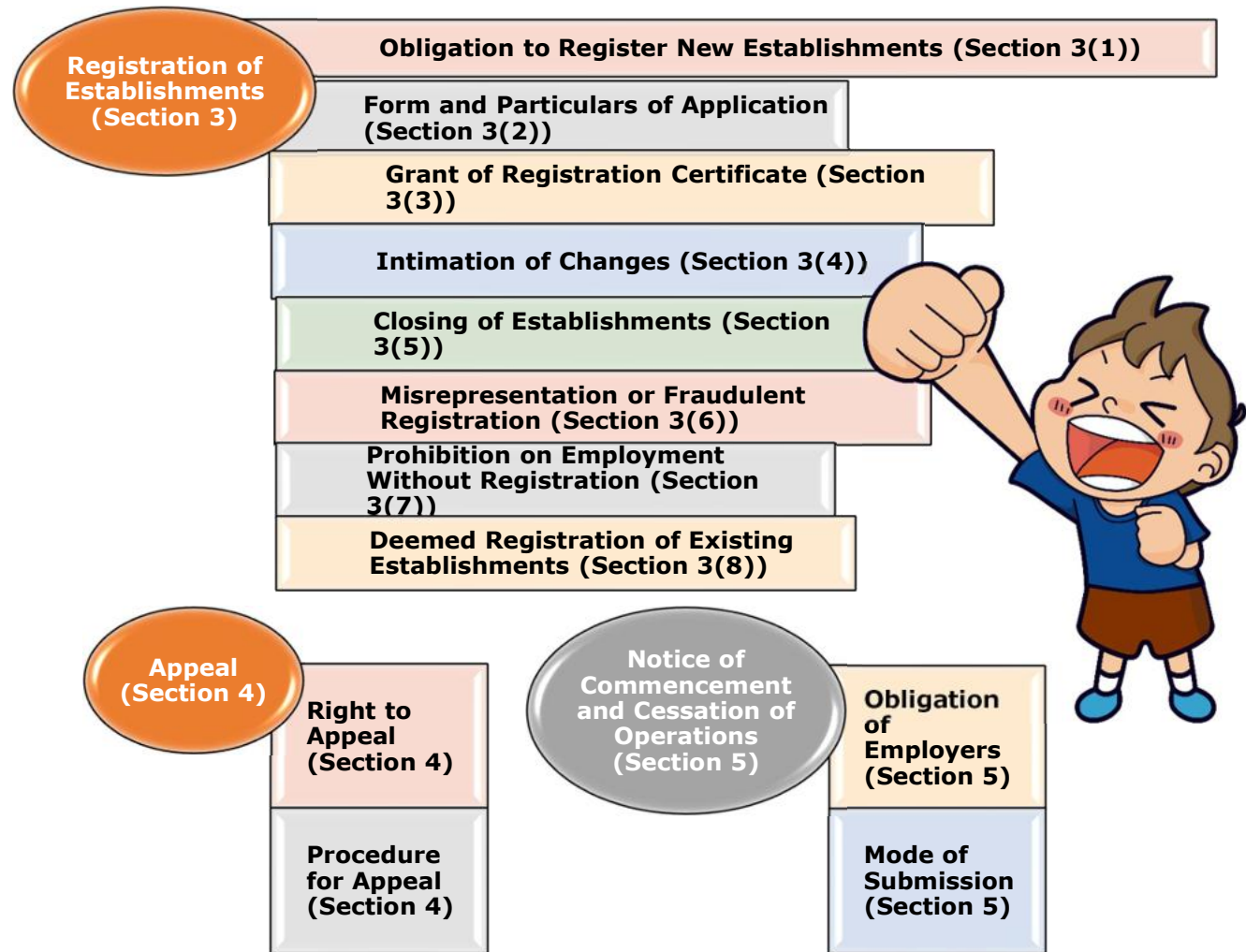
➤ **"Week"** (*Section 2(1)(zzk)*)

- 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**.

➤ **"Worker"** (*Section 2(1)(zzl)*)

- Means any person employed in any establishment to perform **manual, unskilled, skilled, technical, operational, clerical, or supervisory work for hire or reward**, whether the terms of employment are express or implied, and includes **working journalists and sales promotion employees**, but does not include any such person:
 1. Who is subject to the **Air Force Act, 1950**, or the **Army Act, 1950**, or the **Navy Act, 1957**; or
 2. Who is employed in the **police service** or as an officer or other employee of a **prison**; or
 3. Who is employed mainly in a **managerial or administrative capacity**; or
 4. 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.

REGISTRATION



Registration of Establishments (Section 3)

Obligation to Register New Establishments (Section 3(1))

- Every employer of an establishment—
 - Which comes into existence after the commencement of this Code; and
 - To which this Code applies,
- Shall, **within sixty days** from the date of applicability, submit an **electronic application** for registration to the **registering officer** appointed by the appropriate Government.
- It is provided that the registering officer may **accept applications beyond this period** upon **payment of late fees** as may be prescribed by the appropriate Government.

Form and Particulars of Application (Section 3(2))

- Every application shall be submitted to the registering officer **in such manner, in such form, containing such particulars**, including 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.

Grant of Registration Certificate (Section 3(3))

- Upon receipt of the application, the registering officer shall **register the establishment** and issue an **electronic certificate of registration** in the prescribed form, within the prescribed time and subject to prescribed conditions.
- It is provided that if the registering officer **fails to act within the prescribed period**, the establishment shall be **deemed registered** immediately on the expiration of such period and the **electronic certificate of registration shall be auto generated**.

Intimation of Changes (Section 3(4))

- Any **post-registration change** in ownership, management, or particulars furnished in the application of registration shall be **intimated electronically** to the registering officer **within thirty days** of such change.
- The registering officer shall **amend the certificate electronically** in such manner as may be prescribed by the Central Government.

Closing of Establishments (Section 3(5))

- Within **thirty days of closure** of the establishment, the employer shall—
 - a. **Inform** the registering officer of the closure; and
 - b. **Certify payment of all dues** to workers employed in such establishment.
- Such information and certification shall be sent to the registering officer in such manner as may be prescribed.
- The registering officer shall, **within sixty days** of receiving such information and certificate, **remove the establishment from the register and cancel its certificate**.
- It is provided that if the registering officer **fails to do so within sixty days**, the registration certificate shall be **deemed cancelled** immediately on expiration of the period, and the **cancellation shall be auto generated**, with responsibility of such failure on the registering officer.

Misrepresentation or Fraudulent Registration (Section 3(6))

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

Prohibition on Employment Without Registration (Section 3(7))

- No employer shall **employ workers** if—
 - a. The establishment has **not been registered** under this section; or
 - b. The employer has **not preferred appeal under section 4** against cancellation or revocation of registration, or such appeal **has been dismissed**.

Deemed Registration of Existing Establishments (Section 3(8))

- Notwithstanding anything in this Code, where an establishment to which this Code applies has **already been registered** under any—
 - a. **Central Labour law**; or
 - b. Any other **law notified by the Central Government** which applies to the establishment in existence at commencement of this Code,
- Shall be **deemed registered** under this Code, subject to the condition that the registration holder **provides registration details** to the concerned registering officer **within such time and in such form** as may be prescribed.

Appeal (Section 4)

Right to Appeal (Section 4)

- An **appeal may be preferred** to an **appellate officer** notified by the Appropriate Government.
- The appeal shall be filed **within thirty days** from the date on which the order is communicated.
- If the appellate officer is satisfied that the **appellant was prevented by sufficient cause** from filing the appeal in time, the appeal may still be admitted.



Procedure for Appeal (Section 4)

- Upon receipt of the appeal, the **officer shall provide the appellant an opportunity of being heard**.
- The officer shall **dispose of the appeal within thirty days** from the date of receipt of such appeal.

Notice of Commencement and Cessation of Operations (Section 5)

Obligation of Employers (Section 5)

- No employer of an establishment, whether it is a **factory, mine, or one engaged in contract labour, building, or other construction work**, shall commence the operation of any industry, trade, business, manufacturing activity, or occupation in such establishment **without first sending a 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 (Section 5)

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



DUTIES OF EMPLOYER AND EMPLOYEES

Duties of Employers – Safety, Health, and Welfare (Section 6)

General Duties of Employer (7(1))	Specific Duties of Employer (7(2))
☐ Workplace Safety • Ensure the workplace is free from hazards likely to cause injury or occupational disease to employees. ☐ Compliance with Standards • Comply with occupational safety and health standards declared under Section 18 or rules, regulations, bye-laws, or orders under this Code. ☐ Health Examinations • Provide annual health examination or tests free of cost to employees of such age, class of employees, or establishments as prescribed by the appropriate Government. ☐ Safe Working Environment • Maintain a working environment that is safe and without risk to the health of employees, as far as reasonably practicable. ☐ Hazardous Waste Management • Ensure the disposal of hazardous and toxic waste, including e-waste.	☐ Safe Plant and Systems • Provide and maintain plant and systems of work that are safe and without risk to health. ☐ Safe Handling of Articles and Substances • Ensure safety in handling, storage, transport, and use of articles or substances in the workplace. ☐ Information, Training, and Supervision • Provide information, instruction, training, and supervision necessary to ensure health and safety of all employees. ☐ Safe Workplaces and Access • Maintain all workplaces in a safe condition, and ensure access and egress are safe and without risk. ☐ Safe Working Environment and Welfare Facilities • Maintain a working environment that is safe and without risk in respect of facilities and

□ Appointment Letters

- Issue a **letter of appointment** to every employee on appointment, with information and in the form prescribed.
- If an employee was not issued a letter before commencement of the Code, it must be issued **within 3 months** of commencement.

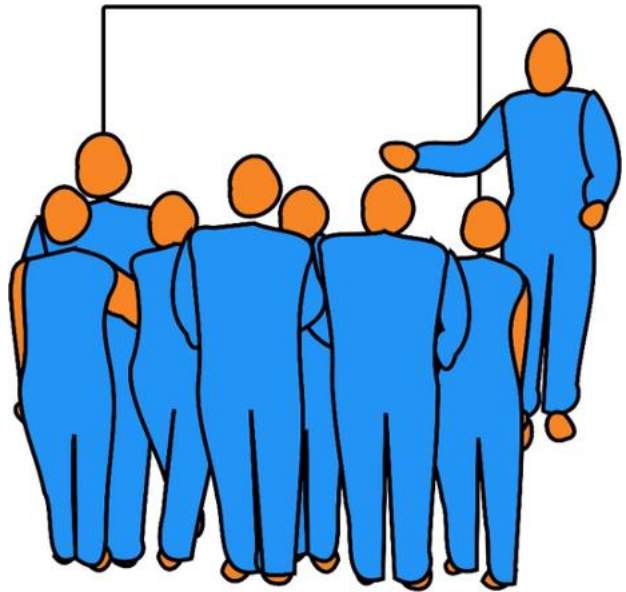
□ No Charges to Employees

- Ensure **no charges are levied on employees** for safety and health measures at the workplace, including medical examinations for occupational diseases.

□ Overall Responsibility

- For factories, mines, dock work, building or other construction work, or plantations, ensure the **safety and health of all employees, workers, and other persons on the premises**, whether or not known to the employer.

arrangements for employee welfare.



EASY TO REMEMBER

1. S – Safety at Workplace

- Hazard-free environment
- Safe plant & systems
- Safe handling, storage, transport of substances

2. H – Health of Employees

- Annual health check-ups
- Safe working environment
- Disposal of hazardous & toxic waste

3. A – Administration & Appointment

- Appointment letters issued to all employees
- No charges for safety measures

4. W – Welfare & Working Environment

- Welfare facilities safe and maintained
- Safe access & egress in workplace

5. H – Help & Training

- Information, instruction, training, supervision
- Responsibility extends to all workers and people on premises



Notice of Certain Accident (Section 10)

1. **Duty to Report Accidents:** Where an accident occurs in any establishment that:
 - Causes death, or
 - Causes bodily injury preventing the injured person from working for 48 hours or more immediately following the accident, or
 - Is of such nature as may be prescribed by the appropriate Government,

The following persons shall send notice of the accident to the prescribed authorities, in the prescribed manner and within the prescribed time:

- (a) **In case of a mine:** the employer, owner, agent, or manager (as referred to in Section 67).
- (b) **In case of a factory or dock work:** the employer or manager.
- (c) **In case of a plantation, building/construction establishment, or any other establishment.**



2. **Inquiry in Case of Death:** Where the notice relates to an accident-causing death in a plantation, construction establishment, or other establishment:
 - The authority receiving the notice shall conduct an inquiry into the occurrence within two months of receipt.
 - If no such authority exists, the Chief Inspector-cum-Facilitator shall direct the Inspector-cum-Facilitator to conduct the inquiry within the same period.

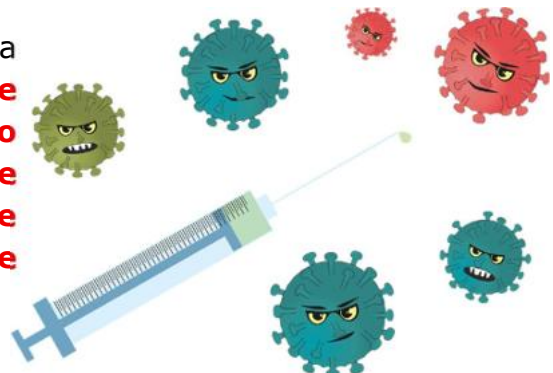
Notice of Certain Dangerous Occurrences (Section 11)

Where any dangerous occurrence takes place in an establishment—whether or not it causes bodily injury or disability— **The employer shall send notice of the occurrence to the prescribed authorities, in the prescribed form, and within the prescribed time, as determined by the appropriate Government.**

Notice of Certain Diseases (Section 12)

☐ **Employer's Duty:**

- If any worker in an establishment contracts a disease specified in the Third Schedule, **the employer shall send notice of the case to the prescribed authorities, in the prescribed form, and within the prescribed time, as directed by the appropriate Government.**



☐ **Medical Practitioner's Duty:**

- If any qualified medical practitioner attends to a person (currently or formerly employed in an establishment) who is suffering from, or suspected to be suffering

from, a disease listed in the Third Schedule, **the practitioner shall send a written report without delay, to the office of the Chief Inspector-cum-Facilitator, in the prescribed form, manner, and time.**

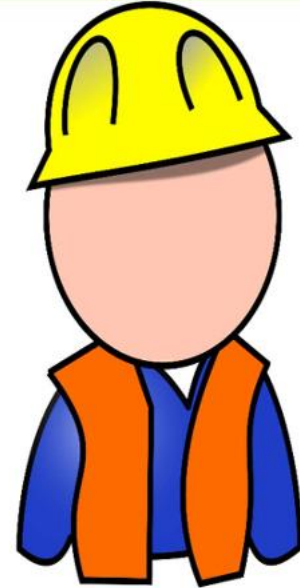
□ **Penalty for Non-Compliance:**

- If any qualified medical practitioner fails to comply with the reporting duty under sub-section (2), **they are liable to a penalty which may extend to ₹10,000.**

Duties of Employees at the Workplace (Section 13)

Every employee at the workplace shall:

- Take reasonable care for their own health and safety, and that of others who may be affected by their acts or omissions.
- Comply with safety and health requirements specified in applicable standards.
- Co-operate with the employer in fulfilling statutory obligations under this Code.
- Report unsafe or unhealthy situations promptly to the employer, health and safety representative, or in case of mines: the agent, manager (Section 67), safety officers, or designated officials.
- Not wilfully interfere with, misuse, or neglect any appliance, convenience, or facility provided for health, safety, and welfare.
- Not wilfully, and without reasonable cause, do anything likely to endanger themselves or others.
- Perform such other duties as may be prescribed by the appropriate Government.



Employee's Right to Information and Protection Against Imminent Danger (Section 14)

Right to Information and Representation:

- Every employee has the right to obtain from the employer information relating to health and safety at work.
- This can also be done through a member of the Safety Committee as constituted under **Section 22**, if such a committee exists.
- The employee can raise concerns regarding inadequate provision for protection of safety or health in connection with workplace activities.
- If the employee is not satisfied with the employer's response, they may approach the **Inspector-cum-Facilitator**.

Reporting Imminent Danger:

- If an employee reasonably apprehends imminent serious injury, death, or danger to health, they may report it:

- Directly to the **employer**, or through a member of the Safety Committee, **and**
- Simultaneously to the **Inspector-cum-Facilitator**.

Immediate Remedial Action:

- If the employer or employee is satisfied about the existence of imminent danger, **immediate remedial action** shall be taken.
- A report of the action taken must be sent to the **Inspector-cum-Facilitator** in the prescribed manner.

Final Authority:

- If the employer is **not satisfied** about the existence of imminent danger, the matter shall **still be referred** to the Inspector-cum-Facilitator.
- The **Inspector's decision** on whether imminent danger exists shall be **final**.

OCCUPATIONAL SAFETY AND HEALTH

National Occupational Safety and Health Advisory Board (Section 16)

- ☐ **Constitution:** The **Central Government** shall, by **notification**, constitute the **National Occupational Safety and Health Advisory Board (National Board)**.



- ☐ **Functions:** To **discharge the functions** conferred on it by or under this Code and to **advise the Central Government** on matters relating to:
- (a) **Standards, rules, and regulations** under this Code.
 - (b) **Implementation** of provisions of the Code and related standards.
 - (c) **Issues of policy and programme** relating to occupational safety and health referred to it, from time to time, by the Central Government.
 - (d) Consider 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)

- ☐ **Constitution:** The **State Government** shall constitute a Board called the **State Occupational Safety and Health Advisory Board ("State Advisory Board")**.
- ☐ **Function:** To **advise the State Government** on matters arising out of the **administration of this Code** as may be referred to it by the State Government.
- ☐ **Procedure:** The **constitution, procedure, and other matters** relating to the **State Advisory Board** shall be as **prescribed by the State Government**.

Occupational Safety and Health Standards (Section 18)

1. Declaration of Standards:

- The **Central Government** shall, by **notification**, declare **OSH standards** for workplaces relating to:
 - **Factory, mine, dock work, beedi and cigar, building and other construction work**, and other establishments.

2. Scope of Standards:

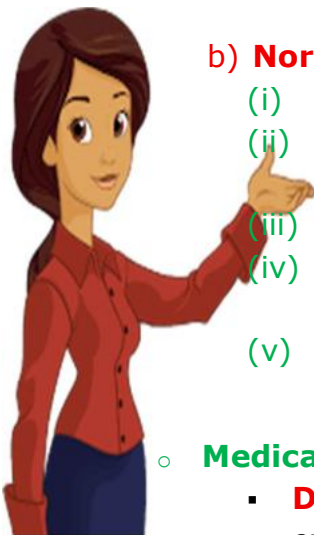
- Standards shall relate to, in particular:

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 regularly exposed.

b) Norms for Hazard Management:

- (i) Appraisal of hazards to employees and users.
- (ii) Identification of symptoms, treatment, and safe-use precautions.
- (iii) Monitoring and measuring exposure levels.
- (iv) Medical examinations and tests, provided free of cost by employers.
- (v) Hazard evaluation procedures (e.g., safety audits, hazard and operability studies, fault-tree analysis, event-tree analysis).

◦ **Medical Examination Post-Employment:**

- **Detection and reporting of occupational diseases** shall extend even after cessation of employment if the disease **arises out of or during employment**.

◦ **Reports of Designated Authorities:**

- Aspects of **occupational safety and health** relating to workplaces which the **Central Government** considers necessary on the **report of the authority designated** for such purpose.

◦ **Sector-Specific Measures:**

- **Safety and health measures** tailored to **mines, factories, construction, beedi/cigar, dock work, or other establishments**.

◦ **Matters in the Second Schedule:**

- Standards shall also cover **items listed in the Second Schedule** of the Code.

Safety Committee and Safety Officer (Section 22)

1. Safety Committee:

- The **appropriate Government** may, by **general or special order**, require any establishment or class of establishments to constitute a **Safety Committee** in the prescribed manner with the following **composition**:
 - **Representatives of employers and workers.**
 - **Number of worker representatives** shall be **not less than** the number of employer representatives.
 - **Worker representatives** shall be chosen in such **manner and for such purposes as prescribed** by the appropriate Government.

2. Safety Officers:

- In the following establishments, the **employer shall appoint** such number of **safety officers**, who shall **possess such qualifications** and **perform such duties**, as may be **prescribed by appropriate Government**:
 - (a) Factories with **500 or more workers.**
 - (b) Factories carrying on **hazardous processes with 250 or more workers.**
 - (c) **Building or construction work establishments with 250 or more workers.**
 - (d) **Mines** where **100 or more workers** are ordinarily employed.

HEALTH, SAFETY AND WORKING CONDITIONS

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.

1. **General Duty:** Employers shall **maintain health, safety, and working conditions** in their establishments as prescribed by the Central Government.
2. **Specific Matters Prescribed:** The Central Government may prescribe standards relating to:
 - (i) Cleanliness and hygiene.
 - (ii) Ventilation, temperature, and humidity.
 - (iii) Environment free from dust, noxious gases, fumes, and other impurities.
 - (iv) Adequate humidification, ventilation, and cooling in workrooms.
 - (v) Potable drinking water.
 - (vi) Standards to prevent overcrowding and ensure sufficient space.
 - (vii) Adequate lighting.
 - (viii) Separate and hygienic latrine and urinal facilities for male, female, and transgender employees

WELFARE PROVISIONS

Welfare Facilities in the Establishment (Section 24)

1. **Welfare Facilities:** Employers shall provide and maintain welfare facilities as prescribed by the Central Government, including:

- (i) Adequate and suitable washing facilities for male and female employees separately.
- (ii) Bathing places and locker rooms for male, female, and transgender employees separately.
- (iii) Places for keeping clothing not worn during working hours and drying wet clothing.
- (iv) Sitting arrangements for employees obliged to work standing.
- (v) Canteen facilities in establishments with 100 or more workers (including contract labour).
- (vi) Medical examination of mine workers before employment and at prescribed intervals.
- (vii) Adequate first-aid boxes or cupboards accessible during all working hours.
- (viii) Any other welfare measures considered necessary by the Central Government for decent living standards.



2. **Additional Prescribed Matters:** Without prejudice to subsection (1), the Central Government may also prescribe:
- (i) Ambulance rooms in establishments with 500 or more workers (factories, mines, construction).
 - (ii) Medical facilities at 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/rest-rooms and lunch-rooms for male, female, and transgender employees, and lunch-room in every factory and mine with more than fifty workers and in motor transport undertaking wherein employee is required to halt at night.
 - (iv) Appointment of welfare officers in factories, mines, or plantations with 250 or more workers, with prescribed qualifications and duties.
 - (v) Temporary living accommodation for building workers, free of charge, within the work site or as near to it as possible, and responsibility for removal/demolition and returning possession of land obtained for such purpose.

- (vi) **Employer's responsibility to reimburse contractors** for **accommodation expenses** in **construction work** done through a contractor.
- (vii) Any other **matter** as may be **prescribed**.

3. Crèche Facilities: The **Central Government** may make rules to provide **crèche facilities**:

- (i) **Suitable room(s)** for **children under the age of six years** of employees at suitable **location and distance**, either **separately** or along with **common facilities**.
- (ii) Applicable in establishments with **more than fifty workers**.
- (iii) Crèches may be **common facilities** provided by **Government, municipality, NGOs, or pooled by multiple establishments**.

HOURS OF WORK AND ANNUAL LEAVE WITH WAGES

Daily and Weekly Working Hours, Leave (Section 25)

- **Section 25** covers **daily and weekly working hours, leave entitlements, and special categories of workers**.

1. General Working Hours:

- **No worker** shall be required or allowed to work in any establishment or class of establishment for more than:
 - **8 hours in a day**; and
 - The **daily period of work** shall be fixed with **intervals and spread overs** as notified by the **appropriate Government**.



2. Special Provisions for Mines:

- Persons employed **below ground** shall not work for more than the **hours in a day** as notified by the **Central Government**.
- Work below ground shall be arranged in **shifts**, each not exceeding the **daily maximum hours** notified.
- No person employed in a mine shall be **allowed below ground** except during the **periods of work** shown in the **register maintained** under Section 33(a).

3. Special Provisions for Motor Transport Workers:

- Hours of work shall include:
 - **Time during running** of the transport vehicle.
 - **Time in subsidiary work** (accounts, ticket checking, garaging, upkeep, loading/unloading, etc.).
 - **Attendance at terminals** of less than 15 minutes.

4. Working Hours for Working Journalists:

- Subject to a **maximum of 144 hours** of work during any **4 consecutive weeks**.
- Must have at least **24 consecutive hours of rest** during any **7 consecutive days**, as prescribed by the **Central Government**.

5. Sales Promotion Employees & Working Journalists – Leave Entitlements:

- In addition to holidays, casual leave, or other prescribed leave:
 - **Earned leave:** At least **1/11th of duty period**, on **full wages**.
 - **Medical leave:** At least **1/18th of service period**, on **half wages**.
- **Earned leave** may be **accumulated** up to prescribed limits.
- **Earned leave** may be **encashed or availed**, subject to prescribed limits.
- **Voluntary retirement or termination** (other than punishment): entitled to **cash compensation** for **earned leave not availed**, subject to prescribed conditions.
- **Death in service:** heirs entitled to **cash compensation** for **earned leave not availed**, equal to the **wages due** for such period.

6. Adolescent Workers:

- Working hours of an **adolescent worker** shall be regulated by the **Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**.

Weekly and Compensatory Holidays (Section 26)

- **Weekly Holiday Rule:** No **worker** shall be required or allowed to work in an establishment for more than **six days in any one week**.

- **Special Provision for Motor Transport Workers:** Employer may require a worker to work on a **weekly holiday** to prevent **dislocation of service**, provided the worker does not work for **more than ten**



days consecutively without a **whole day holiday** intervening.

- **Government Exemptions:** The **appropriate Government** may **exempt** certain workers from the weekly holiday requirement, subject to **prescribed conditions**.
- **Compensatory Holidays:** Workers deprived of weekly holidays shall be granted **compensatory holidays** equal to the number of weekly holidays lost **within the same month** or within the **following two months**.

Extra Wages for Overtime (Section 27)

- **Overtime Pay:**

- Workers working beyond **prescribed daily or weekly hours** shall be paid at **twice the rate of wages**.
- Overtime is calculated **daily or weekly**, whichever is **more favourable** to the worker.



- **Consent Requirement:** Employer may require a worker to work overtime only with the **consent** of the worker.
- **Government Regulation:** The **appropriate Government** may prescribe the **maximum number of overtime hours** permissible.

Night Shifts (Section 28)

- For workers on shifts **extending beyond midnight:**
 - **Weekly holiday** for a whole day shall mean a period of **24 consecutive hours beginning when the shift ends**.
 - The following day shall be counted as **24 hours from shift end**, and **hours worked after midnight** count for the **previous day**.



Prohibition of Overlapping Shift (Section 29)

- **General Rule:** Work shall not be carried out by a **system of shifts** where **more than one relay of workers** is engaged in the same work **at the same time**.
- **Exemptions:** The **appropriate Government** or **Chief Inspector-cum-Facilitator** may issue **written exemption** for:
 - Any **establishment or class of establishments**,
 - Any **department or section**, or
 - Any **category of workers**.
 - Exemptions shall **specify reasons** and may be subject to **conditions**.
- **Special Provision for Mines:** Exemption powers **do not apply** to **mines**.

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

- No worker shall be required or allowed to work in a **mine or factory** if already working in **any other similar establishment** within the preceding **12 hours**, except as may be **prescribed** by the **appropriate Government**.

Notice of Periods of Work (Section 31)

- **Display of Notice:** Every establishment shall **display and maintain a notice** showing **daily periods of work** in accordance with the Code.
- **Form and Submission:** The **form, manner of display**, and **procedure for sending to Inspector-cum-Facilitator** shall be prescribed by the **appropriate Government**.
- **Changes in Work System:** Any change in the system of work requiring altering the notice shall be:
 - **Intimated to the Inspector-cum-Facilitator** before implementation.
 - **Not made until one week has elapsed** since the last change, unless **sanctioned** by the Inspector-cum-Facilitator.

Annual Leave with Wages (Section 32)

- **Eligibility and Accrual:** Every **worker** in an establishment shall be entitled to **annual leave with wages** if:
 1. **Worked 180 days or more** in a **calendar year**.
 2. **Leave accrual in a calendar year:**
 - **One day leave** for every **20 days of work**.
 - **Adolescent workers:** One day for every **15 days**.
 - **Mine workers (below ground):** One day for every **15 days**.
 3. **Periods of layoff, maternity leave, or annual leave** count towards the **180-days threshold**, but **do not earn leave**.
 4. **Holidays** in a calendar year, **prefixed or suffixed** to leave are **excluded** from the leave period.
 5. **Workers joining after January 1:** Entitled to leave at the **specified rate** if they have worked for **one-fourth of the total days** in the remainder of the year.
- **Leave on Separation:** If a worker is **discharged, dismissed, quits, retires, or dies**, they (or **heirs/nominees**) are entitled to **wages in lieu** of leave:
 1. **Calculated** as per the accrual rules above.
 2. **Payment timeline:**
 - **Discharged/dismissed/quits: within 2 working days.**
 - **Superannuated or dies in service: within 2 months.**
- **Carry Forward of Leave:** Unused leave may be **carried forward**, subject to:
 1. **Maximum 30 days carry forward.**
 2. If leave was **applied for but refused**, it may be carried forward **without limit**.
- **Encashment of Leave:**
 1. Workers may **demand encashment** at the **end of calendar year**.
 2. Leave **exceeding 30 days** may be **encashed**.

- **Extension to Other Establishments:** The **appropriate Government** may **extend provisions to other establishments** (except railways).
- **Special Provisions for Mines:**
 1. **Existing rights** under other **laws, awards, or contracts** remain **protected**.
 2. If existing arrangements provide **longer leave**, they **prevail**.
 3. 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 RETURNS

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

An employer of an establishment shall—

- a) **maintain register** in prescribed form, **electronically or otherwise, containing such particulars of workers** as may be prescribed by the appropriate Government including-
 - (ix) work performed by them;
 - (x) number of hours of work constituting normal working hours in a day;
 - (xi) day of rest allowed in every period of seven days;
 - (xii) wage paid and receipts given therefor;
 - (xiii) leave, leave wages, overtime work, attendance and dangerous occurrences; and
 - (xiv) 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

INSPECTOR -CUM-FACILITATORS AND OTHER AUTHORITY

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** appointed under sub-section (1) shall, apart from other **duties**, conduct **inspections** as specified in sub-section (3).
3. The **appropriate Government** may—
 - i. For purposes of inspection referred to in sub-section (2), by **notification**, lay down an **inspection scheme** which may provide for **web-based inspection** and **calling of information electronically**; the scheme shall, inter alia, provide for **special circumstances** for assigning inspection and calling for information from **establishment** or any other **person**.
 - ii. Without prejudice to sub-section (2), by **notification**, provide for **randomised selection** of **establishment** and **Inspector-cum-Facilitator** for inspection.
4. The **inspection scheme** referred to in sub-section (3) may consider:
 - (a) Assignment of **unique number** to each **establishment**, **Inspector-cum-Facilitator**, and each **inspection**, in the manner notified.
 - (b) **Timely uploading** of inspection reports as notified.
 - (c) Provisions for **special inspections** based on notified parameters.
 - (d) Characteristics of **employment**, **nature of work**, and **workplaces** based on notified parameters.
5. The **appropriate Government** may, by **notification**, appoint **Chief Inspector-cum-Facilitator** for establishments or class of establishments and **local jurisdiction** specified:
 - A **Chief Inspector-cum-Facilitator** may be appointed for a **State**, **more than one State**, or **whole of the Country**.
6. The **appropriate Government** may, by **notification**, appoint for notified establishments, **Additional Chief Inspector-cum-Facilitators**, **Joint Chief Inspector-cum-Facilitators**, **Deputy Chief Inspector-cum-Facilitators**, or any other officer, to **exercise powers** of the Chief Inspector-cum-Facilitator within his **jurisdiction**, as specified in the notification.
7. Every **Additional Chief Inspector-cum-Facilitator**, **Joint Chief Inspector-cum-Facilitator**, **Deputy Chief Inspector-cum-Facilitator**, and other officers appointed under sub-section (6) shall, in addition to the powers of a Chief Inspector-cum-Facilitator, **exercise powers of an Inspector-cum-Facilitator** within **local limits** as specified in the notification.
8. No person shall be appointed under this section, or continue to hold office, who is, or becomes, **directly or indirectly interested** in a **workplace**, **work activity**, **process**, **business**, **plant**, or **machinery** connected therewith.



9. The **appropriate Government** may, by **notification**, appoint such **public officers** as it thinks fit to be **Inspector-cum-Facilitators** in addition to existing ones for all or any purposes of this Code within **local limits** specified in such notification.
10. An **Inspector-cum-Facilitator**, with approval of the **Chief Inspector-cum-Facilitator** and **appropriate Government**, may be authorised in **writing** to exercise **powers of Chief Inspector-cum-Facilitator** for any establishment/class of establishments within **local area**, subject to **restrictions or conditions**:
 - The **Chief Inspector-cum-Facilitator**, with approval of the **appropriate Government**, may by **order in writing** prohibit the exercise of such powers by any Inspector-cum-Facilitator or class of Inspectors.
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 other officers 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.

Powers of Inspector-cum-Facilitators (Section 35)

- Sections 35 and 36 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**.
1. Subject to any **rules** made in this behalf, an **Inspector-cum-Facilitator** may—
 - i. **Enter**, with such **assistance** of persons in the service of the **Government**, any **local or public authority**, or with an **expert**, any place which is used, or believed to be used, as a **workplace**.
 - ii. **Inspect and examine** the **establishment, 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**, and take **on the spot or otherwise statements** of any person necessary for such inquiry.
 - iv. Subject to any **rules** by the **State Government**, examine **crops** in any **plantation or workers employed** therein, or require the production of any **register or document** maintained under this Code, and take **statements** necessary for purposes relating to **plantation**.
 - v. **Supply information** and **sensitise** employers and workers regarding **provisions of this Code** and **compliance** thereof.
 - vi. **Require production** of any **register** or other **document** relating to the **workplace or work activity**.



- vii. **Search, seize, or take copies** of any **register, record, document**, or portion thereof, as necessary in respect of any **offence** under this Code.
- viii. **Direct** the concerned **occupier or employer** that any **premises or part thereof**, or anything therein, be **left undisturbed** for purposes of **inspection or inquiry**.
- ix. **Take measurements, photographs, videographs**, and make **recordings** necessary for **examination or inquiry**.
- x. **Take samples** of any **articles or substances** in any **establishment or premises**, and of the **air of the atmosphere** therein or in vicinity, in the manner prescribed by the **appropriate Government**.
- xi. For any **article or substance** likely to **cause danger** to **health or safety**, **dismantle, test, or take possession** of it (without damage unless necessary) for **examination**.
- xii. **Issue show cause notices** relating to **safety, health, and welfare provisions** under this Code, rules, regulations, and bye-laws.
- xiii. **Prosecute, conduct, or defend** before any **court** any **complaint or proceeding** arising under this Code or its **rules and regulations**.
- xiv. **Exercise other powers** and perform **duties** as may be **prescribed** by the **appropriate Government**.

2. Any person required to **produce documents** or give **information** to an **Inspector-cum-Facilitator** under sub-section (1) shall be **legally bound** to do so within the meaning of **sections 175 and 176 of the Indian Penal Code**.
3. The **provisions of the Code of Criminal Procedure, 1973**, shall, as far as may be, **apply** to such **search or seizure** under sub-section (1) as they apply to **search or seizure** under the authority of a **warrant issued under section 94** of that Code.

Third Party Audit and Certification (Section 37)

- Section 37 introduces **third-party audit and certification**, shifting part of the **oversight responsibility** from **government inspectors** to **empanelled experts**.

1. Empanelment of Experts:

- The **appropriate Government** may, by **notification**, formulate a **scheme** to **empanel experts** with **prescribed qualifications and experience**.
- Such experts may be designated for **start-up establishments** or **specified classes of establishments**, as notified.

2. Duties of Empanelled Experts:

- (a) **Assigned audits and certifications** in a **randomised manner** through a **web-based scheme**.

- (b) **Carry out audits and certifications** in the **manner** and for the **purpose** specified in the **scheme**.
- (c) **Perform duties** as specified in the **scheme** and **submit reports** to both the **employer** and the **Inspector-cum-Facilitator**.

SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN

Employment of Women (Section 43)

- The section is a **progressive provision** affirming the **right of women** to be employed across all **establishments** and **types of work**.
- Women shall be entitled to be employed in **all establishments** for **all types of work** under this Code.
- Women may also be employed, **with their consent, before 6 a.m. and beyond 7 p.m.**, subject to conditions relating to:
 - **Safety**
 - **Holidays**
 - **Working hours**
 - 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 Operations (Section 44)

- Section 44 complements **Section 43**, focusing on **women's employment in hazardous or dangerous operations**.
- Ensures **equality in employment** is balanced with **mandatory safeguards** for **health and safety**.
- If the **appropriate Government** considers that employment of women in an **establishment, class of establishments, or in any particular hazardous/dangerous process is dangerous to their health and safety**:
 - The Government may, in the **prescribed manner**, require the **employer** to provide **adequate safeguards** before employing women in such operations.

SPECIAL PROVISIONS FOR CONTRACT LABOUR

Applicability of Part (I) (Section 45)

- **Gateway Provision:** Section 45 defines the **applicability of Chapter XI (Part I)** dealing with **contract labour**, including **threshold coverage, exclusions, and clarifications on "intermittent" or "casual" work**.
- **Coverage:** Part I applies to:

- i. Every **establishment** where **50 or more contract labour** are employed (or were employed on any day in the **preceding 12 months**).
 - ii. Every **manpower supply contractor** who has employed **50 or more contract labour** on any day in the **preceding 12 months**.
- **Exclusion:** Does **not apply** to establishments where work performed is only of an **intermittent or casual nature**.
- **Authority to Decide:**
 - If a dispute arises about whether work is **intermittent or casual**, the **appropriate Government**, after consulting the **National Board** or **State Advisory Board**, shall **decide**.
 - Such decision shall be **final**.
- **Clarifications:** Work shall **not be deemed intermittent:**
 - i. If it was performed for **more than 120 days** in the preceding 12 months.
 - ii. If it is of **seasonal character** and performed for **more than 60 days** in a year.

Appointment of Designated Authority (Section 46)

- The **appropriate Government** may, by order:
 - **Appoint Gazetted officers** of the Government as **designated authorities** under Section 119(1).
 - **Specify the limits of their jurisdiction.**
 - **Vest them with powers and duties**, including:
 - Issuance of **licences**.
 - Revocation of **licences**.
 - Handling such functions **electronically**, as may be prescribed.

Licensing of Contractors (Section 47)

- **Purpose:** Regulates **licensing of contractors engaging contract labour**, ensuring **formal authorisation** is required. Introduces both **general licences** and **work-specific licences**.
- **General Rule:** Except under 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.
 - (b) Undertake or execute **work through contract labour**.
- **Licence Issuance:**
 - Issued after verifying that the **contractor meets qualifications/criteria** prescribed by the **Central Government**.
 - 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 the prescribed period.
 - Applies **only to the concerned work order**.
 - Is **subject to specified conditions**.
- **Conditions of Licence:**
 - Licence may include conditions relating to:
 - **Hours of work.**
 - **Fixation of wages.**
 - **Essential amenities** for contract labour.
 - Licence shall be obtained from:
 - **Central Government authority** (if establishment falls under Central jurisdiction).
 - **State Government authority** (if establishment falls under State jurisdiction).
- **Multi-State or India-Wide Licence:**
 - Contractors seeking licences for **multiple States or whole of India** must obtain licence from the **Central Government designated authority**.
 - Before issuing such licence, the **Central authority** shall consult the **concerned State(s) authorities**, electronically, for establishments under **State jurisdiction**.



Procedure for Issue or Renewal of Licence (Section 48)

- **Purpose:** Section 48 lays down the **procedure for issue and renewal of contractor licences**, formalises the process, introduces **electronic applications**, and defines **validity, amendment, and contractor responsibilities**.
- **Electronic Application:**
 - 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.
 - 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**.

- If contractor wishes to **increase the number of contract labour**, he shall apply for **amendment** in prescribed manner.
- Authority may **amend licence** after **deposit of additional security deposit** for the balance period.
- **Contractor's Responsibilities:** The licence issued shall contain **responsibilities of the contractor** as prescribed by the **appropriate Government**.

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

- A **contractor shall not charge**, either directly or indirectly, in whole or in part, any **fee, commission**, or **any other cost** from the **contract labour**.

Information Regarding Work Order to be given to the Appropriate Government (Section 50)

- **Purpose:** Ensures **transparency** between **contractors** and the **Government** regarding contract labour engagements.
- **Mandatory Intimation:** When a contractor receives a **work order** from an establishment:
 - To **supply contract labour**, or
 - To **execute work through contract labour**,
 - The contractor shall **intimate the designated authority** (under **Section 119**) within the **prescribed time and manner**.
- **Penalty for Non-Compliance:**
 - If the contractor fails to give intimation, the **designated authority** may **suspend or cancel the licence** in the manner prescribed by the **appropriate Government**.
 - Such action shall be taken **after giving the contractor an opportunity to show cause**.

Revocation, Suspension and Amendment of Licence (Section 51)

- **Purpose:** Sections 51 and 52 establish the **disciplinary framework** for **contractor licences**, covering **revocation, suspension, amendment**, and **appeals**.
- **Grounds for Revocation or Suspension:** The **designated authority** under **Section 119(1)** may **revoke or suspend a licence** if:
 - (a) Licence was obtained by **misrepresentation or suppression of material facts**.
 - (b) Licence holder has **failed to comply with licence conditions** or **contravened provisions** of this Part or rules.
- **Effect:** Revocation or suspension is **without prejudice** to any other **penalty** to which the contractor may be liable under this Code.

- **Due 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:** Authority referred to in **Section 119(1)** may **amend a licence** granted for the purposes of this Part, subject to any rules made in this behalf.

Appeals (Section 52)

- **Right to Appeal:** Any person **aggrieved** by an order under **Sections 47, 48, or 51** may **appeal** to the **appellate authority** prescribed by the **appropriate Government** under **Section 119(6)**.
- **Time Limit:** Appeal shall be filed within **30 days** of communication of the order.
 - Appellate authority may entertain the appeal **after 30 days** if satisfied that appellant was **prevented by sufficient cause**.
- **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 **30 days** from the date on which the appeal is preferred.

Liability of Principal Employer for Welfare Facilities (Section 53)

- The **principal employer** of an establishment shall provide to **contract labour** employed therein the **welfare facilities** specified under **Sections 23 and 24**.

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

- If a **principal employer** engages **contract labour** through a **contractor** who is required to obtain a **licence** under this Part but **has not obtained such licence**, then such employment shall be deemed to be in **contravention of the provisions of this Code**.

Responsibility for Payment of Wages (Section 55)

- **Contractor's Responsibility:**
 - A **contractor** shall be responsible for **payment of wages** to each **contract labour** employed by him.
 - Such wages shall be paid **before the expiry of the 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**.
 - Contractor shall **inform the principal employer electronically** of the amount so paid.

- If not practicable to pay via electronic mode, **payment shall be made in such manner as may be prescribed** by the **appropriate Government**.

- **Principal Employer's Liability:**

- If the **contractor fails to pay wages** within the prescribed period or makes **short payment**, the **principal employer** shall be liable to **pay wages in full or the unpaid balance** to the contract labour.
- The **principal employer** may **recover the amount** from the contractor by **deducting from any amount payable under any contract** or as a **debt payable by the contractor**.
- If the contractor does not pay wages, the **appropriate Government** shall order payment from the **security deposit** deposited by the contractor under the licence.
- Payment shall be made in the **manner prescribed** by such **Government**.



Experience Certificate (Section 56)

- Every concerned **contractor**, on **demand**, shall issue an **experience certificate** to the **contract labour**.
- The certificate shall be in the **form prescribed** by the **appropriate Government** and shall contain the **details of the work performed** by the contract labour.

Prohibition of Employment of Contract Labour (Section 57)

- **General Prohibition:**
 - Notwithstanding anything contained in Part I, **employment of contract labour** in **core activities** of any establishment is **prohibited**.
- **Exceptions:**
 - Principal employer may engage contract labour through a contractor in a **core activity** if:
 - (a) The normal functioning of the establishment is such that the activity is **ordinarily done through contractor**; or
 - (b) Activities do **not require full-time workers** for the major portion of the working hours in a day or for longer periods; or
 - (c) There is **sudden increase of volume of work** in the core activity which needs to be accomplished in a **specified time**.
- **Determination of Core Activity:**
 - (a) Appropriate Government may appoint, by **notification**, a **designated authority** to advise on whether an activity is **core or not**.

- (b) If a question arises whether an activity is core, the **aggrieved party** may make an **application** in prescribed form and manner to the **appropriate Government** for decision.
- (c) The **appropriate Government** may refer such question **suo motu** or refer the **application** to the **designated authority**, which shall, based on relevant material or **after enquiry, report to the appropriate Government** within such period.
- Thereafter, the **appropriate Government** shall **decide the question** within such period as may be prescribed.

FACTORIES

Approval and Licensing of Factories (Section 79)

- **Rule-making:** The **Appropriate Government** may make **rules** in respect of **factory** or **class/description of factories** for:
 - (a) Submission of **plans** including **specifications, nature, and certification** thereof.
 - (b) **Previous permission** for the **site** on which the factory is to be situated and for **construction or extension** thereof.
 - (c) Subject to **sub-section 119, licensing and renewal** thereof including **fees payable**, and licensing/renewal if required, as the case may be.
- **Deemed Permission:**
 - If on an **application for permission** under clause (b) of sub-section (1), accompanied by **plans and specifications** required under clause (a), sent in **electronic mode** to the **State Government or Chief Inspector-cum-Facilitator**, **no order** is communicated within a period **not exceeding thirty days**, the **permission shall be deemed granted**.
- **Appeal to Central Government:**
 - Where **State Government** or **Chief Inspector-cum-Facilitator** **refuses permission** for the **site, construction, extension, or licensing**, the applicant may **appeal**:
 - To the **Central Government** if the decision was of the **State Government**.
 - To the **State Government** in any other case, **within thirty days** of refusal.
- **When Factory Not Deemed Extended:**
 - **Replacement or addition of plant/machinery** does **not** deem a factory extended if:



- It does **not reduce minimum clear space** for **safe working**.
- It does **not adversely affect environmental conditions** from **steam, heat, dust, or fumes injurious to health**.

Liability of Owner of Premises (Section 80)

- Where **premises or separate buildings** are leased to **different occupiers** for use as **separate factories**:
 - **Owner of premises** and **occupiers** using **common facilities** (including **safety and fire prevention/protection, access, hygiene, occupational health, ventilation, temperature, emergency preparedness, canteens, shelter, rest rooms, crèches**) shall be **jointly and severally responsible** for **provision and maintenance as prescribed by the appropriate Government**.

Power to Apply Code to Certain Premises (Section 81)

- **Notification:** The **appropriate Government** may **declare** that all or any **provisions of this Part** apply to any **place where a manufacturing process is carried on**, with or without **aid of power**, irrespective of number of **workers**.
- **Effect:** After declaration:
 - The place is **deemed a factory**.
 - **Owner** is deemed the **occupier**.
 - Any person working therein is deemed a **worker**.
- **Explanation:** "**Owner**" includes a **lessee** or **mortgagee with possession** of the premises.

Dangerous Operations (Section 82)

- The **appropriate Government** may make **rules** for **any factory or class of factories** where manufacturing exposes **persons employed** to **serious risk of bodily injury, poisoning, or disease** for:
 - (a) Specifying the **manufacturing process or operation** and declaring it **dangerous**.
 - (b) **Prohibiting or restricting employment of pregnant women** in the process/operation.
 - (c) **Periodical medical examination** before or during employment to ascertain **fitness of worker**, at the **cost of the occupier**.
 - (d) **Welfare amenities, sanitary facilities, protective equipment and clothing**, and any **other requirements 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 purposes including:
 - **Considering and giving recommendations on applications for permission** for:
 - **Initial location** of a factory involving a **hazardous process**.
 - **Expansion** of such factory.
- The **site appraisal committee** shall make its **recommendation within thirty days of receipt of application**, in **prescribed form**.

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 **measures to overcome** such hazards arising from **exposure to or handling of materials or substances** in the **manufacture, transportation, storage, and other processes**.
- **To whom disclosure shall be made:**
 - **Workers employed in the factory.**
 - **Chief Inspector-cum-Facilitator** or **Inspector-cum-Facilitator**.
 - **Local authority** within whose jurisdiction the factory is situated.
 - **General public** in the vicinity.
- **Detailed policy to be laid down by the Occupier:**
 - At the time of **registering the factory** involving a hazardous process, the **occupier shall:**
 - **Lay down a detailed policy** with respect to the **health and safety** of the workers employed therein.
 - **Intimate such policy** to the **Chief Inspector-cum-Facilitator** or **Inspector-cum-Facilitator** and the **local authority**.
 - Thereafter, at **intervals prescribed** by the **State Government**, inform the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the local authority of **any changes** made in the policy.
- **Accurate information to be furnished:**
 - Information shall include **accurate details** regarding 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 the factory.

- **Make known to workers and the general public** in the vicinity the **safety measures** required in the event of an **accident**.
- **Duty to disclose nature of hazardous process:**
 - Every occupier shall, if proposing to **engage in a hazardous process** after the commencement of this Code:
 - **Inform the Chief Inspector-cum-Facilitator** about the **nature and details** of the process, in **prescribed form and manner**.
 - Such disclosure shall be made **within thirty days** before the commencement of the process.
- **Penalty for contravention:**
 - Where an **occupier contravenes** section 84(5), the **licence issued under section 79** to such factory shall, **notwithstanding other penalties**, be **liable for cancellation**.
- **Measures for handling hazardous substances:**
 - The occupier of a factory involving a hazardous process shall, with **previous approval of the Chief Inspector-cum-Facilitator**:
 - **Lay down measures** for the **handling, usage, transportation, and storage** of hazardous substances **inside the factory**.
 - **Lay down measures** for the **disposal of such substances outside the factory**.
 - **Publicise these measures** in the manner **prescribed by the State Government** among **workers and the general public** 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 Health/Medical Records:

- Maintain **accurate and up-to-date health records** or **medical records** of **workers exposed to chemical, toxic, or other harmful substances** which are **manufactured, stored, handled, or transported**.
- Such records shall be **accessible to the workers** subject to **conditions prescribed by the State Government**.

(b) Appointment of Qualified Persons:

- Appoint persons with **prescribed qualifications and experience** in **handling hazardous substances**, competent to **supervise such handling** within the factory.
- Provide **all necessary facilities at the workplace** for **protecting workers** in the **manner prescribed by the State Government**.
- **Provided:** If any question arises regarding the **qualifications or experience** of the person, the **decision of the Chief Inspector-cum-Facilitator** shall be **final**.



(c) Medical Examination of Workers:

- (i) Before a worker is **assigned to a job** involving **handling or working with hazardous substances**.
- (ii) While the worker **continues in such job**, and after **cessation of work** in such job, at intervals **not exceeding twelve months**, in the **manner prescribed by the State Government**.

National Board to Inquire into Certain Situations (Section 86)

- In case 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:
 - (a) Finding out the **causes of any failure or neglect** in the **adoption of measures or standards** prescribed by the **State Government** for **health and safety of workers** or **general public** affected or likely to be affected.
 - (b) Preventing **recurrence** of such **extraordinary situations** in the **factory or elsewhere**.
- The **recommendations** of the National Board shall be **advisory in nature**.

Emergency Standards (Section 87)

- The **Central Government** may direct the **Directorate General Occupational Safety and Health** (formerly Directorate General of Factory Advice Service and Labour Institutes) or any **authorized institution to lay down emergency standards** for enforcement of **suitable standards** in respect of **hazardous processes**:
 - Where the **Central Government is satisfied** that:
 - No **standards of safety** have been prescribed for a **hazardous process or class** of hazardous processes.
 - Existing standards are **inadequate**.
- **Enforceability:**
 - Emergency standards laid down under sub-section (1) shall, until **incorporated in rules** under this Code, be **enforceable** and have the **same effect** as if they had been incorporated in the rules.

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

- The **maximum permissible limits** of **exposure of chemical and toxic substances in manufacturing processes** in any factory shall be of the **value prescribed by the State Government**.

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

- **Apprehension by the Workers:**

- Where workers employed in any **factory engaged in a hazardous process** have **reasonable apprehension** 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 in-charge** of the factory or process, **directly or through their representatives** in the **Safety Committee**.

- Simultaneously**, bring the same to the notice of the **Inspector-cum-Facilitator**.

- Duty of the Person Receiving Notice of Imminent Danger:**

- It is the duty of the **occupier, agent, manager**, or **person in-charge** to:
 - Take immediate remedial action** if satisfied about the **existence of imminent danger**.
 - Send a report forthwith** of the **action taken** to the **Inspector-cum-Facilitator**.

- Reference of the Matter if Imminent Danger Not Observed:**

- If the **occupier, agent, manager**, or **person in-charge** is **not satisfied** about the **existence of imminent danger**, they shall:
 - Refer the matter forthwith** to the **Inspector-cum-Facilitator**, whose **decision on the question of imminent danger shall be final**.

Composition of Certain Offences (Section 114)

- Compounding of Penalty or Offence:**

- Any **penalty under** section 12(3), 94, 96, 97(1), 99, 106, subsection (3), or any **offence under** sub-section (2) of section 97, sub-section (1) of section 100, section 101, clause (b) of sub-section (1) of section 103, section 105, or sub-section (2) of section 113 may, **before or after enquiry or prosecution, be compounded** by an **officer of the appropriate Government** notified for the purpose, in the **manner prescribed**:

(a) Penalty: **50% of the maximum penalty**.

(b) Offence: **75% of the maximum fine**.

- Effect of Composition:**

- Once **compounded**, the **person liable** shall be **discharged** of the penalty or offence, and **no further proceedings** shall occur.

- Failure to Comply with Compounding Order:**

- Any person failing to comply with the order shall pay **a penalty of 20%** of the **maximum penalty/fine, in addition** to the original penalty or fine.

- Credit to Fund:**

- The **amount received** under compounding shall be **credited to the fund** established under **section 115(1)** for **unorganised workers**.

- **Exceptions:**

- Sub-section (1) does **not apply** to a **penalty or offence committed a second or subsequent time** within **three years** from the date of the previous penalty/offence if:
 - (a) It was **earlier compounded**, or
 - (b) The person was **earlier convicted**.

SOCIAL SECURITY FUND

Social security fund (Section 115)

- **Establishment:**

- The **appropriate Government** shall establish a **social security fund** for the **welfare of unorganised workers**.

- **Sources of Credit:**

- The fund shall be credited with amounts received from:



- **Composition of the offence** as specified in **sub-section (4) of section 114**.
- **Amount of the penalty** as specified in **sub-section (6) of section 111**.
- The fund **may also be funded by other sources** as may be **prescribed by the appropriate Government**.

- **Administration and Expenditure:**

- The fund shall be **administered and expended** for the **welfare of unorganised workers** in such manner as may be **prescribed by the appropriate Government**.
- This includes the **transfer of the amount in the fund** to **any fund established under any other law** for the **welfare of unorganised workers**.

Repeal and Savings (Section 143)

(1) The following enactments shall stand repealed on and from the dates the notification referred to in sub-section (2) of section 1 is issued, namely: —

- The Factories Act, 1948;
- The Plantations Labour Act, 1951;
- The Mines Act, 1952;
- The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955;
- The Working Journalists (Fixation of Rates of Wages) Act, 1958;
- The Motor Transport Workers Act, 1961;
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
- The Contract Labour (Regulation and Abolition) Act, 1970;
- The Sales Promotion Employees (Conditions of Service) Act, 1976;
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;

- k) The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981;
- l) The Dock Workers (Safety, Health and Welfare) Act, 1986;
- m) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

(2) Deemed Appointments (Sub-section 2):

- Every **Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector**, and every other officer appointed for purposes under any of the **enactments repealed** by this Code, shall be **deemed to have been appointed under this Code** for such purposes.

(3) Continuity of Actions (Sub-section 3):

- **Notwithstanding repeal** under sub-section (1), anything **done or any action taken** under the **repealed enactments** (including **rule, regulation, bye-laws, notification, nomination, appointment, order, or direction**) shall be **deemed to have been done or taken under the corresponding provisions of this Code**.
- Such actions shall **remain in force** to the extent they are **not contrary** to the provisions of this Code **till repealed by the Central Government**.

(4) Application of General Clauses Act (Sub-section 4):

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

Chapter-17

The Industrial Relations Code, 2020



Preamble

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

INTRODUCTION

1. The **Industrial Relations Code, 2020** is a **major consolidation of India's labour laws**, merging three important statutes:
 - **Trade Unions Act, 1926**
 - **Industrial Employment (Standing Orders) Act, 1946**
 - **Industrial Disputes Act, 1947**
2. Earlier labour laws were enacted in **different historical periods**, which led to **fragmentation, inconsistent procedures, and delays in dispute resolution**.
3. To **modernise and rationalise labour regulation**, the **Industrial Relations Code Bill, 2019** was introduced in the **Lok Sabha**.
4. The Bill was referred to the **Parliamentary Standing Committee on Labour**, which recommended:
 - **Clearer definitions**
 - **Stronger worker safeguards**
 - **Simplified compliance requirements**
5. After incorporating several recommendations, the **revised Code was passed by Parliament in September 2020**.
6. The Code received **Presidential Assent on 28 September 2020**.
7. The **Central Government notified the Code for enforcement from 21 November 2020**, making it operational across **India**.
8. The Code reflects the recommendations of the **Second National Commission on Labour (2002)** which proposed **consolidation of labour laws into comprehensive labour codes**.
9. **Objectives of the Code** include:
 - **Simplification of labour procedures**
 - **Strengthening collective bargaining**
 - Promoting **ease of doing business**
 - **Faster dispute resolution**
 - **Balancing flexibility for employers with protection for workers**
 - Creating a **technology-enabled industrial relations framework**

10. The **Central Government** introduced this Code to **reduce industrial disputes** and **safeguard the interests of trade unions and workers**.
11. The Code aims to ensure that **industrial units and workers follow structured mechanisms** so that **future disputes can be minimised**.

Structure of the Industrial Relations Code, 2020

12. The Code is organised into **14 Chapters, 104 Sections, and 3 Schedules**.

Chapter I – Preliminary

- Covers **short title, extent, commencement, and key definitions**.

Chapter II – Bipartite Forums

- Establishes **Works Committees** and **Grievance Redressal Committees**.

Chapter III – Trade Unions

- Deals with **registration, recognition, and functioning of Trade Unions**.

Chapter IV – Standing Orders

- Provides rules for **certification and modification of Standing Orders**.

Chapter V – Industrial Disputes

- Covers **conciliation, arbitration, tribunals, and settlement mechanisms**.

Chapter VI – Strikes and Lockouts

- Lays down **restrictions and procedures** relating to **strikes and lockouts**.

Chapter VII – Lay-off, Retrenchment and Closure

- Prescribes **procedures and compensation requirements**.

Chapter VIII – Negotiating Union / Negotiating Council

- Provides framework for **recognition of negotiating unions or councils**.

Chapter IX – Re-skilling Fund

- Establishes a **Re-skilling Fund for retrenched workers**.

Chapter X – Offences and Penalties

- Contains provisions on **penalties and compounding of offences**.

Chapter XI – Inspectors-cum-Facilitators

- Defines **powers and duties of Inspectors-cum-Facilitators**.

Chapters XII – XIV

- Cover **procedural provisions, rule-making powers, exemptions, protection of actions, and repeal and savings clauses**.

Schedules under the Code

The **Three Schedules** appended to the Code include:



Salient Feature	Explanation
Fixed Term Employment (FTE)	Allows direct, time-bound contracts with full parity in wages and benefits and gratuity eligibility after one year .

	This provision reduces excessive contractualization and offers cost efficiency to employers .
Re-skilling Fund	A Re-skilling Fund is created to train retrenched employees . Industrial establishments must contribute an amount equal to 15 days' wages for every retrenched worker , in addition to retrenchment compensation . The amount is credited to the worker's account within 45 days of retrenchment .
Trade Union Recognition	Trade Unions with 51% membership are recognized as the Negotiating Union . If no union meets this threshold, a Negotiating Council is formed from unions having not less than 20% membership . This arrangement strengthens collective bargaining .
Expanded Worker Definition	The definition of worker now includes sales promotion employees, journalists, and supervisory employees earning up to ₹18,000 per month .
Broader Definition of Industry	The term industry includes all systematic employer-employee activities, irrespective of profit motive or capital investment , thereby widening access to labour protections .
Higher Threshold for Lay-off, Retrenchment and Closure	The approval threshold is increased from 100 to 300 workers , and States may increase the limit further . This simplifies compliance and promotes formalization of employment .
Women's Representation	Provides proportional representation of women in Grievance Redressal Committees to ensure gender-sensitive grievance handling .
Standing Orders Threshold	The threshold for Standing Orders is raised from 100 to 300 employees , which eases compliance and enables more flexible workforce management .
Work-from-Home Provision	Work-from-Home (WFH) is permitted in service sectors based on mutual consent between employer and employee , improving workplace flexibility .
Industrial Tribunals	Establishes two-member Industrial Tribunals consisting of a Judicial Member and an Administrative Member for faster dispute resolution .
Direct Tribunal Access	Parties can approach Industrial Tribunals directly if conciliation fails , within 90 days , ensuring quicker justice .
Notice for Strikes and Lockouts	A mandatory 14-day notice is required for strikes and lockouts in all establishments , promoting dialogue and reducing disruptions .
Expanded Definition of Strike	The definition of strike now includes "mass casual leave" , preventing sudden or flash strikes and ensuring lawful industrial action .

Decriminalization and Compounding of Offences	Minor offences are made compoundable through monetary penalties , encouraging compliance instead of criminal prosecution .
Digital Processes	The Code allows electronic record-keeping, digital registration, and online communication , improving transparency, efficiency, and ease of compliance .

PRELIMINARY

Section 1 – Applicability and Commencement of the Industrial Relations Code, 2020

- **Section 1 of the Code** sets out the **applicability of the Industrial Relations Code, 2020**.
- It provides the **name of the legislation**, its **territorial scope**, and the **manner of its commencement**.
- The **Code shall extend to the whole of India**.

Enforcement of the Code:

- It shall come into force on such **date as the Central Government may, by notification in the Official Gazette appoint**;
- **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**.
- In exercise of the **powers conferred by sub-section (3) of section 1 of the Industrial Relations Code, 2020 (35 of 2020)**, the **Central Government appointed the 21st day of November, 2025** as the **date on which the provisions of the said Code shall come into force**.

Definitions

Appellate Authority – Section 2(a)	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)	means— (i) The Central Government in relation to any industrial establishment or undertaking carried on by or under the authority of the Central Government or concerning any controlled industry specified by the Central Government. ○ It also includes establishments of railways (including metro railways), mines, oil fields, major ports, air transport service, telecommunication, banking and insurance company .

	- It includes a corporation or other authority established by a Central Act or a Central Public Sector Undertaking. - It also covers subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government, including establishments of contractors for the purposes of such establishment. - It further includes corporations, other authorities, public sector undertakings or any company in which not less than 51% of the paid-up share capital is held by the Central Government. Explanation: The Central Government shall continue to be the appropriate Government for Central Public Sector Undertakings even if its holding reduces to less than 50% equity after commencement of the Code. (ii) The State Government 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.
Arbitrator – Section 2(c)	includes an umpire.
Average Pay – Section 2(d)	means the average of the wages payable to a worker— Monthly paid worker: average of wages in three complete calendar months. Weekly paid worker: average of wages in four complete weeks. Daily paid worker: average of wages in twelve full working days preceding the date on which average pay becomes payable. - If the worker has not worked for the full period, the average pay shall be calculated based on the period he actually worked.
Award – Section 2(e)	means an interim or final determination of any industrial dispute or any question relating thereto by an Industrial Tribunal (Section 44) or National Industrial Tribunal (Section 46) and includes an arbitration award under Section 42.
Banking Company – Section 2(f)	means a banking company defined in Section 5 of the Banking Regulation Act, 1949, and includes: Export-Import Bank of India Industrial Reconstruction Bank of India

	• Small Industries Development Bank of India (SIDBI) established under Section 3 of the SIDBI Act, 1989 • Reserve Bank of India (RBI) • State Bank of India (SBI) • Corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 • Corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980
Certifying Officer – Section 2(g)	means an officer appointed by the appropriate Government by notification to perform the functions of a certifying officer under Chapter IV.
Closure – Section 2(h)	means the permanent closing down of a place of employment or part thereof.
Conciliation Officer – Section 2(i)	means a conciliation officer appointed under Section 43.
Conciliation Proceeding – Section 2(j)	means any proceeding held by a conciliation officer under this Code.
Controlled Industry – Section 2(k)	means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest.
Employee – Section 2(l)	means • any person (other than an apprentice engaged under the Apprentices Act, 1961) employed in an industrial establishment to do skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether terms of employment are express or implied. • It 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)	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. Where the establishment is carried on by a department of the Central Government or State Government, the authority specified by the head of the department, or

	where no authority is specified, the head of the department, shall be the employer. In relation to an establishment carried on by a local authority, the chief executive of that authority shall be the employer. Includes: (i) In relation to a factory, the occupier of the factory as defined in Section 2(n) of the Factories Act, 1948, and where a manager is named under Section 7(1)(f) of that Act, the person so named. (ii) In relation to any other establishment, the person or authority having ultimate control over the affairs of the establishment, and where the affairs are entrusted to a manager or managing director, such manager or managing director. (iii) Contractor. (iv) Legal representative of a deceased employer.
Executive – Section 2(n)	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)	means the engagement of a worker on the basis of a written contract of employment for a fixed period. Provided that: a) The 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) The worker shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered, even if the employment does not extend to the qualifying period required in the statute. c) The worker shall be eligible for gratuity if he renders service under the contract for a period of one year.
Industry – Section 2(p)	means any systematic activity carried on by cooperation between an employer and worker (whether employed directly or through an agency or contractor) for the production, supply or distribution of goods or services to satisfy human wants or wishes (except spiritual or religious wants). The activity is considered industry whether or not: (i) Capital has been invested, or

	(ii) The activity is carried on with a motive to make gain or profit. Does not include: (i) Institutions owned or managed by organisations engaged in charitable, social or philanthropic service. (ii) Activities of the appropriate Government relating to sovereign functions, including departments dealing with defence research, atomic energy and space. (iii) Domestic service. (iv) Any other activity notified by the Central Government.
Industrial Dispute – Section 2(q)	means - any dispute or difference between employers and employers, employers and workers, or workers and workers connected with employment or non-employment, terms of employment, or conditions of labour of any person. - It also includes disputes between an individual worker and an employer arising out of discharge, dismissal, retrenchment or termination of such worker.
Industrial Establishment or Undertaking – Section 2(r)	means an establishment or undertaking in which any industry is carried on. Provided that where several activities are carried on and only one or some activities are industries: (a) If any unit carrying on an industry is severable from other units not carrying on such activity, that unit shall be deemed a separate industrial establishment or undertaking. (b) If the predominant activity is an industry and other activities are not severable and aid the carrying on of that activity, the entire establishment or undertaking shall be deemed an industrial establishment or undertaking.
Insurance Company – Section 2(s)	means a company as defined in Section 2 of the Insurance Act, 1938.
Lay-Off – Section 2(t)	means the failure, refusal or inability of an employer to give employment to a worker whose name is on the muster rolls and who has not been retrenched, due to reasons such as shortage of coal, power or raw materials, accumulation of stocks, breakdown of machinery, natural calamity or any connected reason.

	Explanation: A worker presenting himself for work during normal working hours and not given employment within two hours shall be deemed to have been laid-off for that day. Proviso: If the worker is asked to present himself in the second half of the shift and given employment, he is deemed laid-off for half the day. If no employment is given even then, he shall not be deemed laid-off for the second half and shall be entitled to full basic wages and dearness allowance for that part of the day.
Lock-Out – Section 2(u)	means the temporary closing of a place of employment , or suspension of work , or refusal by an employer to continue employing persons employed by him.
Major Port – Section 2(v)	means a major port defined under Section 3(8) of the Indian Ports Act, 1908.
Metro Railway – Section 2(w)	means the metro railway defined under Section 2(1)(i) of the Metro Railways (Operation and Maintenance) Act, 2002.
Mine – Section 2(x)	means a mine defined under Section 2(1)(j) of the Mines Act, 1952.
National Industrial Tribunal – Section 2(y)	means a National Industrial Tribunal constituted under Section 46.
Negotiating Union / Negotiating Council – Section 2(z)	means the negotiating union or negotiating council referred to in Section 14.
Notification – Section 2(za)	means a notification published in the Official Gazette of India or the Official Gazette of a State , and “ notify ” shall be construed accordingly.
Office-Bearer – Section 2(zb)	in relation to a Trade Union , includes any member of the executive , but does not include an auditor.
Prescribed – Section 2(zc)	means prescribed by rules made under this Code.
Railway – Section 2(zd)	means the railway defined under Section 2(31) of the Railways Act, 1989.
Registered Office – Section 2(ze)	means the office of a Trade Union registered under this Code as its head office.
Registered Trade Union – Section 2(zf)	means a Trade Union registered under this Code.

Registrar – Section 2(zg)	means a Registrar of Trade Unions appointed by the State Government under Section 5.
Retrenchment – Section 2(zh)	means termination by the employer of the service of a worker for any reason, otherwise than punishment by disciplinary action. Does not include: (i) Voluntary retirement of the worker. (ii) Retirement on reaching the age of superannuation. (iii) Termination due to non-renewal of the employment contract on expiry or termination under a contract stipulation. (iv) Termination after completion of tenure of fixed term employment. (v) Termination due to continued ill-health.
Settlement – Section 2(zi)	means a settlement arrived at during conciliation proceedings , and also a written agreement between employer and worker outside conciliation , signed in the prescribed manner , with a copy sent to the authorised officer and conciliation officer.
Standing Orders – Section 2(zj)	means orders relating to matters set out in the First Schedule.
Strike – Section 2(zk)	means cessation of work by persons employed in an industry acting in combination , or concerted refusal to work or accept employment , including concerted casual leave by 50% or more workers on a given day.
Trade Union – Section 2(zl)	means a combination formed primarily to regulate relations between workers and employers, workers and workers, or employers and employers, and includes a federation of two or more Trade Unions. Provided that Chapter III shall not affect: • Agreements between partners regarding their business. • Agreements between employer and employees regarding employment. • Agreements in consideration of sale of goodwill or instruction in any profession, trade or handicraft.
Trade Union Dispute – Section 2(zm)	means a dispute relating to a Trade Union between two or more Trade Unions or between members of a Trade Union inter se.
Tribunal – Section 2(zn)	means an Industrial Tribunal constituted under Section 44.

Unfair Labour Practice – Section 2(zo)	means practices specified in the Second Schedule.
Unorganised Sector – Section 2(zp)	shall have the same meaning as assigned in Section 2(I) of the Unorganised Workers’ Social Security Act, 2008.
Wages – Section 2(zq)	means all remuneration, whether by way of salary, allowances or otherwise, expressed in terms of money or capable of being so expressed, which would be payable to a person employed in respect of his employment or work done. Includes: • Basic Pay • Dearness Allowance (DA) • Retaining Allowance, if any Does not include: a) Any bonus payable under any law, which does not form part of remuneration under employment terms. b) Value of house accommodation, or supply of light, water, medical attendance or other amenity, or services excluded by order of the appropriate Government. c) Employer’s contribution to pension or provident fund and interest accrued thereon. d) Conveyance allowance or value of travelling concession. e) Any sum paid to defray special expenses arising from the nature of employment. f) House Rent Allowance (HRA). g) Remuneration payable under any award, settlement, or order of a court or Tribunal. h) Overtime allowance. i) Commission payable to the employee. j) Gratuity payable on termination of employment. k) Retrenchment compensation, retirement benefits or ex-gratia payments on termination of employment. • Proviso: If payments under clauses (a) to (i) exceed one-half (or other % notified) of total remuneration, the excess amount shall be deemed remuneration and added to wages. • Further Proviso: For equal wages for all genders and payment of wages, the emoluments under clauses (d), (f), (g) and (h) shall be included for computation of wages.

	Explanation: If an employee receives remuneration in kind, the value not exceeding 15% of total wages shall be deemed part of wages.
Worker – Section 2(zr)	means any person (except an apprentice under the Apprentices Act, 1961) employed in an industry to do manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether terms of employment are express or implied. Includes: • Working journalists defined under the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955. • Sales promotion employees defined under the Sales Promotion Employees (Conditions of Service) Act, 1976. • For proceedings relating to an industrial dispute, includes a person dismissed, discharged, retrenched or otherwise terminated, where such action is connected with or has led to the dispute Does not include: - Persons subject to the Air Force Act, 1950; Army Act, 1950; or Navy Act, 1957. - Persons employed in police service or prison administration. - Persons employed mainly in managerial or administrative capacity. - Persons employed in supervisory capacity drawing wages exceeding ₹18,000 per month or such amount notified by the Central Government. Proviso (for Chapter III): "Worker" means all persons employed in trade or industry. Includes worker defined under Section 2(m) of the Unorganised Workers' Social Security Act, 2008.

BI-PARTITE FORUMS

Works Committee (Section 3)

- In the case of any **industrial establishment** in which **one hundred or more workers** are employed or have been employed on **any day in the preceding twelve months**, the **appropriate Government** may, by **general or special**

order, require the **employer to constitute a Works Committee** in such manner as may be **prescribed**.

- The **Works Committee** shall consist of **representatives of employer and workers engaged in the establishment**.
- The **number of representatives of workers** in such Committee **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, **registered in accordance with Section 9**.



Duties of Works Committee

- It shall be the **duty of the Works Committee** to **promote measures for securing and preserving amity and good relations between the employer and workers**.
- The Committee shall **comment upon matters of common interest or concern** and **endeavour to compose any material difference of opinion** in respect of such matters.

Constitution of Grievance Redressal Committee (Section 4)

- Every **industrial establishment employing twenty or more workers** shall have **one or more Grievance Redressal Committees** for **resolution of disputes arising out of individual grievances**.
- The **Grievance Redressal Committee** shall consist of **equal number of members representing the employer and the workers**, to be **chosen in such manner as may be prescribed**.
- The **chairperson of the Grievance Redressal Committee** shall be **selected from among persons representing the employer and the workers alternatively on rotational basis every year**.
- The **total number of members of the Grievance Redressal Committee shall not exceed ten**.
- There shall be **adequate representation of women workers** in the **Grievance Redressal Committee**, and such representation **shall not be less than the proportion of women workers to the total workers employed in the industrial establishment**.
- An **application in respect of any dispute** may be **filed before the Grievance Redressal Committee** by any **aggrieved worker**, in such manner as may be **prescribed, within one year from the date on which the cause of action arises**.
- The **Grievance Redressal Committee may complete its proceedings within thirty days of receipt of the application**.

- The **decision of the Grievance Redressal 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**.
- A **worker aggrieved by the decision** of the **Grievance Redressal Committee**, or whose **grievance is not resolved within thirty days**, may **within sixty days** from the **date of decision or expiry of the specified period**, file an **application for conciliation** before the **conciliation officer through the Trade Union** of which he is a **member**, in such manner as may be **prescribed**.
- Where an **employer discharges, dismisses, retrenches or otherwise terminates the services of an individual worker**, any **dispute or difference between that worker and employer** arising out of such **discharge, dismissal, retrenchment or termination** shall be **deemed to be an industrial dispute**, even if **no other worker or Trade Union is a party to the dispute**.
- Notwithstanding anything contained in this section or **Section 53**, a **worker may make an application directly to the Tribunal** for **adjudication of the dispute** after the **expiry of forty-five days from the date of application to the conciliation officer**.
- Upon receipt of such **application**, the **Tribunal shall have powers and jurisdiction to adjudicate upon the dispute**.
- The **application to the Tribunal** shall be **made before the expiry of two years from the date of discharge, dismissal, retrenchment or termination of service**.



TRADE UNIONS

Registrar of Trade Unions (Section 5)

- This **section establishes the administrative framework** for **registration and regulation of Trade Unions**.
- It **empowers the State Government** to **appoint Registrars and supporting officers**, and **clarifies their jurisdiction and authority** in relation to **Trade Unions**.

Appointment of Registrar and Other Officers

- 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.**
- These officers 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

- **Subject to the provisions of any order made by the State Government:**
 - The **Additional Registrar of Trade Unions, Joint Registrar of Trade Unions or Deputy Registrar of Trade Unions**, as the case may be, **shall be deemed to be the Registrar in relation to that Trade Union.**
 - This applies **for the purposes of this Code** where **any of them exercises the powers and performs the duties of the Registrar** in an **area within which the registered office of a Trade Union is situated.**



Criteria for Registration (Section 6)

- **Minimum number of members to apply for registration:**
 - **Any seven or more members of a Trade Union** may, by **subscribing their names to the rules of the Trade Union** and by **complying with the provisions of this Code**, apply for registration of the Trade Union.
- **Membership threshold for registration:**
 - **No Trade Union of workers shall be registered unless at least ten per cent of the workers or one hundred workers, whichever is less, engaged or employed in the industrial establishment or industry with which it is connected are members of such Trade Union on the date of application.**
- **Validity of application in case of withdrawal of applicants:**
 - Where an **application has been made for registration of a Trade Union**, such **application shall not become invalid** merely because **some applicants (not exceeding half of the total applicants)** cease to be members or **give notice in writing to the Registrar dissociating themselves from the application** before registration.



- **Condition for continuing registration:**

- A **registered Trade Union shall at all times maintain:**
 - **At least 10% of the workers or 100 workers, whichever is less, as members,** and
 - **Subject to a minimum of seven members** engaged in the **establishment or industry** with which it is connected.

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

A **Trade Union shall not be entitled to registration** unless the **executive is constituted according to this Code** and the **rules provide for the following matters:**

- (a) The **name of the Trade Union.**
- (b) The **whole of the objects for which the Trade Union has been established.**
- (c) The **purposes for which the general funds of the Trade Union shall be applicable,** all of which must be **lawfully applicable under this Code.**
- (d) The **maintenance of a list of members of the Trade Union** and **adequate facilities for inspection** by **office-bearers and members.**
- (e) The **admission of ordinary members** who are **actually engaged or employed in the industrial establishment, undertaking or industry,** and also **admission of honorary or temporary members,** subject to provisions of **Section 21.**
- (f) The **payment of subscription by members of the Trade Union,** from such members and others, **as may be prescribed.**
- (g) The **conditions under which a member shall be entitled to benefits** and the **conditions under which fines or forfeitures may be imposed.**
- (h) The **annual general body meeting of members,** including the **business to be transacted** such as the **election of office-bearers.**
- (i) The **manner in which members of the executive and office-bearers shall be elected once every three years, removed, and casual vacancies filled.**
- (j) The **safe custody of the funds of the Trade Union, annual audit of accounts,** and **inspection of account books by office-bearers and members.**
- (k) The **manner in which the rules of the Trade Union shall be amended, varied or rescinded.**
- (l) The **manner in which the Trade Union may be dissolved.**

Application for Registration, Alteration of Name and Procedure Thereof (Section 8)

Application for Registration of Trade Unions

- **Every application** for registration of a Trade Union **shall be made to the Registrar, electronically or otherwise,** and **accompanied by:**
 - a) A **declaration to be made by an affidavit** in such **form and manner as may be prescribed.**

- b) **Copy of the rules of the Trade Union** together with a **copy of the resolution by the members adopting such rules.**
- c) A **copy of the resolution adopted by the members authorising the applicants to make the application for registration.**
- d) In the case of a **federation or central organisation of Trade Unions, a copy of the resolution adopted by members of each member Trade Union, meeting separately,** agreeing to constitute the federation or central organisation.
- **Explanation:** For this clause, **resolution adopted by the members** of a Trade Union, if a **federation or central organisation,** means the **resolution adopted by members of each member Trade Union, meeting separately.**

Additional Documents by Existing Trade Union before Registration

- Where a Trade Union has been **in existence for more than one year** before making the application, it shall **deliver to the Registrar a general statement of the assets and liabilities,** prepared in **prescribed form** and **containing prescribed particulars, together with the application.**



Power of Registrar to Call for Further Information

- The **Registrar may call for further information** to satisfy himself that:
 - The **application complies with the provisions of this Code,** and
 - The **Trade Union is entitled for registration under this Code.**
- The **Registrar has discretionary power to refuse registration** until such information is furnished.

Resemblance of Name of Applicant Trade Union

- The **Registrar shall require alteration of the proposed name** if it:
 - (i) **Is identical with an existing registered Trade Union,** or
 - (ii) **Nearly resembles the name of an existing Trade Union** in a way **likely to deceive the public or 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)

Purpose of Section 9

- Lays down **process for registration** of Trade Unions, **issuance of certificates, recognition of existing unions,** and **grounds for cancellation/withdrawal.**

- Ensures **registration is conclusive**, continuity for unions **already registered under earlier law**, and **cancellation follows due process** with recorded reasons.

Registration by Registrar

- **Registrar shall register the Trade Union** if **satisfied that all provisions of this Chapter are complied with**.
- **Entry in register:** Registrar enters **particulars of the Trade Union** from the application in a **prescribed register**.

Certificate of Registration

- Registrar shall **issue a certificate of registration** in **prescribed form**.
- The **certificate is conclusive evidence** that the Trade Union is **registered under this Code**.

Entry in Register

- Upon issuing the certificate, the **name and other particulars** of the Trade Union are **entered in a register maintained in prescribed form**.

Recognition of Existing Unions

- **Every Trade Union registered under the Trade Unions Act, 1926**, immediately before the **commencement of this Code**, is **deemed registered under this Code**.
- Such Trade Union must **file a statement with the Registrar**:
 - **Executive constitution in accordance with this Code**.
 - **Updated rules under Section 7**.
- Registrar shall **amend his records accordingly**.

Withdrawal or Cancellation of Registration

- **Certificate may be withdrawn or cancelled by the Registrar**:
 - (i) On the **application of the Trade Union**, verified as prescribed.
 - (ii) On **information regarding contravention** of provisions, rules, or constitution.
 - (iii) If **membership falls below 10% of workers or 100 workers, whichever is less**.
- Registrar shall **give at least 60 days' previous notice** specifying grounds **before cancellation** (unless on application of Trade Union).

Cancellation by Tribunal

- Registrar shall **cancel certificate** if a **Tribunal orders cancellation**.

Reasoned Order of Cancellation

- Registrar **records reasons in writing** for cancellation and **communicates to the Trade Union concerned**.

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

- **Right to Appeal:** Any person may, within the **prescribed period**, prefer an **appeal to the Tribunal** if aggrieved by:
 - **Refusal of the Registrar** to grant **registration** under Section 9; or
 - **Cancellation of a certificate of registration** under sub-section (5) of Section 9.
- **Condonation of Delay:** Tribunal may entertain the appeal **after the prescribed limitation** if appellant shows **sufficient reason or unavoidable circumstances** for the delay.
- **Powers of the Tribunal:** After giving parties an **opportunity of being heard**, the Tribunal may:
 - **Dismiss the appeal**, or
 - **Direct the Registrar to register the Trade Union** and issue a **certificate of registration**, or
 - **Set aside the order of cancellation** of certificate of registration.
- **Communication:** A **copy of the Tribunal's order** shall be forwarded to the **Registrar**.



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

- **Communication and Notices:** All communications and notices to a **registered Trade Union** shall be sent to the **address of its head office** as entered in the **Registrar's register**.
- **Membership Threshold Notification:** Trade Union shall **inform the Registrar** if membership falls **below 10% of total workers or 100 workers, whichever is less**.
- **Notice of Change:** Trade Union shall **inform the Registrar** of any **change in particulars, constitution or rules**, in the prescribed manner.

Incorporation of Registered Trade Union (Section 12)

- Every **registered Trade Union** shall be a **body corporate** by the **name under which it is registered**.
- It shall have:
 - **Perpetual succession;**
 - **Common seal;**
 - Power to **acquire and hold movable and immovable property;**
 - Power to **contract;**
 - Ability to **sue and be sued** in its **registered name**.

Certain Acts Not to Apply to Registered Trade Unions (Section 13)

- The following Acts shall **not apply to registered Trade Unions**, and registration under them shall be **void**:
 - **Societies Registration Act, 1860;**
 - **Co-operative Societies Act, 1912;**
 - **Multi-State Co-operative Societies Act, 2002;**
 - **Companies Act, 2013;**
 - **Any other corresponding law** relating to co-operative societies in any State.

Recognition of Negotiating Union or Negotiating Council (Section 14)

Negotiating Union or Council Mandatory

- There shall be a **negotiating union** or a **negotiating council**, as the case may be, in an **industrial establishment** having a **registered Trade Union**.
- Purpose: For **negotiating with the employer** on such matters as may be **prescribed**.

Recognition of Sole Negotiating Union – Single Trade Union

- Where **only one Trade Union** of workers is registered and functioning in an industrial establishment:
 - The **employer** shall, **subject to prescribed criteria, recognise** such Trade Union as the **sole negotiating union of the workers**.

Recognition of Sole Negotiating Union – Multiple Trade Unions

- If **more than one Trade Union** is functioning:
 - **Sole Recognition:** If a Trade Union has **51% or more workers** on the **muster roll**, verified as prescribed, that Trade Union shall be **recognised by the employer** as the **sole negotiating union**.
 - **Negotiating Council:** If **no Trade Union has 51% or more workers**, the employer shall **constitute a negotiating council**:
 - **Composition:** Representatives of registered Trade Unions with **support of at least 20% of total workers** on the muster roll;
 - **Representation:** One representative for each **20%** and for the **remainder** after calculation.



Decision-Making in Negotiating Council

- Any agreement arising from negotiations with a **negotiating council** shall be deemed **reached** if it is **agreed by the majority** of the representatives of the Trade Unions in the council.

Validity of Recognition

- Any recognition under **sub-section (2) or (3)** or a negotiating council under **sub-section (4)** is **valid for three years** from the date of recognition or constitution.
- Extension:** Recognition may be further extended, **not exceeding five years in total**, if **mutually agreed** by the employer and Trade Union(s).

Facilities to Negotiating Body

- Facilities** to a **negotiating union or council** shall be provided by the industrial establishment **as may be prescribed**.

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

Spending of General Funds

- General funds** of a registered Trade Union shall **not be spent** on any objects **other than those prescribed**.
- Separate Fund for Civic and Political Interests**
- A registered Trade Union **may constitute a separate fund** from contributions **separately levied** for that fund.
- Purpose: To make payments for the **promotion of civic and political interests of its members**, in accordance with **prescribed objects**.

Contribution to Separate Fund Not Mandatory

- No member shall be compelled** to contribute to the separate fund.
- Contribution is not a condition** for admission to the Trade Union.
- A member who does not contribute shall **not be:**
 - Excluded from any benefits** of the Trade Union.
 - Placed at any **disadvantage or disability** compared to other members, except in relation to **control or management of the fund**.



Quantum of Subscriptions

- Subscriptions payable by members shall be **as prescribed**.

Immunity from Civil Suit (Section 16)

Immunity from Civil Suits

- No civil suit or legal proceeding shall lie against:
 - Any **registered Trade Union**, or
 - Any **office-bearer or member** thereof,

- For acts done **in contemplation or furtherance of an industrial dispute**, even if it:
 - Induces another person** to break a contract of employment, or
 - Interferes with trade, business, or employment** of another person, or
 - Interferes with **another person's right** to dispose of capital or labour as they wish.

Limited Liability for Tortious Acts

- A Trade Union is **not liable** for tortious acts committed by its agent in contemplation or furtherance of an industrial dispute, if it is proved that:
 - The act was done **without the knowledge of the executive**, or
 - The act was done **contrary to express instructions** of the executive.

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

Protection from Punishment

- No office-bearer or member** shall be liable under **Section 120B(2) of the IPC** for any agreement made to **further the objects of the Trade Union** specified in Section 15.
- Exception:** Protection does **not apply** if the agreement is to **commit an offence**.

Enforceability of Agreements (Section 18)

Validity of Agreements:

- Agreements between members of a registered Trade Union **shall not be void or voidable** merely because **any object of the agreement is in restraint of trade**, notwithstanding any other law in force.

Limitation on Enforcement:

- Nothing in this section **enables a civil court** to entertain proceedings to **enforce or recover damages** for breach of any agreement concerning:
 - Conditions on which members sell goods or transact business**, or
 - Conditions on which members work, employ, or are employed.**



Right to Inspect Books of Trade Union (Section 19)

Inspection Rights:

- For an **office-bearer or member** of the Trade Union, the following shall be open for inspection at times provided in the rules of the Trade Union:

1. **Books of account** of the registered Trade Union, and
2. **List of members** of the Trade Union.

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

- **Membership Eligibility:**

- Any person who has **attained the age of fourteen years** and is employed in a **non-hazardous industry**:
 1. **May be a member** of a registered Trade Union, subject to the rules of the Trade Union.
 2. **May enjoy all rights of a member** and execute all instruments or give acquittances as required under the rules.

Disqualification of Office Bearers of Trade Unions (Section 21)

- **Grounds of Disqualification:**

- A person shall be **disqualified** for being chosen as, or for being, a member of the **executive or any office-bearer** if:
 1. **Age:** Has not attained **eighteen years**.
 2. **Conviction:** Convicted by a court in India for any offence involving **moral turpitude** and sentenced to imprisonment, unless **five years have elapsed** since release.
 3. **Tribunal Order:** Directed by a Tribunal to be disqualified for a **specified period**.

- **Conflict of Interest Restriction:**

- No **member of Council of Ministers** or a person holding an **office of profit** (other than employment in the connected establishment/industry) in the Union or State shall be a member of the **executive or other office-bearer**.

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

- **Minimum number of office-bearers to be actually employed:**

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

- **Exemption:**

- The **Appropriate Government** may, by special or general order, declare that this section **shall not apply** to any Trade Union or class of Trade Unions specified in the order.

- **Explanation:**

- **Unorganised sector** means any sector specified by the Appropriate Government by notification.
- **General Rule:**
 - All office-bearers of a registered Trade Union shall be **persons actually engaged or employed** in the connected establishment or industry.
- **Exception:**
 - Not more than **one-third of office-bearers** or **five** (whichever is less) may be **outsiders**.
 - **Retired or retrenched employees** are **not considered outsiders** for holding office

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

- **Change of Name:**
 - Any registered Trade Union may change its **name** with the **consent of not less than two-thirds** of the total members, subject to prescribed provisions.
- **Amalgamation:**
 - Any two or more registered Trade Unions may be **amalgamated** in the manner prescribed.
- **Notice to Registrar:**
 - **Change of name:** Signed by the **secretary and seven members** of the Trade Union.
 - **Amalgamation:** Signed by the **secretary and seven members** of each Trade Union involved.
 - Notice shall be sent to the **Registrar** of the State where the head office is situated.
- **Registrar's Power to Refuse:**
 - If the proposed name is **identical or so nearly resembles** an existing Trade Union's name that it may **deceive the public or members**, the Registrar **shall refuse** to register the change.
- **Effect of Registration of Change of Name:**
 - Registrar shall **register the change** if provisions are complied with.
 - The change shall have effect **from the date of registration**.
- **Effect of Registration of Amalgamation:**



- Registrar shall **register the amalgamated Trade Union** if all provisions are complied with.
- Amalgamation shall have effect **from the date of registration.**
- **Continuity of Rights and Proceedings:**
 - Change of name **does not affect rights or obligations.**
 - Any legal proceeding may continue or commence under the **new name.**
- **Protection of Rights in Amalgamation:**
 - Amalgamation **shall not prejudice** rights of any Trade Union or rights of creditors.

Dissolution (Section 25)

- **Notice of Dissolution:**
 - Notice signed by **seven members and the secretary** shall be:
 1. Sent to the **Registrar within fourteen days** of dissolution.
 2. **Registered** by the Registrar if dissolution is in accordance with the Trade Union rules.
 - Dissolution shall have effect **from the date of registration.**
- **Distribution of Funds:**
 - If Trade Union rules do not specify distribution, Registrar shall **divide the funds among members** in the manner prescribed.

Annual Returns (Section 26)

- **Annual Forwarding to Registrar:**

Every registered Trade Union shall forward to the **Registrar annually**, on or before such prescribed date, in such form, and audited in such manner and by such person as may be prescribed:

 1. **General Statement (Sub-section 1(a)):**
 - Containing **particulars of all receipts and expenditure** of the Trade Union during the year ending **31st December** preceding the prescribed date.
 - Includes **assets and liabilities** of the Trade Union as on 31st December.
 2. **Statement of Changes and Rules (Sub-section 1(b)):**
 - Forward **statement showing changes of office-bearers** made during the year.
 - Forward **copy of the rules** of the Trade Union corrected up to the date of dispatch to the Registrar.



- **Alteration of Rules (Sub-section 2):**

- A copy of every **alteration made in the rules** of a registered Trade Union shall be forwarded **within fifteen days** of making the alteration.
- **Registrar's Power of Inspection (Sub-section 3):**
 - For examining documents referred to in sub-sections (1) and (2), the **Registrar or authorised officer** may, at all reasonable times:
 1. **Inspect** the certificate of registration, account books, registers, and other documents at the **registered office**; or
 2. **Require production** of such documents at a place specified by the Registrar, not exceeding **15 kilometres** from the registered office.

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

- **Recognition at Central Level (Sub-section 1):**
 - If the **Central Government** considers it necessary or expedient, it may **recognise a Trade Union or federation of Trade Unions as Central Trade Union** in such manner and for such purpose as may be prescribed.
 - Any **dispute regarding recognition** shall be decided by such authority and in such manner as prescribed by the **Central Government**.
- **Recognition at State Level (Sub-section 2):**
 - If the **State Government** considers it necessary or expedient, it may **recognise a Trade Union or federation of Trade Unions as State Trade Union** in such manner and for such purpose as may be prescribed.
 - Any **dispute regarding recognition** shall be decided by such authority and in such manner as prescribed by the **State Government**.

STANDING ORDERS

Application of Chapter IV (Standing Order) (Section 28)

- **General Applicability (Sub-section 1):**
 - The provisions of this Chapter shall apply to **every industrial establishment** wherein **three hundred or more workers** are employed, or were employed on any day of the preceding twelve months.
- **Establishment Excluded (Sub-section 2):**
 - Notwithstanding sub-section (1), the provisions of this Chapter shall **not apply** to an industrial establishment to the extent that the workers employed are covered by:
 - **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**
- **Indian Railway Establishment Code**
- Any other **rules or regulations** notified by the **appropriate Government**.

Making of Model Standing Orders by Central Government and Temporary Application (Section 29)

- **Model Standing Orders by Central Government (Sub-section 1):**
 - The **Central Government** shall make **model standing orders** relating to **conditions of service** and other **incidental or connected matters**.
- **Temporary Adoption of Model Standing Orders (Sub-section 2):**
 - For the period from the date of applicability of this section to an industrial establishment until the **certified standing orders under section 33** come into effect:
 - The **model standing orders** shall be deemed to be **adopted in that establishment**.
 - Provisions of **sub-section (2) of section 33** and **section 35** shall apply to such model standing orders as they apply to **certified standing orders**.

Preparation of Draft Standing Orders by Employer and Procedure for Certification (Section 30)

It ensures that service conditions are codified, fair, and consistent with the Code, while involving trade unions and workers in the process.

- **Preparation of Draft Standing Orders (Sub-section 1):**
 - The **employer** shall prepare **draft standing orders** based on the **model standing orders** referred to in section 29.
 - Draft shall cover matters specified in the **First Schedule** and any other matter considered necessary for the industrial establishment or undertaking.
 - Such provisions **shall not be inconsistent** with any provisions of this Code.
 - Draft standing orders shall be prepared **within six months** from the **date of commencement of the Code**.

Matters to be Provided in Standing Orders

1. **Classification of workers:** permanent, temporary, apprentices, probationers, badlis, or fixed-term employment.

2. **Intimation to workers:** periods and hours of work, holidays, pay-days, and wage rates.
3. **Shift working.**
4. **Attendance and late coming.**
5. **Leave and holidays:** conditions, procedure, and authority granting leave.
6. **Entry requirements:** entering premises by certain gates and liability to search.
7. **Closing/reporting of sections:** temporary stoppages of work and rights/liabilities of employer and workers.
8. **Termination of employment:** notice to be given by employer and workers.
9. **Suspension or dismissal:** acts or omissions constituting misconduct.
10. **Redress for workers:** against unfair treatment or wrongful exactions by employer, agents, or servants.
11. **Other matters:** any other matter specified by the **appropriate Government** by notification.

Consultation with Trade Unions (Sub-section 2)

- The **employer shall consult:**
 - **Trade Unions,**
 - **Recognised negotiating union,** or
 - **Members of the negotiating council**
- Consultation is regarding the **draft of the standing order.**
- Draft shall thereafter be **forwarded electronically or otherwise** to the **certifying officer** for certification.



Adoption of Model Standing Orders (Sub-section 3)

- If employer **adopts model standing order** of the **Central Government** (section 29):
 - Such **model standing order** shall be deemed **certified** under this Code.
 - Employer shall **forward information** to the concerned **certifying officer** as prescribed.
 - **Certifying officer** may direct **amendments** within a prescribed period, if necessary.

Draft Modifications (Sub-section 4)

- Employer shall prepare **draft of modifications**, if any, in accordance with this Code.
- Draft shall be **forwarded electronically or otherwise** to the **certifying officer** for certification.
- Draft **must be forwarded within six months** from applicability of this Chapter to the industrial establishment.

Certification Procedure (Sub-section 5)

- On receipt of draft(s), **certifying officer shall issue notice** to:
 1. **Trade Union / negotiating union / members of negotiating council,**
or
 2. If no Trade Union, **representatives of workers** chosen as prescribed.

- Purpose: **seek comments and provide opportunity of being heard.**
- Certifying officer decides whether **modifications/additions are necessary** for certification.
- **Timeline:**
 - Draft standing orders: **sixty days** from receipt.
 - Draft modifications: **sixty days** from receipt.
 - Failing which, draft or modifications **deemed certified** after the period.

Conditions for Certification (Sub-section 6)

- Standing orders shall be **certifiable** if:
 1. Provision is made for **every matter in First Schedule** applicable to the industrial establishment.
 2. Orders are **otherwise in conformity** with the provisions of this Code.

Adjudication on Fairness (Sub-section 7)

- Certifying officer or **appellate authority (section 32)** shall **adjudicate on fairness or reasonableness** of provisions.
- **Reference:** model standing orders (section 29).

Certification and Communication (Sub-section 8)

- Certifying officer shall **certify draft or modifications.**
- **Within seven days**, send certified copies to:
 - Employer
 - **Negotiating union, negotiating council, Trade Union**, or worker representatives (clause ii, sub-section 5).

Accompanying Statement (Sub-section 9)

- Draft standing orders or draft modifications **shall be accompanied** by a statement giving prescribed particulars:
 - Workers employed
 - Trade Union membership
 - Negotiating union or council representation

Joint Drafts by Employers (Sub-section 10)

- Group of **employers in similar establishments** may submit **joint draft.**
- For this Chapter, terms "employer", "Trade Union", and "negotiating union or council" include all **employers and unions of such establishments.**

Continuity of Existing Standing Orders (Sub-section 11)

- Standing orders existing at commencement of Code shall **continue** if not inconsistent with the Code.
- Such existing orders shall be **deemed certified** under sub-section (8).
- **Provisions of this Chapter** shall apply to them.

Certifying Officer and Appellate Authority to Have Powers of Civil Court (Section 31)

- **Civil powers of certifying officer and the appellate authority:**

- 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.**
- Such officers shall be **deemed to be a civil court** within the meaning of **sections 345 and 346 of the Code of Criminal Procedure, 1973.**

- **Rectification of clerical or arithmetical mistakes:**

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

Appeals (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**, they may **file appeal**:
 - 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.



- **Time of filing appeal:**

- Such appeal shall be **filed within sixty days** of **receipt of the order of the certifying officer** to the **appellate authority appointed by the appropriate Government, by notification**, and such authority shall **dispose of the appeal** in such **manner as may be prescribed**.

Date of Operation of Standing Orders and Its Availability (Section 33)

- **Commencement 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 days** from the **date on which authenticated copies thereof are sent** under **sub-section (8) of section 30**.

- (ii) Where an **appeal** as aforesaid is preferred, on the **expiry of seven days** from the **date on which copies of the order of the appellate authority are sent** in such **manner as may be prescribed**.

- **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)

- **Filing of standing orders:**

- 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 in **such other form as may be prescribed**.

- **Furnishing copies:**

- The **certifying officer** shall **furnish a copy** of such standing orders to **any person applying therefor** on **payment of such fee as may be prescribed**.

Duration and Modification of Standing Orders (Section 35)

- **Minimum Time Before Modification:**

- **Certified standing orders** (under **Section 30(8)**) shall **not be modified** until the **expiry of six months** from the **date on which the standing orders or the last modifications thereof came into operation**.

- **Exception:**

- Standing orders **may be modified earlier** if there is an **agreement between the employer and workers**, or with a **negotiating union/Trade Union/representative body of workers**.

- **Application for Modification:**

- **Who may apply:**
 - An **employer**, or
 - A **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**, subject to the provisions of **sub-section (1)**.
- **Supporting documents:**

- The application shall be **accompanied by copies of the modifications proposed**, and
- Where modifications are **proposed by agreement** between the employer and workers or a **Trade Union/representative body**, a **certified copy of that agreement** shall be **filed along with the application**.

- **Procedure for Certification:**

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

Oral Evidence in Contradiction of Standing Orders not Admissible (Section 36)

- **Rule:**

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

Interpretation of Standing Orders (Section 37)

- **Subject matter of disputes:**

- If any **question arises** as to the **application or interpretation** of:
 - **Standing orders certified under sub-section (8) of section 30**, or
 - **Modifications made therein by agreement** under **sub-section (5) of that section**,
- Then **application to the Tribunal** can be made.

- **Who may apply:**

- **The employer**, or
- **Any worker or workers concerned**, or
- **The Trade Union** in relation to the **workers employed in the industrial establishment or undertaking** where the question has arisen,
- May **apply to the Tribunal** within the **local limits of whose territorial jurisdiction** such **establishment or the office, section, or branch of the undertaking is situated**.

- **Decision of Tribunal:**

- The Tribunal shall, after giving **all 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)

- **Purpose:**

- Ensures that **disciplinary proceedings** against **suspended workers** are **completed within a reasonable time** 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**, such **investigation or inquiry**, or where there is an **investigation followed by an inquiry**, shall be **completed ordinarily within ninety days** from the **date of suspension**.

- **Provision in Standing Orders:**

- The **standing orders certified under section 30(8) or modified under section 35** shall provide that:
 - Where a **worker is suspended** as referred to above, the **employer** shall **pay subsistence allowance** to such worker at the **rates specified in sub-section (3)** for the **period of suspension** pending **investigation or inquiry**.



- **Rates of Subsistence Allowance:**

- (a) **50% of wages** which the worker was entitled to immediately **preceding the date of suspension**, for the **first ninety days** of suspension.
- (b) **75% of wages** for the **remaining period of suspension**, if the **delay in completion of disciplinary proceedings** is **not directly attributable to the conduct of the worker**.

Power to Exempt (Section 39)

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

NOTICE OF CHANGE

Notice of Change (Section 40)

- **Purpose:**

- 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** a **notice in such manner as may be prescribed** of the **nature of the change proposed**; or
- ii. Within **twenty-one days** of giving such notice.



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- No **notice** shall be required for effecting any change:
 - (a) Where the change is effected in **pursuance of any settlement or award**;
 - (b) Where the workers likely to be affected are covered under **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, Indian Railway Establishment Code**, or any **other rules or regulations notified by the appropriate Government**;
 - (c) In **emergent situations** requiring **change of shift or shift working**, otherwise than in accordance with standing orders, in **consultation with the Grievance Redressal Committee**;
 - (d) If the 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:**

1. **Wages**, including **period** and **mode of payment**.
2. **Contribution** paid or payable by the employer to any **provident fund** or **pension fund** for the **benefit of workers**.
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 as provided in standing orders.
10. **Rationalisation, standardisation or improvement of plant or technique** likely to lead to **retrenchment of workers**.
11. **Any increase or reduction** (other than casual) in the **number of persons employed** in any **occupation, process, department or shift**, not occasioned by circumstances beyond employer's control.

Power of Appropriate Government to Exempt (Section 41)

- Where the **appropriate Government** considers that applying **Section 40** to any **class of industrial establishments** or **class of workers** may:
 - Prejudicially **affect employers**, or
 - Cause **serious repercussions on the industry**, and
 - **Public interest** so requires,
- It may, by **notification, direct that Section 40 shall not apply** or shall **apply subject to conditions** specified in the notification to that **class of establishments** or **class of workers**.

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

Voluntary Reference of Disputes to Arbitration (Section 42)

- **Reference to Arbitration:**

- Where any **industrial dispute exists or is apprehended** and the **employer and the workers agree** to refer the dispute to **arbitration**, they may, by a **written agreement**, refer the dispute to **arbitration**, and the reference shall be to such **person or persons as arbitrator or arbitrators** as 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 opinion**, and the **award of the umpire shall prevail** and shall be deemed to be the **arbitration award** for the purposes of this Code.

- **Form and Signature:**

- An **arbitration agreement** shall be in such **form** and shall be **signed by the parties** in such **manner as may be prescribed**.
- **Forwarding Agreement:**
 - A **copy of the arbitration agreement** shall be **forwarded to the appropriate Government** and the **conciliation officer**.
- **Notification by Government:**
 - Where an **industrial dispute** has been **referred to arbitration** and the **appropriate Government** is satisfied that the persons making the reference **represent the majority** of each party, the **appropriate Government may issue a notification** in such manner as may be prescribed.
 - When such notification is issued, the **employers and workers not party** to the arbitration agreement but **concerned in the dispute** shall be given an **opportunity to present their case** before the **arbitrator or arbitrators**.
- **Representation of workers:**
 - (i) **For disputes other than termination of individual worker** (discharge, dismissal, retrenchment, or otherwise), the **workers shall be represented:**
 - a. By the **negotiating union** or **negotiating council**, where available;
 - b. By the **Trade Union**, where no negotiating union or council exists;
 - c. By **representatives chosen in prescribed manner**, where no Trade Union exists.
 - (ii) **For disputes relating to termination of individual worker, the concerned worker shall be represented in person** or through a representative authorised by him.
- **Arbitration award submission:**
 - The **arbitrator or arbitrators** shall **investigate the dispute** and **submit the arbitration award** to the **appropriate Government, signed by the arbitrator or all arbitrators** as the case may be.
- **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 **in existence on the date of reference**, where the **industrial dispute has been referred to arbitration** and a **notification has been issued**.
- **Non-applicability of Arbitration and Conciliation Act, 1996:**
 - Nothing in the **Arbitration and Conciliation Act, 1996** shall **apply to arbitrations under this section**.

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

Conciliation Officer (Section 43)

- **Appointment of conciliation officers:**

- The **Appropriate Government** may, by **notification**, appoint such **number of persons** as it thinks fit to be **conciliation officers**, charged with the duty of **mediating in and promoting the settlement of industrial disputes**.



- **Area and tenure of appointment:**

- A **conciliation officer** may be appointed for:
 - A **specified area**, or
 - **Specified industries in a specified area**, or
 - One or more **specified industries**.
- The officer may be appointed **permanently** or for a **limited period**.

Industrial Tribunal (Section 44)

- **Constitution of Tribunals:**

- The **appropriate Government**, by **notification**, may constitute one or more **Industrial Tribunals** for:
 - **Adjudication of industrial disputes**, and
 - Performing such **other functions** as may be assigned under this Code.
- A Tribunal **constituted by the Central Government** shall also exercise the **jurisdiction, powers, and authority** conferred under **clause (m) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952**.

- **Composition of the Tribunal:**

- Every **Industrial Tribunal** shall consist of **two members**, appointed by the **appropriate Government**, out of whom:
 - One shall be a **Judicial Member**, and
 - The other an **Administrative Member**.

- **Benches:**

- A **bench of the Tribunal** shall consist of:
 - A **Judicial Member and an Administrative Member**, or
 - A **single Judicial Member**, or
 - A **single Administrative Member**.



- **Qualifications & Service Conditions of Central Government Tribunal members:**
 - Qualifications, **method of recruitment, term of office, salaries and allowances, resignation, removal**, and other **terms of service** of Judicial and Administrative Members of Tribunals constituted by the **Central Government** shall be **in accordance with rules under section 184 of the Finance Act, 2017**.
- **Ineligibility for Administrative Member:**
 - A person who has **held a post below the rank of Joint Secretary to the Government of India** or **equivalent rank** in the **Central or State Government** shall **not be eligible** to be appointed as an **Administrative Member**.
- **Service Conditions of State Government Tribunal members:**
 - Term of office, **salaries and allowances, resignation, removal**, and other **terms of service** shall be as **prescribed by the State Government**.
 - **Protection of service conditions:** Salary, allowances, and **terms of service** of Judicial or Administrative Members **appointed by State Government** shall **not be varied to their disadvantage** after appointment.
- **Composition of benches for deciding cases:**
 - **Procedure**, including **distribution of cases** in Tribunal benches, shall be **as prescribed**.
 - A **bench consisting of a Judicial Member and an Administrative Member** shall entertain and decide cases only relating to:
 - (a) **Application and interpretation of standing orders**
 - (b) **Discharge or dismissal of workmen, including reinstatement or grant of relief**
 - (c) **Illegality or otherwise of strike or lockout**
 - (d) **Retrenchment of workmen and closure of establishment**
 - (e) **Trade Union disputes**
 - **Remaining cases** shall be entertained and decided by a **bench of either Judicial or Administrative Member**.
- **Who shall preside:**
 - The **Judicial Member** shall **preside** where the bench consists of **one Judicial Member and one Administrative Member**.
- **Filling of vacancy:**
 - If a **vacancy** (other than temporary absence) occurs in a **National Industrial Tribunal or Tribunal**, it shall be **filled in such manner as**

prescribed, and proceedings shall **continue from the stage at which the vacancy is filled**.

- **Appointment of other officers and staff:**

- The **appropriate Government**, in consultation with the **Judicial Member**, may provide **officers and staff** necessary for the **due functioning of the Tribunal**.

Finality of Constitution of Tribunal (Section 45)

- **Grounds for challenge:**

- Only on the **existence of any vacancy** in, or **defect in the constitution** of a Tribunal:
 - **No notification** of the **appropriate Government appointing a Judicial or Administrative Member** of a Tribunal shall be **called in question** in any manner.
 - **No act or proceeding before the Tribunal** shall be **called in question** in any manner.

National Industrial Tribunal (Section 46)

- **Purpose:**

- **National Industrial Tribunals (NITs)** are special adjudicatory bodies constituted by the **Central Government** to deal with:
 - **Industrial disputes of national importance, or**
 - Disputes affecting **industrial establishments across multiple States**.

- **Constitution of NITs:**

- The **Central Government**, by **notification**, may constitute one or more **National Industrial Tribunals** for **adjudication of industrial disputes** which, in its opinion:
 - **Involve questions of national importance, or**
 - Are such that **industrial establishments in more than one State** are **likely to be interested or affected**.



- **Composition of NITs:**

- A **National Industrial Tribunal** shall consist of **two members** appointed by the **Central Government**, out of whom:
 - One shall be a **Judicial Member**, and
 - The other an **Administrative Member**.

- **Qualifications:**

- **Judicial Member:** Must be, or have been, a **Judge of a High Court.**
- **Administrative Member:** Must be, or have been:
 - **Secretary to the Government of India, or**
 - Holding an **equivalent rank in the Central or State Government, with adequate experience in labour-related matters.**

- **President of Tribunal:**

- The **Judicial Member** shall **preside** over the National Industrial Tribunal.

- **Service Conditions:**

- **Procedure of selection, salaries, allowances, and other terms of service** of Judicial and Administrative Members shall be **as prescribed.**

- **Appointment of supporting officers and staff:**

- The **Central Government**, in consultation with the **Judicial Member**, may provide **officers and staff** necessary for the **due functioning of the NIT.**

Decision of Tribunal or National Industrial Tribunal (Section 47)

- **Consensus Rule:**

- The **decision of a Tribunal or NIT** shall be by **consensus of the members.**

- **Difference of Opinion:**

- If members **differ in opinion** on any point:
 - They shall **state the point(s) of difference**, 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 NIT.**
- That **Judicial Member** 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.

Procedure and Powers of Arbitrator, Conciliation Officer, Tribunal and National Industrial Tribunal (Section 49)

- **Procedural Flexibility:**

- Subject to the **provisions of this Code** and the **rules made**, an **arbitrator, conciliation officer, Tribunal or National Industrial Tribunal** shall follow such **procedure as it may deem fit.**

- **Right of Entry:**

- A **conciliation officer**, or an officer **authorised 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** of any establishment to which the dispute relates.

- **Powers of Civil Court:**

- The **conciliation officer, Tribunal, and National Industrial Tribunal** shall have the **same powers as a civil court** under the **Code of Civil Procedure, 1908**, in respect of:
 - (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) Such **other matters as may be prescribed**
- Every **inquiry or investigation** by a Tribunal or National Industrial Tribunal shall be deemed a **judicial proceeding** within the meaning of **sections 193 and 228 of the Indian Penal Code**.

- **Additional Powers of Conciliation Officer:**

- A conciliation officer may:
 - **Enforce the attendance of any person** for examination, or
 - **Call for and inspect any document** which he has reason to consider:
 - (i) Relevant to the industrial dispute, or
 - (ii) Necessary for **verifying the implementation of any award** or performing any **duty under this Code**
- For these purposes, the conciliation officer shall have the **same powers as a civil court** under the **Code of Civil Procedure, 1908** for enforcing attendance and compelling production of documents.

- **Appointment of Assessors or Experts:**

- The **appropriate Government** may, if it thinks fit, appoint **persons with special knowledge** as **assessors or experts** to **advise a Tribunal or National Industrial Tribunal** in any proceeding.

- **Deemed Public Servants:**

- All **conciliation officers** and **members of a Tribunal or National Industrial Tribunal** shall be deemed **public servants** within the meaning of **section 21 of the Indian Penal Code**.

- **Costs of Proceedings:**

- Subject to rules under this Code, the **costs of any proceeding** before a Tribunal or National Industrial Tribunal shall be **in the discretion** of such Tribunal.
- The Tribunal shall have **full powers to determine:**
 - **By whom,**
 - **To what extent,** and
 - **Under what conditions** such costs are to be paid
- On application, costs may be **recovered by the appropriate Government** as an **arrear of land revenue.**
- **Deemed Civil Court:**
 - Every **Tribunal or National Industrial Tribunal** shall be deemed a **civil court** for purposes of **sections 345, 346, and 348 of the Code of Criminal Procedure, 1973.**
- **Execution of Award, Order or Settlement:**
 - Every **award, order, or settlement** by a Tribunal or National Industrial Tribunal shall be **executed according to the procedure for execution of orders and decrees of a civil court** under **Order XXI of the Code of Civil Procedure, 1908.**
 - For this purpose, the Tribunal or National Industrial Tribunal shall be deemed a **civil court.**

Conciliation and Adjudication of Dispute (Section 53)

- **Initiation of Conciliation:**
 - Where any **industrial dispute exists or is apprehended**, or a **notice under section 62** has been given, the **conciliation officer** shall hold **conciliation proceedings** in such **manner as may be prescribed.**
 - The **conciliation officer** shall **not hold proceedings** relating to the dispute **after two years** from the date on which the **industrial dispute arose.**



- **Role of Conciliation Officer:**
 - The conciliation officer shall, for the purpose of **bringing about a settlement** of the dispute:
 - **Investigate the dispute** and all matters affecting the **merits and right settlement** thereof without delay.
 - Do all things deemed **fit to induce the parties** to come to a **fair and amicable settlement** of the dispute.
- **Conciliation Report and Memorandum of Settlement:**

- If a **settlement** is arrived at during conciliation:
 - The conciliation officer shall send a **report to the appropriate Government** or an **officer authorised** by the appropriate Government.
 - The **report shall be accompanied** by a **memorandum of settlement signed by the parties** to the dispute.
- **Report if No Settlement:**
 - If **no settlement** is arrived at, the conciliation officer shall, as soon as practicable, send to:
 - The **concerned parties**, and
 - The **appropriate Government**
 - A **full report, in electronic or other prescribed form**, setting forth:
 - (i) Steps taken to **ascertain facts and circumstances** relating to the dispute
 - (ii) Steps taken to **bring about a settlement**
 - The report shall include a **full statement of facts and circumstances** and the **reasons why a settlement could not be arrived at**.
- **Time Limits for Reports:**
 - The conciliation officer shall send the report to the **concerned parties** and **appropriate Government** within **forty-five days** of commencement of conciliation proceedings, or within such **shorter period as fixed by the appropriate Government**.
 - Where a **notice under section 62** is received, the report shall be sent **within fourteen days** of commencement of conciliation proceedings.
 - Subject to the **approval of the conciliation officer**, the time may be **extended by agreement in writing** by the parties to the dispute.
- **Application to Tribunal:**
 - Any **concerned party** may make **application in prescribed form** to the Tribunal:
 - For matters **not settled by the conciliation officer** under this section.
 - Within **ninety days** from the date the **report is received** by the concerned party.
 - The **Tribunal shall decide** such application in the **prescribed manner**.

STRIKES AND LOCK-OUTS

Prohibition of Strikes and Lock-Outs (Section 62)

- **Prohibition on Strikes by Workers:**
 - No person employed in an industrial establishment shall go on **strike**, in **breach of contract**,:

- (a) Without giving the **employer notice of strike** within **sixty days** before striking.
- (b) Within **fourteen days** of giving such notice.
- (c) Before the **expiry of the date of strike** specified in any notice.
- (d) During the **pendency of conciliation proceedings** before a conciliation officer and **seven days** after conclusion.
- (e) During the **pendency of proceedings** before a Tribunal or National Industrial Tribunal and **sixty days** after conclusion.
- (f) During the **pendency of arbitration proceedings** before an arbitrator and **sixty days** after conclusion, where **notification under sub-section (5) of section 42** has been issued.
- (g) During any period in which a **settlement or award is in operation**, in respect of matters covered by the settlement or award.



- **Prohibition on Lock-Outs by Employers:**

- No employer shall **lock-out workers**:
 - (a) Without giving **notice of lock-out** within **sixty days** before locking out.
 - (b) Within **fourteen days** of giving such notice.
 - (c) Before the **expiry of the date of lock-out** specified in the notice.
 - (d) During the **pendency of conciliation proceedings** and **seven days** after conclusion.
 - (e) During the **pendency of proceedings** before a Tribunal or National Industrial Tribunal and **sixty days** after conclusion.
 - (f) During the **pendency of arbitration proceedings** and **sixty days** after conclusion, where **notification under sub-section (5) of section 42** has been issued.
 - (g) During any period in which a **settlement or award is in operation**, in respect of matters covered by the settlement or award.

- **Notice or Intimation of Strike or Lock-Out:**

- The **employer** shall send to the authority specified by the **appropriate Government**, either generally, for a particular area, or for a particular class of services:
 - **Notice of strike or lock-out** under this section.
 - **Intimation of strike or lock-out** where a strike or lock-out is already in existence.
- Such **notice or intimation** shall be sent on the **day it is declared**.

- **Delivery of Notice:**

- **Notice of strike** shall be given by such **number of persons**, to such **person or persons**, and in the **prescribed manner**.
- **Notice of lock-out** shall be given in such **manner as prescribed**.
- **Time Period for Reporting:**
 - If on any day an **employer:**
 - **Receives** any notices from any person employed by him, or
 - **Gives** any notices to any person employed by him,
 - He shall, **within five days, report to the appropriate Government** or to such authority prescribed, and to the **conciliation officer**, the **number of notices received or given** on that day.

Illegal Strikes and Lock-Outs (Section 63)

- **Illegal Strikes/Lock-Outs:**
 - A **strike or lock-out** shall be **illegal** if it is:
 - i. Commenced or declared in **contravention of section 62, or**
 - ii. Continued in **contravention of an order under section 42(7).**



- **Continuance of Existing Strikes/Lock-Outs:**
 - If a **strike or lock-out:**
 - Was **not illegal at its commencement** under the Code, and
 - Its **continuance was not prohibited** under section 42(7), and
 - Has **already commenced and is in existence** at the time of **filing the application in the Tribunal or reference to an arbitrator or National Industrial Tribunal**,
 - Then the **continuance of such strike or lock-out shall not be deemed illegal**.
- **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 illegal**.

Prohibition of Financial Aid to Illegal Strikes or Lock-Outs (Section 64)

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

LAY-OFF, RETRENCHMENT AND CLOSURE

Application of Sections 67 to 69 (Section 65)

- **Scope of Application:**

- Sections **67 to 69** shall **not apply** to industrial establishments:
 - To which **Chapter X** applies (i.e., where **not less than 300 workers**, or a higher number notified by the appropriate Government, were employed **on average per working day** in the preceding twelve months).
 - Where **less than fifty workers** on average per working day were employed in the preceding **calendar month**.
 - Which are of a **seasonal character**, or in which **work is performed intermittently**.



- **Government's Final Authority:**

- If a question arises whether an industrial establishment is of a **seasonal character** or whether **work is performed intermittently**, the decision of the **appropriate Government** shall be **final**.

- **Explanation – Meaning of Industrial Establishment:**

- In this section and sections 67, 68, and 69, **industrial establishment** shall mean:
 - Factory** as defined in clause (m) of section 2 of the **Factories Act, 1948**.
 - Mine** as defined in clause (j) of sub-section (1) of section 2 of the **Mines Act, 1952**.
 - Plantation** as defined in clause (f) of section 2 of the **Plantations Labour Act, 1951**.

Definition of Continuous Service (Section 66)

- **Continuous Service:**

- Means **uninterrupted service** of a worker, including service interrupted due to:
 - **Sickness or authorised leave**
 - **Accident**
 - **Strike which is not illegal**
 - **Lock-out**
 - **Cessation of work not due to any fault of the worker**

- **Deemed Continuous Service:**

- A worker **not in continuous service** for a period of **one year** or **six months** shall be **deemed to be in continuous service** under an employer:

- (a) **One-year calculation:**

- If in the preceding **12 months**, the worker has actually worked:
 - **190 days** – for a worker employed **below ground in a mine**
 - **240 days** – in any **other case**

- (b) **Six-month calculation:**

- If in the preceding **6 months**, the worker has actually worked:
 - **95 days** – for a worker employed **below ground in a mine**
 - **120 days** – in any **other case**

- **Counting Actual Work Days:**

- The **number of days actually worked** shall include days on which the worker has:
 - **Laid-off** under an agreement or as permitted by this Code or any other applicable law
 - Been on **leave on full wages** earned in previous years
 - Been **absent due to temporary disablement** caused by **accident arising out of employment**
 - In case of a **female worker**, been on **maternity leave**, provided total period does not exceed **Maternity Benefit Act, 1961** limits

Rights of Workers Laid Off for Compensation (Section 67)

- **Eligibility for Compensation:**

- A **worker** (other than a **badli worker** or **casual worker**) shall be **paid by the employer** for all days during which he is **laid-off**, if:
 - His **name is borne on the muster rolls** of an industrial establishment, and
 - He has completed **not less than one year of continuous service** under the employer, whether **continuously or intermittently**.

- **Amount of Compensation:**

- Compensation shall be **equal to fifty per cent of the total of basic wages and dearness allowance** that would have been payable to him, except for any **weekly holidays**.



- **Limitation on Compensation:**

- If a worker is **laid-off for more than 45 days in a 12-month period**, **no compensation** shall be payable **after the first 45 days**, if there is an **agreement between the worker and employer** to that effect.

- **Right to Retrench:**

- The employer may **retrench the worker** after the first **45 days of lay-off** under **section 70**, and any **compensation paid for the lay-off** may be **set off against retrenchment compensation**.

- **Definition – Badli Worker:**

- A **badli worker** is employed in place of another worker whose name is on the muster rolls.
- A badli worker **ceases to be regarded as such** if he completes **one year of continuous service** in the establishment.

Duty of an Employer to Maintain Muster Rolls of Workers (Section 68)

- **Maintenance of Muster Rolls:**

- Every employer shall:
 - **Maintain a muster roll**, and
 - **Provide for entries** by workers who present themselves for work at the establishment at the **appointed time during normal working hours**, even if workers have been **laid-off**.

Workers not Entitled for Compensation in Certain Cases (Section 69)

- **No Compensation Payable:**

- Compensation shall **not be paid** to a worker who has been **laid-off** in the following cases:
 - If he **refuses alternative employment** in the same establishment, or in any other establishment of the same employer within the **same town or village** or **within 8 km**, provided the work **requires no special skill** and the **normal wages are offered**.
 - If he **does not present himself for work** at the establishment at the **appointed time during normal working hours**, at least **once a day**.
 - If the lay-off is due to a **strike or slowing-down of production** by workers in another part of the establishment.



Conditions Precedent to Retrenchment of Workers (Section 70)

- **Eligibility for Retrenchment:**

- A **worker** who has been in **continuous service for not less than one year** under an employer **shall not be retrenched** until the following conditions are fulfilled:

- **Notice to Worker:**

- The worker is 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 wages in lieu of such notice**.

- **Payment of Retrenchment Compensation:**

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

- **Notice to Appropriate Government:**

- **Notice in the prescribed manner** is served on the **appropriate Government** or such authority as may be specified by notification.

Procedure for Retrenchment (Section 71)

- **Last-in-First-Out (LIFO) Principle:**

- Where a worker in an industrial establishment is to be retrenched and belongs to a **particular category**, then:
 - In the absence of any agreement, the employer shall ordinarily **retrench the worker who was last employed** in that category,
 - Unless, for **reasons recorded**, the employer retrenches any other worker.

Reemployment of Retrenched Worker (Section 72)

- **Preference for Reemployment:**

- If the employer proposes to take any person into employment within **one year** of retrenchment, he shall:
 - Give an **opportunity to retrenched workers** (who are citizens of India) to **offer themselves for re-employment**, and
 - Such retrenched workers shall have **preference over other persons**.

Compensation to Workers in Case of Transfer of Establishment (Section 73)

- **Applicability:**

- When **ownership or management** of an establishment is transferred, whether by **agreement** or by **operation of law**, every worker who has been in **continuous service for not less than one year** immediately before such transfer shall be entitled to:
 - **Notice**, and
 - **Compensation** in accordance with **section 70** as if the worker had been **retrenched**.

- **Exceptions:**

- This section **shall not apply** if:
 1. The **service of the worker has not been interrupted** by the transfer,
 2. The **terms and conditions of service** applicable after transfer are **not less favourable** than those before transfer, and
 3. The **new employer** is legally liable to pay **retrenchment compensation** on the basis that the worker's service has been **continuous** and **uninterrupted** by the transfer.

Sixty Days' Notice to Be Given of Intention to Close Down Any Undertaking (Section 74)

- **Mandatory Notice Requirement:**

- An **employer** who intends to **close down an undertaking** shall serve a **notice**, in such manner as may be prescribed, on the **appropriate Government**.
- The **notice shall be served at least sixty days** before the date on which the intended **closure** is to become effective.
- The **notice shall state clearly the reasons** for the intended closure of the undertaking.

- **Exemptions:**

- This section shall **not apply** to:
 1. An **industrial establishment** in which **less than fifty workers** are employed or were employed on any day in the preceding twelve months.
 2. An **industrial establishment** set up for the **construction of buildings, bridges, roads, canals, dams, or other construction work or project**.

- **Exceptional Circumstances:**

- The **appropriate Government** may, if satisfied that owing to **exceptional circumstances**, direct that the provisions of sub-section (1) shall **not apply** for such period as specified.
- **Exceptional circumstances** may include:
 - **Accident** in the undertaking

- **Death of the employer**
- **Extraordinary situations**, such as **natural calamities** or the like

Compensation to Workers in Case of Closing Down of Undertakings (Section 75)

- **General Rule of Compensation:**

- Where an **establishment is closed down** for any reason whatsoever, every **worker** who has been in **continuous service for not less than one year** immediately before such closure shall be entitled to:
 - **Notice**, and
 - **Compensation** in accordance with **section 70**, as if the worker had been **retrenched**.

- **Limit in Case of Unavoidable Circumstances:**

- If the undertaking is closed due to **unavoidable circumstances beyond the control of the employer**, compensation under clause (b) of **section 70** shall **not exceed his average pay for three months**.

- **Explanation – Not Unavoidable Circumstances:**

- Closure due merely to:
 1. **Financial difficulties** (including financial losses)
 2. **Accumulation of un-disposed stocks**
 3. **Expiry of lease or license**
 4. In **mining operations**, **exhaustion of minerals**
- Shall **not be deemed unavoidable circumstances** beyond employer's control.

- **Special Rule for Mining Closures:**

- Where closure occurs **merely due to exhaustion of minerals**:
 - No worker shall be entitled to **notice or compensation under section 70**, if:
 - a) Employer provides the worker with **alternative employment** within a **radius of twenty kilometres** from the undertaking, with **same remuneration** and **terms of service**.
 - b) The **service of the worker has not been interrupted** by such alternative employment.
 - c) Employer is legally liable, under the terms of alternative employment or otherwise, to pay **retrenchment compensation** as if service had been **continuous and uninterrupted**.

- **Special Rule for Construction Undertakings:**

- No worker shall be entitled to **compensation under clause (b) of section 70**, where a construction undertaking (buildings, bridges, roads, canals, dams, or other construction work) is **closed due to completion of work within two years** from the date of establishment.

- If construction is **not completed within two years**, worker shall be entitled to **notice and compensation** 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

Application (Section 77)

- **Applicability Threshold:**
 - The provisions of **Sections 77 to 88** shall apply to an **industrial establishment** in which **not less than three hundred workers** were employed on an **average per working day** in the preceding twelve months.
 - The **appropriate Government** may notify a **higher number of workers** for this purpose.
- **Exclusion for Seasonal or Intermittent Work:**
 - This applicability threshold shall **not apply** to establishments:
 - **Of a seasonal character**, or
 - Where **work is performed only intermittently**.
- **Government's Final Authority:**
 - If a question arises whether an industrial establishment is of **seasonal character** or whether work is **performed intermittently**, the **decision of the appropriate Government shall be final**.
- **Definition of Industrial Establishment:**
 - Shall mean:
 1. **Factory** as defined in clause (m) of section 2 of the **Factories Act, 1948**
 2. **Mine** as defined in clause (j) of sub-section (1) of section 2 of the **Mines Act, 1952**
 3. **Plantation** as defined in clause (f) of section 2 of the **Plantations Labour Act, 1951**

Prohibition of Lay-Off (Section 78)

- **Prior Permission Requirement:**
 - No **worker** (other than a **badli worker** or **casual worker**) whose name is borne on the **muster rolls** shall be **laid-off** by the employer except with **prior permission of the appropriate Government** obtained on an application.
 - Exceptions where **prior permission is not required:**
 - **Shortage of power**
 - **Natural calamity**

- In a **mine**, where lay-off is due to: **fire, flood, excess inflammable gas, or explosion**
- **Application for Permission:**
 - Employer shall make an **application electronically or otherwise** in the **prescribed manner**.
 - Application shall **state reasons for intended lay-off**.
 - **Copy of application** shall be simultaneously served on the **workers concerned** in the prescribed manner.
- **Special Rule for Mines:**
 - Where lay-off in a **mine** occurs due to **fire, flood, or excess inflammable gas or explosion**, the employer must **apply to the appropriate Government within thirty days** of commencement of lay-off for **permission to continue**.
- **Government's Decision:**
 - The **appropriate Government** shall:
 - Make such **enquiry as it thinks fit**, and
 - Give **reasonable opportunity** to the **employer, workers, and persons interested** to be heard.
 - The **Government may grant or refuse permission** by an **order with reasons in writing**.
 - While making the order, the **Government shall consider**:
 - Genuineness and adequacy of reasons for lay-off
 - Interests of the **workers**
 - All other relevant factors
 - **Copy of the order** shall be communicated to the **employer and workers**.
- **Deemed Permission:**
 - If the Government does **not communicate** an order within **sixty days**, the **permission is deemed granted** and the **application deemed disposed of** accordingly.
- **Order of Government to Be Final and Binding:**
 - Order **granting or refusing permission** shall:
 - Be **final and binding** on all parties, and
 - Remain in force for **one year** from the date of the order.
- **Review of Order or Reference to Tribunal:**
 - The **appropriate Government** may:
 - **Review its order** within the prescribed time, or
 - **Refer the matter to a Tribunal** for adjudication, on its own motion or on application by employer or worker.
 - **Tribunal shall pass award within thirty days** of reference.
- **Illegal Lay-Off:**

- Lay-off shall be **deemed illegal** from the date workers were laid-off where:
 - **No application for permission** is made under sub-section (1) or (3)
 - **Permission has been refused**
- Workers shall be entitled to **all benefits under any law** as if they had **not been laid-off**.
- **Exemption in Exceptional Circumstances:**
 - If satisfied that owing to **accident in the establishment, death of employer, or the like**, the Government may **direct that provisions of sub-section (1) or (3) shall not apply** for the specified period.
- **Application of Section 67:**
 - Provisions of **section 67** (other than second proviso) **apply to lay-off under this section**.
- **Explanation – Alternative Employment:**
 - Worker is **not deemed laid-off** if employer offers **alternative employment**:
 - **In the same establishment**, or
 - **In another establishment** belonging to the same employer:
 - **Situated in same town/village**, or
 - **Situated within reasonable distance** so transfer does not involve undue hardship.
 - **Conditions:**
 - Alternative employment **does not require special skill or experience**
 - **Wages normally payable** are offered for the alternative employment.

Conditions Precedent to Retrenchment of Workers (Section 79)

- **Scope and Applicability:**
 - Applies to **workers employed in industrial establishments with ≥300 workers**.
 - Only workers in **continuous service for not less than one year** under the employer are covered.
- **Conditions Precedent to Retrenchment:**
 - Such a worker shall **not be retrenched** until:
 1. 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 wages in lieu of notice**.
 2. **Prior permission** of the **appropriate Government** has been obtained on an **application made in this behalf**.

- **Application for Permission:**

- Employer shall make an **application electronically or otherwise** in the **prescribed manner**.
- Application must **state clearly the reasons for retrenchment**.
- **Copy of application** shall be simultaneously served on the **workers concerned** in the prescribed manner.

- **Reasoned Order by Appropriate Government:**

- Upon application, the **appropriate Government** may, by **order and for reasons recorded in writing**:
 - **Grant or refuse permission**
- **Before issuing the order**, Government shall:
 - Conduct **such enquiry as it thinks fit**
 - Give **reasonable opportunity of being heard to employer, workers, and interested persons**
- Government shall **consider**:
 - **Genuineness and adequacy of reasons**
 - **Interests of workers**
 - **Other relevant factors**
- **Copy of the order** shall be communicated to **employer and workers**.

- **Deemed Permission:**

- If Government does **not communicate** the order within **sixty days**, the **permission is deemed granted** and the **application deemed disposed of** accordingly.

- **Enforcement and Duration of Order:**

- Order **granting or refusing permission** shall:
 - Be **final and binding** on all parties
 - Remain in **force for one year** from the date of the order

- **Review or Reference of Order:**

- Appropriate Government may:
 - **Review its order** within prescribed time, or
 - **Refer the matter to a Tribunal** for adjudication, either on its own motion or on application by **employer or worker**
- Tribunal shall **pass award within thirty days** of reference

- **Illegal Retrenchment:**

- Retrenchment shall be **deemed illegal** from the date notice was given if:
 - **No application for permission** is made, or
 - **Permission for retrenchment is refused**
- Worker is entitled to **all benefits under any law** as if **no notice had been given**

- **Exemption to Establishment:**

- Appropriate Government may, in **exceptional circumstances** (e.g., **accident in establishment, death of employer, or the like**), **direct that sub-section (1) shall not apply** for a **specified period**
- **Rights of Worker Retrenched:**
 - Where permission is **granted or deemed granted**, every worker employed **immediately before the date of application** is entitled to **retrenched compensation**
- **Quantum of Retrenchment Compensation:**
 - Compensation shall be **equivalent to fifteen days' average pay**, or such days as 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)

- **Scope and Applicability:**
 - Applies to **industrial establishments with ≥ 300 workers**.
 - **Employer intending to close down** such an undertaking shall obtain **prior permission** from the **appropriate Government**.
- **Prior Permission Requirement:**
 - Employer shall **apply electronically or otherwise**, in the **prescribed manner**, for **prior permission**.
 - Application must be made at least **ninety days before intended closure**.
 - Application shall **clearly state reasons** for closure.
 - **Copy of application** must be simultaneously served on **representatives of workers** in prescribed manner.
 - **Exception:** Does **not apply** to undertakings for **construction of buildings, bridges, roads, canals, dams, or other construction work**.
- **Reasoned Order by Appropriate Government:**
 - Government may, by **order and for reasons recorded in writing**, **grant or refuse permission**.
 - Order shall be made **after:**
 - Making such **enquiry as it thinks fit**
 - Giving **reasonable opportunity of being heard** to **employer, workers, and persons interested**
 - Considering **genuineness and adequacy of reasons, interests of general public**, and **other relevant factors**
 - **Copy of order** shall be communicated to **employer and workers**.
- **Deemed Permission:**
 - If Government does **not communicate** the order within **sixty days**, the **permission is deemed granted**.

- Application shall be deemed **disposed of accordingly**.
- **Duration and Finality of Order:**
 - Order **granting or refusing permission** shall be:
 - **Final and binding** on all parties
 - **Remain in force for one year** from date of order
- **Review or Reference to Tribunal:**
 - Government may:
 - **Review order** within prescribed time, or
 - **Refer the matter to a Tribunal** for adjudication
 - Review or reference may be on **own motion** or on **application by employer or worker**
 - Tribunal shall **pass award within thirty days** of reference
- **Illegal Closure:**
 - Closure deemed **illegal** if:
 - **No application** for permission is made within specified period, or
 - **Permission for closure is refused**
 - Workers shall be entitled to **all benefits under any law** as if **undertaking had not been closed down**
- **Exemption in Exceptional Circumstances:**
 - Appropriate Government may, in cases of **accident in undertaking, death of employer, or the like, direct that sub-section (1) shall not apply** for a **specified period**
- **Right to Compensation:**
 - Where closure is **permitted or deemed permitted**, every worker **employed immediately before application** shall receive **compensation**
 - Compensation shall be **equivalent to fifteen days' average pay**, or average pay of such days as notified by the **appropriate Government**, for every **completed year of continuous service** or **any part thereof in excess of six months**

Duty of Employer to Maintain Muster Rolls of Workers (Section 81)

- Employer shall:
 - **Maintain a muster roll** of workers
 - Provide for **entries by workers** who **present themselves for work** at **appointed time during normal working hours**

Certain Provisions of Chapter IX to Apply (Section 82)

- The provisions of **Sections 66, 71, 72, 73, and 76** shall also **apply** to **industrial establishments with ≥300 workers**

WORKER RE-SKILLING FUND

Worker Reskilling Fund (Section 83)

- **Establishment of Fund:**

- The **appropriate Government** shall, by **notification, set up a fund** to be called the **Worker Reskilling Fund**.

- **Sources of the Fund:**

- The Fund shall consist of:

1. **Employer Contribution:**

- **Amount equal to fifteen days' wages** last drawn by the worker immediately before **retrenchment**, or such **other number of days as may be notified** by the **Central Government**, for **every retrenched worker, in case of retrenchment only**

2. **Other Contributions:**

- **Contributions 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 **retrench worker** to his **account**
- Payment shall be made **within forty-five days** of retrenchment
- The **manner of crediting** shall be as **prescribed**

UNFAIR LABOUR PRACTICES

Prohibition of Unfair Labour Practice (Section 84)

- **General Prohibition:**

- No **employer, worker, or Trade Union** shall commit any **unfair labour practice** specified in the **Second Schedule**
- This prohibition applies **irrespective of registration** under the Industrial Relations Code

I. On the Part of Employers and Trade Unions of Employers

1. **Interference with Workers' Rights:**

- To **interfere, restrain, or coerce** workers in exercising the right to **organise, form, join or assist a Trade Union or engage in concerted activities**, such as:

- **Threatening discharge/dismissal** if workers join a Trade Union
- **Threatening lock-out or closure** if a Trade Union is organised
- **Granting wage increase** at crucial periods to **undermine Trade Union efforts**



2. Dominating or Supporting Trade Unions:

- Employer shall not **dominate, interfere with, or provide support**, financial or otherwise, to any Trade Union:
 - **Taking active interest** in organising a workers' Trade Union
 - **Showing partiality or favour** to one Trade Union over another, if not recognised

3. Establishing Employer-Sponsored Trade Unions

4. Encouraging/Discouraging Union Membership:

- By **discharging, punishing, or altering seniority** due to Trade Union activities
- By **refusing promotions** or giving **unmerited promotions** to undermine unions
- Discharging **office-bearers or active members** for union activities

5. Unfair Dismissal or Discharge:

- By **victimisation, bad faith, or false allegations**
- Ignoring **natural justice** or imposing **disproportionate punishment**

6. Outsourcing Regular Work:

- To **abolish regular work** and give it to contractors to **break strikes**

7. Mala fide Transfer of Workers

8. Insisting on Good Conduct Bond:

- For **workers on legal strike** to resume work

9. Showing Favouritism or Partiality

10. Employing Badli, Casual, or Temporary Workers

- To **deprive them of permanent status and privileges**

11. Discrimination for Filing Charges or Testifying

12. Recruiting Workers During a Legal Strike

13. Failure to Implement Award, Settlement, or Agreement

14. Indulging in Acts of Force or Violence

15. Refusal to Bargain Collectively with recognised Trade Unions

16. Illegal Lock-outs

II. On the Part of Workers and Trade Unions of Workers

1. Supporting or Instigating Illegal Strikes

2. Coercion in Exercise of Rights:

- Picketing to **physically bar non-striking workers**
- **Force, violence, or threats** against non-striking workers or managerial staff
- 3. **Refusal to Bargain Collectively** with employer (by recognised union)
- 4. **Coercive Activities Against Bargaining Representative Certification**
- 5. **Go-slow or Coercive Work Practices:**
 - **"Go-slow"** – workers **work slowly with less effort** to press demands
 - **Usual standard** defined by prior specified rate or **average of last three months**
- 6. **Demonstrations at Employers' Residences**
- 7. **Wilful Damage to Employer Property**
- 8. **Force, Violence, or Threats** to prevent any worker from attending work

Offences by Companies (Section 88)

General Liability:

If the person committing an **offence** under the Code is a **company**:

Every person in charge of, and responsible to, the company for the conduct of its business, **as well as the company**, shall be deemed **guilty of the offence** and liable to be **proceeded against and punished**.

Defence:

No such person shall be liable if he proves 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:

If an offence is committed by a company with the **consent or connivance of**, or due to **neglect of** any **director, manager, secretary, or other officer**, such person shall also be deemed **guilty of the offence** and **liable to be proceeded against and punished**.

Explanation:

Company includes:
Any **body corporate**
Firm

Limited Liability Partnership
registered under the **LLP Act, 2008**

Other **associations of individuals**

Director in relation to a **firm**
means a **partner** in the firm

Composition of Offences (Section 89)

Composition of Offences (Section 89)

General Rule for Compounding:

Any **offence punishable under the Code** (except those punishable **with imprisonment only** or **with imprisonment and fine**) may be **compounded**

Application for compounding can be made **before or after prosecution**

General Rule for Compounding:

Any **offence punishable under the Code** (except those punishable **with imprisonment only** or **with imprisonment and fine**) may be **compounded**

Application for compounding can be made **before or after prosecution**

Compounding Authority:

Appropriate Government, by notification, may specify a **Gazetted Officer** as the **compounding authority**

Amount of Composition:

50% of maximum fine for offences **punishable with fine only**

75% of maximum fine for offences **punishable with imprisonment $\leq$ 1 year or fine**

Amount credited to **Social Security Fund** under **section 141 of Social Security Code, 2020**

Restriction on Compounding:

Not permissible if the person commits the **same or similar offence a second time** within **three years**:

From the date of **previous compounded offence**, or

From the date of **previous conviction**

Supervisory Control:

Compounding Officer acts under **direction, control, and supervision of the Appropriate Government**

Manner of Application:

Application for compounding must be made in the **prescribed manner**

Compounding Before Prosecution:

No prosecution shall be **instituted** if the offence is **compounded before prosecution**

Compounding After Prosecution:

Compounding officer shall **notify the adjudicating officer** under **section 85(1)**

Upon notice, the **offender shall be discharged**

Failure to Comply with Compounding Order:

Person failing to comply must **pay 20% of maximum fine** in addition to the fine

Restrictive Provision:

Offences punishable under the Code **shall be compounded** according to this section

Chapter-18

Code on Wages, 2019



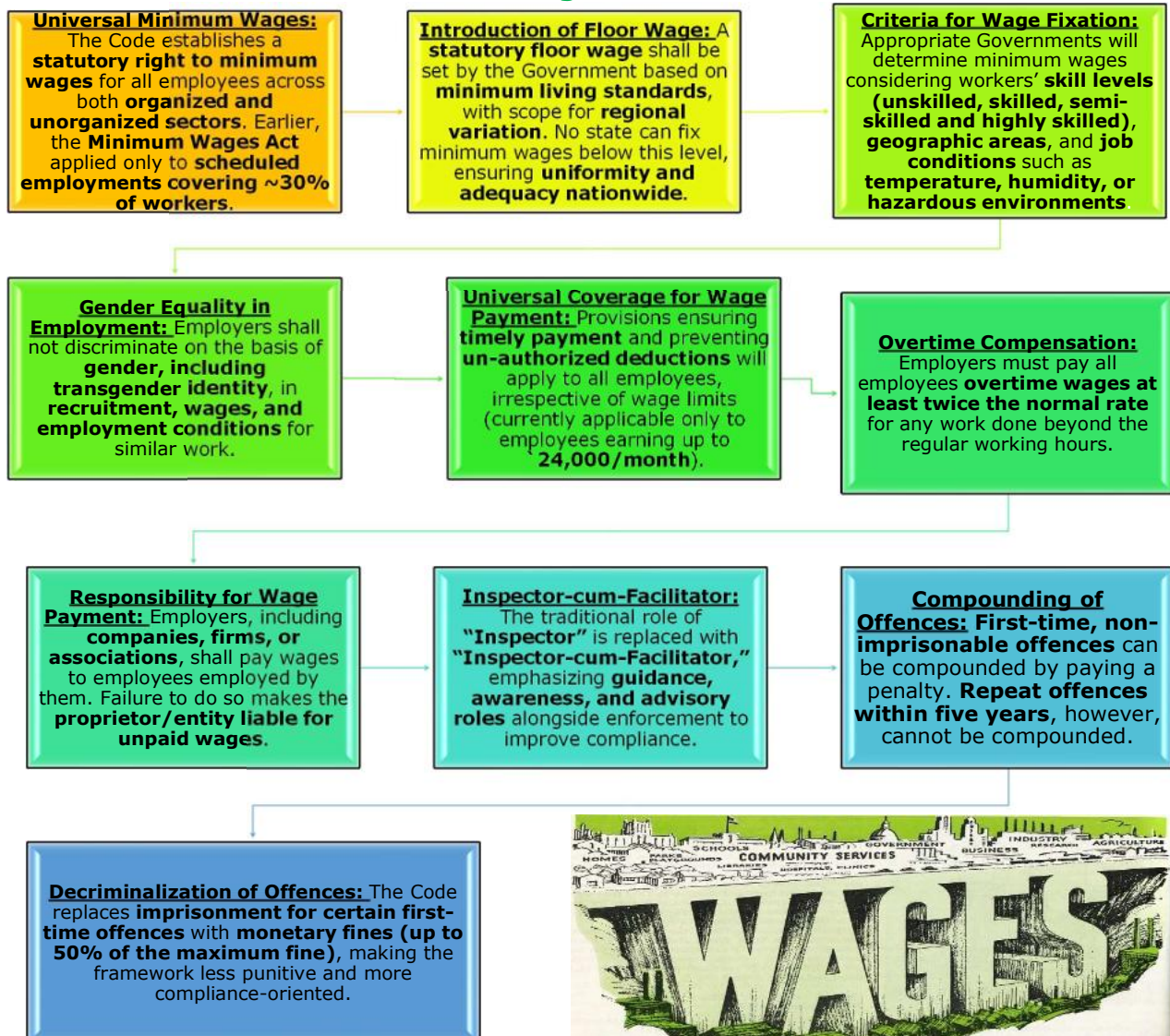
PREAMBLE

An Act to amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental thereto.

INTRODUCTION

- The **Code on Wages, 2019** seeks to **simplify, consolidate, and rationalize** the provisions of four existing laws — **The Payment of Wages Act, 1936; The Minimum Wages Act, 1948; The Payment of Bonus Act, 1965; and 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 on Wages



CHAPTER I – PRELIMINARY

Section 1 of the Code provides for title and applicability of the Code as follows:



- 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: -

Sections 1 to 41
Sub-sections (4) to (9) of section 42
Sections 43 to 66
Sub-Section (1) And Clauses (A) to (R) and (U) TO (ZC) of subsection (2) and Sub-Sections (3) to (5) of section 67
Section 68
Section 69, except the provisions of the code mentioned at serial number 3 of S.O. 4604 (E), dated the 18TH December, 2020

Definitions

Section 2 of the Code provides for **definitions** with the opening words **"unless the context otherwise requires"** as follows:

Term	Definition		
"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— <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Establishment Type</td><td style="text-align: center;">Appropriate Government</td></tr> </table>	Establishment Type	Appropriate Government
Establishment Type	Appropriate Government		

Term	Definition
	Establishment carried on by or under the authority of the Central Government
	Establishment of railways, mines, oil fields, major ports, air transport service, telecommunication, banking, insurance companies
	Corporation or authority established by a Central Act
	Central public sector undertakings (PSUs), their subsidiary companies, or autonomous bodies owned/controlled by the Central Government
	Contractors engaged for the purposes of such establishments, corporations, PSUs, subsidiaries, or autonomous bodies
	Any other establishment
	{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 excluded 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 a**
- iii. **And other welfare benefits** in accordance with the law for the time being in force in such employment.

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**. **{Section 2(g)}**

“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)}
"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.

Special Provisions:

- ☐ **Ceiling on Exclusions:** If payments under clauses (a) to (i) exceed **50% (or such percentage notified by the Central Government) of total remuneration**, the excess shall be deemed as remuneration and accordingly added in wages under this clause. This prevents employers from artificially structuring pay to minimize statutory wage obligations.
- ☐ **Gender Equality Clause:** For the purpose of **equal wages and payment of wages**, certain excluded emoluments specified in clauses (d), (f), (g) and (h) (**conveyance allowance, HRA, remuneration under awards/settlements, overtime allowance**) shall be taken for computation of wage. This ensures parity across genders and prevents discriminatory wage practices.
- ☐ **Remuneration in Kind:** 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**, 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 & Section 4)

- **Equal Wages for Equal Work:** 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.
- **Safeguards Against Wage Reduction and Recruitment Bias:** No **employer** shall—

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

2. 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**.

○ **Exception:** Such discrimination is allowed under the Code 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):** 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**.

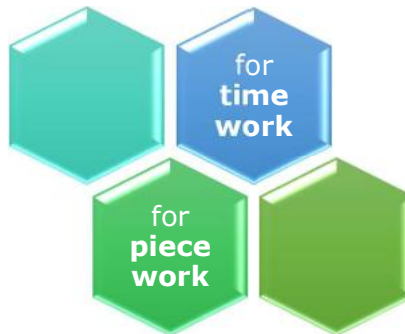
CHAPTER II – MINIMUM WAGES

Payment and Fixation of Minimum Wages (Section 5 & Section 6)

- **Payment of Minimum Rate of Wages (Section 5):** Every **employer** is **mandated** 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):**
 - **Fixation of minimum rate of wages by the appropriate Government:** The **appropriate Government** shall **fix the minimum rate of wages payable** to **employees** in accordance with the provisions of this section.
 - This power is **subject to the provisions of section 9**. {Sub-section (1)}
 - **Types of minimum wages:** For the purposes of sub-section (1), the **appropriate Government** shall fix a **minimum rate of wages**—



- **Minimum rate of wages for piece work-based employees:** 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**.
- **Basis of fixation for time work employees:** The **minimum rate of wages on time work basis** may be fixed in accordance with any one or more of the following **wage periods**:



- **Manner of calculating wages:** Where the **rates of wages** are fixed **by the hour, day, or month**, the **manner of calculating the wages** shall be as **may be prescribed**.

Criteria for Fixation of Minimum Wages: For the purpose of fixation of **minimum rate of wages**, 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, take into account the **arduousness of work** like **temperature, humidity, hazardous occupations or processes, or underground work**, as may be prescribed; and
- (c) the **norms of such fixation** shall be as **may be prescribed**.

- **Minimization of Wage Categories:** The **appropriate Government** shall keep the **number of minimum rates of wages** to be fixed under this section, **as far as possible, at minimum**.

Components of Minimum Wages (Section 7)

1. **Structure of Minimum Wages:** Any **minimum rate of wages** fixed or revised by the **appropriate Government** under **section 8** may consist of:



Basic rate plus Cost of Living Allowance:

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 with the **variation in the cost of living index number** applicable to such **workers** (**cost of living allowance**).

Basic rate plus cash value of concessions:

Basic rate of wages with or without **cost of living allowance**, and the **cash value of concessions** in respect of **supplies of essential commodities** at **concession rates**, where so authorised.

All-inclusive rate:

An **all-inclusive rate** allowing for the **basic rate**, the **cost of living allowance**, and the **cash value of concessions**, if any.

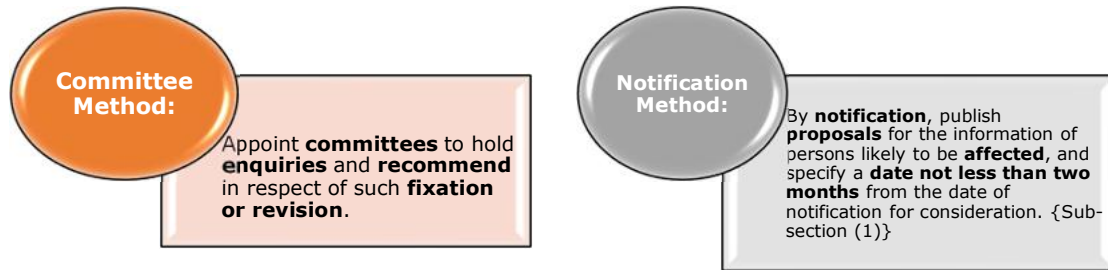
2. **Computation of Cost of Living Allowance and Cash Value of Concessions:**

- **Cost-of-living allowance** and **cash value of concessions** shall be **computed** by such **authority** as the **appropriate Government** may **appoint by notification**, at such **intervals** and in accordance with **directions** specified by the **appropriate Government**.

⚡ The provision ensures that **minimum wages** are a **composite package**, reflecting both **basic remuneration** and **adjustments for cost of living**.

Procedure for Fixing and Revising Minimum Wages (Section 8)

- **Modes of Action by the Appropriate Government:** In **fixing** or **revising minimum rates of wages**, the **appropriate Government** shall either:



- **Tripartite Constitution of the Committee:** Each **committee** appointed shall consist of:

1. Persons **representing employers**;
2. Persons **representing employees**, equal in number to **employer members**;
3. **Independent persons**, not exceeding **one-third of total members**.



- **Notification of Minimum Rates of Wages:**

1. After considering **committee recommendations** or all **representations**, the **appropriate Government** shall **notify its decision**.
2. The **notification** shall **fix** or **revise** the **minimum rates of wages**.
3. The **notification** comes into **force** on the **expiry of three months** from the date of issue unless otherwise specified.
4. The **appropriate Government** must **consult the concerned Advisory Board** constituted under **section 42** when proposing **revisions** under the notification method.

- **Periodic Review or Revision:**

- 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)

1. Fixation of Floor Wage:

- The **Central Government** shall **fix floor wage** taking into account **minimum living standards** of a **worker**, in such **manner as may be prescribed**.
- The **Central Government** has **discretionary power** to fix **different floor wages** for **different geographical areas**.



2. Floor Wage to Meet Threshold of Minimum Wage:

- The **minimum rates of wages** fixed by the **appropriate Government** under **section 6** shall **not be less than the floor wage**.
- If the **minimum rates of wages** fixed earlier are **more than the floor wage**, the **appropriate Government** shall **not reduce** such **minimum rates**.

3. Advisory and Consultation Procedure:

- Before **fixing floor wage**, the **Central Government** may:
 - Obtain the **advice** of the **Central Advisory Board** under **section 42(1)**.
 - **Consult State Governments** in such manner as may be **prescribed**.

Wages of Employee Who Works for Less Than Normal Working Day (Section 10)

1. Minimum Wages for Less Than Normal Working Hours:

- If an **employee** whose **minimum rate of wages** is fixed by the **day** works for **less than the requisite hours** of a **normal working day**, he shall be **entitled to receive wages** as if he had worked a **full normal working day**.

2. Exception:

- **Wages for full day** shall **not** be paid if:
 - The **failure to work** is caused by **unwillingness** of the employee.
 - Other **cases or circumstances** as may be **prescribed**.



Wages for Two or More Classes of Work (Section 11)

- Where an **employee** does **two or more classes of work** with **different minimum rates of wages**, the **employer** shall pay **wages** in respect of **time spent** on each class **at not less than the applicable minimum rate**.

Minimum Time Rate Wages for Piece Work (Section 12)

- Where a **person** is employed on **piece work** for which a **minimum time rate**, and not a **minimum piece rate**, has been fixed, the **employer** shall pay **wages not less than the minimum time rate**.

Fixing Hours of Work for Normal Working Day (Section 13)

1. Power of Appropriate Government to Fix Working Hours:

- The **appropriate Government** may:



2. Modification and Extent of Application in Specific Classes of Work:

- Applies **subject to conditions** for:
 - a) Employees engaged in **emergencies** which could not have been foreseen or prevented;
 - b) Employees performing **preparatory or complementary work** outside general limits.
 - c) Employees with **essentially intermittent employment**.
 - d) Employees engaged in **technical work** that must be **completed before duty ends**.
 - e) Employees working **dependent on irregular natural forces**.

3. Intermittent Employment:

- **Employment** is **essentially intermittent** when declared by the **appropriate Government** that **hours of duty include periods of inaction**.

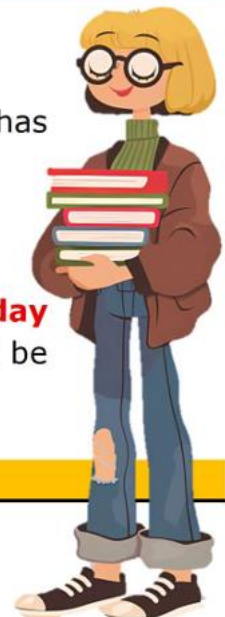
Wages for Overtime Work (Section 14)

1. Applicability:

- Applies to employees whose **minimum rate of wages** has been fixed **by hour, by day, or by longer wage-period**.

2. Overtime Payment:

- When an **employee works in excess** of **normal working day hours**, the **employer** shall pay **overtime rate**, which shall be **not less than twice the normal rate of wages**.



CHAPTER III – PAYMENT OF WAGES

Mode of Payment of Wages (Section 15)

1. Permissible Mode of Payments:	○ 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 electronic mode.
2. Online Mode of Payment Mandatory:	○ The appropriate Government may, by notification, specify industrial or other establishments whose employers shall pay wages only by cheque or by crediting in bank account.

Fixation of Wage Period (Section 16)

The **employer** shall fix the **wage period** for employees as **daily, weekly, fortnightly, or monthly**, subject to the condition that **no wage period** shall be more than **a month**.

Different wage periods may be fixed for **different establishments**.

Time Limit for Payment of Wages (Section 17)

1. Timeframes for Payment:

- **Daily basis:** at the end of the shift.
- **Weekly basis:** on the last working day of the week, i.e., before weekly holiday.
- **Fortnightly basis:** before the end of the second day after the fortnight.
- **Monthly basis:** before the expiry of the seventh day of the succeeding month.

2. Payment of Wages on Removal/Termination:

- Where an **employee** is **removed, dismissed, retrenched, resigned, or became unemployed** due to **closure of establishment**, the **wages** shall be paid within **two working days**.

3. Power Vested in Appropriate Government:

- The **appropriate Government** may provide **any other time limit** for **payment of wages** where **reasonable**.

4. Provisions of Other Laws:

- Nothing in this section shall **affect any time limit** for **payment of wages** under **any other law** in force.

Deductions Which May Be Made from Wages (Section 18)

1. Only Authorized Deductions from Wages:

- **No deductions** shall be made from **wages** except as **authorized under this Code**.

2. Deemed Deduction and Exceptions:

- **Any payment** made by an **employee** to the **employer or agent** is deemed a **deduction**.
- **Not deemed a deduction** where employer provisions meet **requirements specified** by **appropriate Government**, including:
 - Withholding of **increment or promotion**.
 - Reduction to a **lower post or time-scale**.
 - **Suspension**.



3. Permissible Deductions:

- Deductions may be made **only for purposes** stated in this Code:
 - (m) **Fines imposed** on him
 - (n) **Absence from duty**
 - (o) **Damage to or loss of goods** expressly entrusted for **custody**; or **loss of money** required to be accounted for, where directly attributable to **neglect or default**
 - (p) **House-accommodation** supplied by the **employer, appropriate Government, housing board**, or other authority engaged in **subsidising house-accommodation**, as specified by **notification**
 - (q) **Amenities and services** supplied by the employer, as **authorised by the appropriate Government**; deduction **not exceeding** the **value of such amenities and services** ("Services" does not include tools and raw materials required for employment)
 - (r) Recovery of—
 - i. **Advances of whatever nature** (including **travelling allowance or conveyance allowance**), **interest due, or adjustment of overpayment of wages**
 - ii. **Loans from welfare fund** constituted for the **welfare of labour, and interest due**
 - (s) **Loans for house-building** or other approved purposes, and interest due

- (t) **Income-tax, statutory levy, payable** by the employee; or deductions required by **order of a court or competent authority**
- (u) **Subscription to social security fund or scheme**, including **provident fund, pension fund, health insurance scheme**
- (v) Payment to **co-operative society**, subject to conditions imposed by the **appropriate Government**
- (w) With **written authorisation**, payment of **fees and contribution** for membership of a **Trade Union registered under the Trade Unions Act, 1926**
- (x) Recovery of **railway administration losses** due to acceptance of **counterfeit or base coins, mutilated or forged currency notes**
- (y) Recovery of railway losses due to failure to **invoice, bill, collect, or account for charges** such as **fares, freight, demurrage, wharfage, crantage**, sale of food in **catering establishments**, or commodities in **grain shops**
- (z) Recovery of railway losses due to **rebates or refunds incorrectly granted, directly attributable to neglect or default**
- (aa) With **written authorisation**, contribution to the **Prime Minister's National Relief Fund** or any other fund specified by **Central Government notification**

4. Maximum Ceiling on Quantum of Deduction:

- Total deductions in a **wage period** shall **not exceed 50% of wages**.

5. Recovery of Excess Deduction:

- Any **excess** may be **recovered in the manner prescribed**.

6. Consequences of Failure to Deposit Deductions:

- If **deductions** are made but **not deposited** in **trust, Government fund, or other account**, the **employee** shall **not be held responsible** for the **employer's default**.

Fines (Section 19)

1. Mandatory Approval Before Imposing Fine:

- No **fine** shall be imposed on any **employee** except in respect of acts and omissions approved by the **appropriate Government** or prescribed **authority** under **sub-section (2)**.

2. Display of Notice:

- A **notice** specifying such **acts and omissions** shall be exhibited in a **prescribed manner** on the **premises** where employment is carried on.

3. Reasonable Opportunity of Being Heard:



- No **fine** shall be imposed until the **employee** has been given an **opportunity to show cause** or in accordance with **prescribed procedure**.

4. Maximum Ceiling on Fine:

- Total **fine** in any **wage-period** shall not exceed **3%** of **wages payable** for that **period**.

5. Age Ceiling on Fine:

- No **fine** shall be imposed on an **employee under 15 years** of age.

6. Time Period and One-Time Recovery of Fine:

- No **fine** shall be recovered in **installments** or after **90 days** from imposition.

7. Enforcement of Fine:

- Every **fine** is deemed imposed on the **day of the act or omission** for which it was imposed.

8. Register of Fines and Utilisation of Realisations:

- All **fines** and **realisations** shall be **recorded in a register** as prescribed.
- Realisations shall be used only for purposes **beneficial to employees** and approved by the **prescribed authority**.

Deductions for Absence from Duty

Section 20 lays down the **circumstances** under which **deductions from wages** may be made for **absence from duty**. It ensures deductions are **proportionate, lawful**, and not **misused**, while addressing **collective absenteeism** and **strike-related conduct**.

1. Conditions for Deductions

- Deductions may be made under **clause (b) of sub-section (2) of section 18**.
- Only on account of **absence of an employee** from the **place or places of work**.
- The place must be where, under the **terms of employment**, he is **required to work**.
- Absence may be for the **whole** or **any part of the period** during which he is required to work.

2. Proportionate Time Deduction

- Deduction shall be **proportionate** to the **period of absence**.
- The deduction shall not bear a **larger proportion** to wages than:
 - The **period of absence** bears to
 - The **total period within the wage-period** during which he was required to work.
- Ensures **no excessive deduction** beyond actual absence.

3. Deductions in Case of Collective Absenteeism

- Applicable when **ten or more employed persons** act **in concert**.

- They absent themselves **without due notice** (as required under the **contract of employment**).
- Absence must also be **without reasonable cause**.
- Deduction may include an amount **not exceeding eight days' wages**, as may be due to the employer **in lieu of notice**.
- Subject to **rules made by the appropriate Government**.

4. Deemed Absence (Stay-in Strike Situation)

- An employee is deemed **absent from the place of work** if:
 - Though **physically present**, he **refuses to carry out his work**.
 - Refusal is due to a **stay-in strike** or
 - Any other cause that is **not reasonable in the circumstances**.

Deductions for Damage or Loss (Section 21)

Section 21 regulates **deductions from wages** where an employee has caused **damage or loss** to the employer. It ensures deductions are **fair, limited**, and follow **procedural safeguards**.

1. Limitations on Deductions

- Deduction under **clause (c) or clause (n) of sub-section (2) of section 18**.
- Applicable in cases of **damage or loss** caused to the employer.
- Deduction shall **not exceed the amount of the damage or loss**.
- Damage or loss must be due to **negligence or default of the employee**.



2. Procedure Before Making Deduction

- No deduction shall be made until the employee is given an **opportunity of showing cause** against the proposed deduction.
- Deduction must be made only in accordance with the **prescribed procedure**.
- Ensures **principles of natural justice** and **fair hearing**.

3. Recording of Deductions

- All such deductions and **realisations thereof** must be:
 - **Recorded in a register**.
 - Maintained in the **prescribed form**.
- Ensures **transparency** and **proper documentation**

Deductions for Services Rendered (Section 22)

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:

Mandatory acceptance of amenities by employee before deduction:

- 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)

Section 23 provides for **deductions from wages** for the **recovery of advances made to employees** as follows:

Pre-conditions of deductions:

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 before the employment began** shall be made from the **first payment of wages** 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 after the employment began** shall be subject to such **conditions as may be prescribed**;
- (c) Recovery of **advances of wages not already earned** shall be subject to such **conditions as may be prescribed**.

Deductions for Recovery of Loans (Section 24)

1. Scope of Application:

- Applies to **deductions under Section 18(2)(g) for loans for house-building or approved purposes**.

2. Coverage:

- Includes **extent of loans** and **rate of interest payable**.



Chapter Not to Apply to Government Establishments (Section 25)

General law is that the Government establishments are excluded from the scope of this Chapter.

The appropriate Government may, however, extend the provisions to specified Government establishments through a notification.

CHAPTER IV – PAYMENT OF BONUS

Eligibility of Employee to Receive Bonus (Section 26)

1. Twin Condition for Eligibility:

- Every **employee** fulfilling the following conditions shall be paid **bonus** by the **employer**:
 - Drawing **wages not exceeding** the amount per mensem as determined by **notification** of the **appropriate Government**.
 - Has put in at least **thirty days' work** in an **accounting year**.

2. Minimum Bonus Payable:

- An annual **minimum bonus** of **8⅓%** of the **wages earned** or **₹100**, whichever is higher, shall be payable **regardless of allocable surplus** during the previous accounting year.

Bonus for Higher Wage Employees:

- For employees whose **wages exceed** the amount per mensem as notified, **bonus** under sub-sections (1) and (3) is calculated as if the **wage** were the **higher of**:
 - The amount determined by the **appropriate Government**, or
 - The **minimum wage** fixed by the **appropriate Government**.

Bonus Linked to Allocable Surplus:

- If **allocable surplus** exceeds the **minimum bonus**, the employer is bound to pay **bonus** in proportion to **wages earned**, subject to a **maximum of 20%** of such wages.



Amount to be Set Off in Computing Allocable Surplus:

- While computing **allocable surplus**, the **amount set on or set off** under **Section 36** shall be taken into account.

Productivity-Linked Bonus:

- Any demand for **bonus beyond statutory minimum** based on **production or productivity** shall be determined by **agreement or settlement** between employer and employees.
- Total **bonus**, including minimum bonus, shall **not exceed 20% of wages earned** in the accounting year.

Special Provisions for New Establishments (Section 26)

The **bonus** in a **newly set up establishment** is computed following the **accounting year** in which the employer **sells goods produced or manufactured** or **renders services** from such establishment.

1. First Five Accounting Years

- ⇒ **Bonus shall be payable** only in respect of the **accounting year** in which the employer **derives profit** from such establishment.
- ⇒ Such bonus shall be calculated in accordance with the **provisions of this Code**, but **without applying section 36**.

2. Sixth and Seventh Accounting Years

The **provisions of section 36** shall apply subject to the following modifications:

- ⇒ **Sixth accounting year** – **Set on or set off** shall be made in the manner prescribed by the **Central Government**, taking into account the **excess or deficiency of allocable surplus** set on or set off in respect of the **fifth and sixth accounting years**.
- ⇒ **Seventh accounting year** – **Set on or set off** shall be made in the prescribed manner, taking into account the **excess or deficiency of allocable surplus** set on or set off in respect of the **fifth, sixth and seventh accounting years**.

3. From the Eighth Accounting Year

- ⇒ From the **eighth accounting year**, the **provisions of section 36** shall apply in relation to such establishment as they apply to **any other establishment**.

4. When Profits are Deemed to be Derived (Explanation 1)

An employer shall not be deemed to have derived **profit** unless:

- i. Provision has been made for **depreciation** under the **Income-tax Act** or **agricultural income-tax law**; and
- ii. **Arrears of depreciation and losses** of previous accounting years have been **fully set off against profits**.

5. Sale of Trial Production Not to be Considered (Explanation 2)

- ⇒ **Sale of goods produced during trial running of a factory**, or during the **prospecting stage of a mine or oil-field**, shall not be taken into consideration.
- ⇒ If any question arises, the **appropriate Government**, after giving a **reasonable opportunity of representation**, shall decide the issue.

6. Applicability to New Units of Existing Establishments

- ⇒ The provisions relating to **newly set up establishments** shall, as far as may be, apply to **new departments, undertakings or branches** set up by **existing establishments**.

Proportionate Reduction in Bonus (Section 27)

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:

1. Proportionate Reduction:

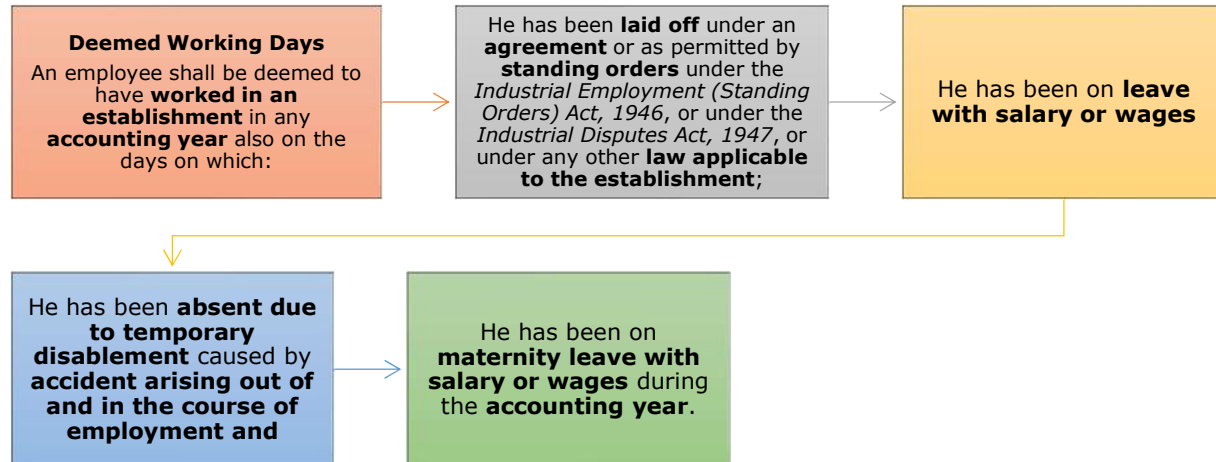
- If an **employee has not worked all working days** in an accounting year, **minimum bonus** under Section 26(1) shall be **proportionately reduced**.

2. Applicability:

- Reduction applies only if **bonus** is **higher than 8⅓%** of **salary or wage** for days worked in the accounting year.

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)**.



Disqualification for Bonus (Section 29)

Grounds of Disqualification:

Notwithstanding anything in this Code, an **employee shall be disqualified** from receiving **bonus** if dismissed from service for:



Establishments Include Departments, Undertakings, and Branches (Section 30)

1. Treatment of Multiple Branches for Bonus:

- Where an **establishment** consists of **different departments, undertakings, or branches**, whether in the **same place or different**

places, all shall be treated as **parts of the same establishment** for **bonus computation**.

2. Exception:

- If a **separate balance sheet** and **profit and loss account** are maintained for any department, undertaking, or branch for an **accounting year**, it shall be treated as a **separate establishment** for **bonus computation** for that year.
- Such separate treatment is applicable only if it was **part of the establishment** before the commencement of that accounting year.

Payment of Bonus out of Allocable Surplus (Section 31)

1. Allocable Surplus:

- Bonus shall be paid from **allocable surplus**, which is:
 - **60%** of available surplus for a **banking company**.
 - **67%** of available surplus for **other establishments**.

2. Available Surplus:

- Calculated in accordance with **Section 33**.

3. Reliability of Audited Accounts:

- **Audited accounts** of companies shall **not normally be questioned**.

4. Resolution of Dispute:

- For disputes regarding **bonus quantum**, the **authority notified** by the **appropriate Government** may call the **employer's balance sheet**.
- Information in the balance sheet shall **not be disclosed** unless agreed by the employer.

Computation of Gross Profits (Section 32)

1. Gross Profits:

- Derived by an **employer** from an **establishment** for the **accounting year**:

In the case of a banking company, be calculated in the manner as may be prescribed by the Central Government;

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:
- **Computation of available surplus:** 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—**
 - (e) the **gross profits** for that **accounting year** after **deducting** therefrom the **sums referred to in section 34**; and
 - (f) 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:—

Depreciation: 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;

Direct Tax: 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;

Other prescribed sum: 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—

Carried forward loss

Arrears of depreciation

- (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:

Set On (Excess Surplus)

- 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**.

Set Off (Deficiency in Surplus)

- 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**.

Rules prescribed by the Central Government

- 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.

Carried forward amount to be considered first

- Where in any **accounting year** any **amount has been carried forward and set on or set off**, 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:
- 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 any **accounting year** where he:
 - (a) has paid any **puja bonus** or other **customary bonus** to an **employee**; or
 - (b) has paid a **part of the bonus payable under this Code** to an **employee** before the **date on which such bonus becomes payable**.
- 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:



Time limit and payment of bonus through banking channels

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**.

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 exceed two years**.

Time limit for payment of disputed bonus

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

Applicability of Chapter in competitive cases

- **Section 40** of the Code provides that 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** where 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.

Non applicability of chapter in other PSUs

- Save as otherwise provided in sub-section (1), **nothing in this Chapter** shall **apply** to the **employees** employed by any **establishment in public sector**.
- **Section 40** provides for the **limited circumstances** under which **bonus provisions** apply to **public sector establishments**.
- It distinguishes between **public sector entities engaged in competitive commercial activity** and those functioning primarily for **public service**, thereby balancing **employee rights** with the **unique nature of public enterprises**.

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:

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.**



Establishments where provisions of the Chapter are applicable

- 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:



□ Central Advisory Board

○ Appointing authority and constitution

- The **Central Government** shall constitute the **Central Advisory Board** which shall consist of persons to be **nominated by the Central Government**:

Representing **employers**;

Representing **employees**, equal in number to the members specified in the above clause;

Independent persons, not exceeding **one-third** of the total members of the **Board**; and

Five representatives of such **State Governments** as may be nominated by the **Central Government**.

○ Women representative and Chairperson

- One-third** of the members referred above shall be **women**, and a member specified in the **independent persons clause** shall be **appointed by the Central Government as the Chairperson** of the **Board**.

□ Advisory role of the Central Advisory Board

- The **Central Advisory Board** so constituted shall, from time to time, **advise the Central Government** on reference of issues relating to—
 - Fixation or revision of minimum wages** and other connected matters;
 - Providing **increasing employment opportunities for women**;
 - The extent to which **women may be employed** in such **establishments or employments** as the **Central Government** may, by **notification**, specify; and
 - Any **other matter relating to this Code**.

□ Directions by the Central Government

- 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**.

□ **State Advisory Board**

○ **Appointing authority and constitution**

- 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; and
 - (d) in any **other matter relating to this Code**, which the **State Government** may refer from time to time to the **Board**.
- The **State Advisory Board** may constitute **one or more committees or sub-committees** to look into issues pertaining to matters specified above.

○ **Composition of State Advisory Board**

- The **State Advisory Board** and each of the **committees and sub-committees** thereof shall consist of persons:

representing **employers**;

representing **employees**, equal in number to the members specified in clause (a); and

independent persons, not exceeding **one-third** of the total members of the **Board** or **committee** or **sub-committee**.

□ **Women composition and Chairperson of State Advisory Board**

- One-third** of the members referred to in sub-section (6) shall be **women**, and one among the members specified in **independent persons clause** 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.

□ **Factors to be considered in advisory role**

- In tendering its **advice** in the matters specified in clause (b) or clause (c), 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.

□ **Issue of Directions by the State Government**

- The **State Government** may, after considering the **advice tendered** by the **State Advisory Board** and after inviting and considering **representations from establishments, employees, or any other person**, issue such **directions** as may be deemed necessary.

□ **Regulation of Procedure**

- 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**.

□ **Terms of the Advisory Board**

- 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**.

EASY TO REMEMBER

Central Government → Constitutes Central Advisory Board	State Government → Constitutes State Advisory Board
Composition: - Employers representatives - Employees representatives (equal to employers) - Independent persons ($\leq 1/3$ of total members) - 5 State Government representatives □ Women: 1/3 members are women □ Chairperson: One independent person appointed by CG Advisory Role: Advises CG on • Minimum wages & revisions • Employment opportunities for women • Extent of women employment in notified establishments • Any other matter under the Code Directions: CG may issue directions to State Governments	Composition: - Employers representatives - Employees representatives (equal to employers) - Independent persons ($\leq 1/3$ of total members) □ Women: 1/3 members are women □ Chairperson: - Board: appointed by SG - Committee/Sub-committee: appointed by SAB Advisory Role: Advises SG on - Minimum wages & revisions - Increasing women employment - Extent of women employment in notified establishments

	- Any other referred matter Factors Considered: - Number of women employed - Nature of work - Hours of work - Suitability for employment - Part-time employment opportunities - Other relevant factors ☐ Directions: SG may issue directions after considering advice & representations ☐ Regulation & Terms: - CAB & SAB regulate own procedure - Terms of office as prescribed
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CHAPTER VI – PAYMENT OF DUES, CLAIMS AND AUDIT

Responsibility for payment of various dues (Section 43)

Obligation of employer

- Every **employer** shall **pay all amounts required to be paid** under this Code to **every employee** employed by him.

Consequences of failure to pay

- Where such **employer fails** to make such **payment** in accordance with this Code, then, the **company, firm, 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)

To whom payment is to be made

- 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 reason 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**.

Discharge of employer

- 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)

□ Appointment of authorities

- 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.

□ Compensation and Timelines

- 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**.

□ Recovery Mechanism

- If an **employer fails** to pay the **claim determined** and **compensation ordered**, 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** shall recover the same as **arrears of land revenue** and **remit the same** to the **authority** for payment to the **concerned employee**.

□ Who can file application for claim

- Any **application** before the **authority** for **claim** 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**.□ **Single application for collective claims**

- 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**.

□ **Limitation Period for filing application**

- Such **application** may be filed within a period of **three years** from the **date on which claims** referred in the section **arise**.
- **Discretionary power:** The **authority** may **entertain the application after three years** on **sufficient cause** being shown by the applicant for such **delay**.

□ **Powers of Civil Court**

- The **authority appointed** under 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;**
 - **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 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—

Fixation of bonus or eligibility for payment of bonus under the provisions of this Code; or

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:

□ **Presumption of accuracy of financial statements**

- 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 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**,
- 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** if such **financial statements** are—
 - **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**.
- Then, it shall not be necessary for the **corporation** or the **company to prove the accuracy** of such statements and particulars by **filing an affidavit** or by any other mode.

□ **Measures in case of inaccuracy of financial statements**

- 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.

□ **Directions by the authority in case of clarification sought by Trade Union or employees**

- **Subject and parties to the application for clarification**
 - Following can make **application** requiring any **clarification** relating to any item in the **balance sheet** or the **profit and loss account**—
 - (i) Any **Trade Union** being a **party to the dispute** or an **appeal**, as the case may be; and
 - (ii) Where there is **no Trade Union**, by the **employees** being a **party to the dispute** or an **appeal**, as the case may be.
- **To whom application is to be made**
 - An **application** in this respect shall be made to the **authority, appellate authority, Tribunal, or arbitrator**, before whom the **dispute** or **appeal** is **pending**, as the case may be.

- **Directions by the concerned authority**
- 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**.
- 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

Application of section 47 for non-corporate employer

- 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**.



Direction to such employer to get accounts audited

- 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**.

Failure to get accounts audited

- Where such **employer fails** to get the **accounts audited** in pursuance of the **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.

Applicability of section 47

- 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**.

Expenses of audit

- 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**;
- 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

□ Right to Appeal

- 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 **appeal** shall be made within **ninety days** from the **date of such order**, in such **form and manner** as may be **prescribed**.
- 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**.



□ Appointment of appellate authority

- 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**.

□ Disposal of Appeals

- 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)

□ Maintenance of Register by employer

- 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**.

□ Display of notice

- 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**.

□ Issue of wage slip

- Every **employer** shall **issue wage slips** to the **employees** in such **form and manner** as may be **prescribed**.

□ Exemption for Small Employers

- 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**.
- Such **employer**, when **demande**d, shall **produce before the Inspector-cum-Facilitator** the **reasonable proof** of the **payment of wages** to the persons so employed.
- **Explanation:** For the purposes of this sub-section, the expression "**domestic purpose**" means the purpose **exclusively relating to the home or family affairs of the employer** and does **not include** any affair relating to any **establishment, industry, trade, business, manufacture** or **occupation**.

CHAPTER VII – INSPECTOR-CUM-FACILITATOR

Appointment of Inspector-cum-Facilitators and their powers

□ Appointment of Inspector-cum-Facilitators:

- The **appropriate Government** may, by **notification**, appoint **Inspector-cum-Facilitators** for the purposes of this **Code**.
- He 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.



□ Inspection Scheme:

- 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**.

□ Randomised Selection:

- 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**.

□ Deemed public servant:

- 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**.

□ Role of the Inspector-cum-Facilitator:

- The **Inspector-cum-Facilitator** may—



□ Powers:

- Subject to the above provisions, the **Inspector-cum-Facilitator** may—
 - 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;
 - require any person** to give any **information**, which is in his power to give, with respect to the **names and addresses** of the persons;
 - 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**;
 - bring to the notice** of the **appropriate Government defects or abuses** not covered by any law for the time being in force; and
 - exercise such other powers** as may be **prescribed**.

□ Obligation to comply with orders of the Inspector-cum-Facilitator:

- 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.**

□ Application of provisions of CrPC:

- 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.

Offences by Companies

Who is liable in case of offence committed by a company under the Code:

- 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.**
- Defence for officer in charge:** 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.**

Liability for connivance, consent or negligence in committing an offence:

- In addition to general **liability of officer in charge**, the **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**—
 - 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, such **director, manager, secretary or other officer** of the **company.**

Explanation.— For the purposes of this section—

(a) "**company**" means any **body corporate** and includes—

- a **firm**; or
- a **limited liability partnership** registered under the **Limited Liability Partnership Act, 2008**; or
- other **association of individuals**; and

(b) "**director**" in relation to a **firm** means a **partner in the firm.**

Composition of Offences

Requisites of compounding of offence under the Code:

- 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
 - **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**.

Compounding not permissible:

- 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—
 - (i) of **commission of a similar offence** which was **earlier compounded**;
 - (ii) of **commission of similar offence** for which such **person** was **earlier convicted**.

Exercise of compounding power:

- 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**.

Application for compounding:

- Every **application** for the **compounding of an offence** shall be made in such **manner** as may be **prescribed**.

Consequences after compounding of offence:

- 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 **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**.

Punishment for failure to comply with order of officer:

- 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 (25%) of the maximum fine** provided for the **offence**, in addition to such **fine**.

Offence under the code to be compounded only in accordance with above provisions:

- **No offence** punishable under the provisions of this **Code** shall be **compounded except under and in accordance with the provisions of this section.**

Chapter-19

Code on Social Security, 2020



SOCIAL SECURITY

INTRODUCTION

- The Code on Social Security incorporates existing **nine Social Security Acts** viz; The Employee's Compensation Act, 1923; The Employees' State Insurance Act, 1948; The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; The Maternity Benefit Act, 1961; The Payment of Gratuity Act, 1972; The Cine-Workers Welfare Fund Act, 1981; The Building and Other Construction Workers' Welfare Cess Act, 1996 and; The Unorganised Workers' Social Security Act, 2008.
- The Code extends **social security to all workers**- including **unorganized, gig, and platform workers** covering **life, health, maternity, and provident fund benefits**, while introducing **digital systems and facilitator-based compliance** for greater efficiency.
- The Code on Social Security, 2020 represents a **significant reform** in India's **labour welfare framework**, aimed at ensuring **comprehensive and inclusive social protection** for all sections of the workforce.

Salient Features of Social Security Code

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.

Preamble

An Act to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors and for matters connected therewith or incidental thereto.

Preliminary

- ☐ **Section 1(3)** states that the Code on Social Security shall come into force on such date as the **Central Government** may, by notification in the **Official Gazette**, appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.
- ☐ The **Central Government** vide its notification dated **21 November 2025** notified the commencement of:

- Sections **1 to 14**
- Sections **15 (1) & (2)**
- Section **16(1)(c)**
- Sections **17 to 141**
- Section **143 (with exception)**
- Sections **144 to 163**
- **Specified parts of Section 164**

□ According to the **Section 1(4)** of the Code the applicability of the **Chapters specified in columns (1) and (2) of the First Schedule** mentioned below shall, without prejudice to the applicability of the other provisions of this Code, be such as is specified in corresponding entry in column (3) of that Schedule.

The First Schedule [See sections 1(4), (8) and 152 (1)]
Applicability

Chapter No.	Chapter Heading	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

Chapter No.	Chapter Heading	Applicability
		(b) every shop or establishment in which 10 or more employees are employed, or were employed, on any day of the preceding 12 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 10 or more employees are employed, or were employed, on any day of the preceding 12 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.

Section 1(5) to 1(8) – Applicability of Chapters III & IV

- **Section 1(5):**

- If the **employer and majority of employees agree**, the **Central Provident Fund Commissioner** may, by **notification**, apply **Chapter III (Employees' Provident Fund)** to the establishment from the date of agreement or a later date specified. ☒
- If the employer desires to **exit Chapter III**, he may apply to the **Central Provident Fund Commissioner**, who shall, if satisfied about the

agreement with majority of employees, make **Chapter III inapplicable** under prescribed conditions. ✕

• **Section 1(6):**

- **Central Government** may, after giving **at least 2 months' notice**, by **notification**, apply the **Code provisions** to any establishment employing **not less than a specified number of persons**. ⌚

• **Section 1(7):**

- If the **employer and majority of employees agree**, the **Director General of the Corporation** may, by **notification**, apply **Chapter IV (Employees' State Insurance)** to the establishment from the date of agreement or a later date specified. ☑
- If the employer desires to **exit Chapter IV**, he may apply to the **Director General**, who shall, if satisfied about the agreement with majority of employees, make **Chapter IV inapplicable** under prescribed conditions. ✕

• **Section 1(8):**

- Once any **Chapter of the Code** is applied to an establishment, it **continues to apply even if the number of employees later falls below the threshold** in the **First Schedule**. 🔒

DEFINITIONS

Section 📖 Term / Definition Points

Section 2(1)	Agent 🧑	☐ "Agent" when used in relation to an establishment, means every person, whether appointed as such or not. ☐ Acting or purporting to act on behalf of the owner. ☐ Takes part in the management, control, supervision or direction of such establishment or part thereof.
Section 2(2)	Aggregator 🏢	☐ Aggregator means a digital intermediary or platform. ☐ Connects customers with service providers working independently. ☐ Examples: Uber, Ola, Zomato, Swiggy, Urban Company.
Section 2(3)	Appropriate Government 🏛️	(a) Central Government: • In relation to an establishment carried on by or under the authority of the Central Government. • Concerning any controlled industry as specified by notification by the Central Government. • Establishment of railways including metro railways, mines, oil field, major ports, air

transport service, telecommunication, banking and insurance company.

- A corporation or other authority established by a Central Act.
- Central public sector undertaking or subsidiary companies set up by such undertakings.
- Subsidiary companies set up by the principal undertakings.
- Autonomous bodies owned or controlled by the Central Government.
- Establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, subsidiary companies or autonomous bodies.
- Any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government.
- Establishment having departments or branches in more than one State.

(b) State Government:

In relation to any other establishment, the State Government.

Explanation 1 Metro Railway 

"Metro railway" means the metro railway as defined in sub-clause (i) of clause (1) of section 2 of the Metro Railways (Operation and Maintenance) Act, 2002.

Explanation 2 Central Government as Appropriate Government 

- The Central Government shall continue to be the appropriate Government for the central public sector undertakings.
- Even if the holding of the Central Government reduces to less than fifty per cent equity in that public sector undertaking after the commencement of this Code.

Section 2(6) Building or Other Construction Work 

- 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, aqueducts, pipelines, towers, cooling towers, transmission towers.
- Such other work as may be specified by the Central Government by notification.

Does not include:

- Building or other construction work related to any factory or mine.
- Work employing less than ten workers in the preceding twelve months.
- Work related to own residential purposes of an individual or group of individuals for their own residence.
- Where the total cost of such work does not exceed fifty lakhs rupees or such higher amount.
- Employing more than such number of workers as may be notified by the appropriate Government.

Section 2(7) **Building Worker**

- A person employed to do any skilled, semi-skilled or unskilled, manual, technical or clerical work.
- Work is for hire or reward.
- Terms of employment may be express or implied.
- Work is in connection with any building or other construction work.
- Does not include a person employed mainly in managerial, supervisory or administrative capacity.

Section 2(9) **Career Centre**

- Any office including employment exchange, place or portal.
- Established and maintained in the manner prescribed by the Central Government.
- Provides career services including registration, collection and furnishing of information.
- Information may be maintained by keeping registers or otherwise.
- Services may be provided manually, digitally, virtually or through any other mode.

May relate to:

- Persons who seek to employ employees.
- Persons who seek employment.

		• Occurrence of vacancies. • Persons who seek vocational guidance and career counselling or guidance to start self-employment.
Section 2(17)	Completed Year of Service 📅	"Completed Year of Service" means continuous service for twelve months.
Section 2(18)	Confinement 👶	• "Confinement" means labour resulting in the issue of a living child. • Labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead.
Section 2(19)	Contract Labour 👤	• A worker who shall be deemed to be employed in or in connection with the work of an establishment. • Hired in or in connection with such work by or through a contractor. • With or without the knowledge of the principal employer. • Includes inter-State migrant worker. • Does not include an employee (other than part-time employee) who is regularly employed by the contractor for any activity of his establishment. • Employment governed by mutually accepted standards of the conditions of employment including engagement on permanent basis. • Gets periodical increment in pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment.
Section 2(20)	Contractor 👤	In relation to an establishment means a person who – - 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. - Supplies contract labour for any work of the establishment as mere human resource. Includes a sub-contractor.
Section 2(21)	Contribution 💰	• Means the sum of money payable by the employer under this Code. • Payable to the Central Board and to the Corporation, as the case may be. • Includes any amount payable by or on behalf of the employee in accordance with the provisions of this Code.
Section 2(24)	Dependant 👪	Relatives of deceased employee: (a) Widow, minor legitimate or adopted son, unmarried legitimate or adopted daughter, or widowed mother.

- For Chapter IV, 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 earnings of the employee at the time of death:

- Legitimate or adopted son or daughter who has attained the age of eighteen years and who is infirm.
- For Chapter IV the word "eighteen" shall be deemed substituted by "twenty-five".(c) If wholly or partly dependent on earnings of the employee at the time of death:
 - Widower.
 - Parent other than a widowed mother.
 - Minor illegitimate son, unmarried illegitimate daughter, or daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor.
 - Minor brother, unmarried sister or widowed sister if a minor.
 - Widowed daughter-in-law.
 - Minor child of a pre-deceased son.
 - Minor child of a pre-deceased daughter where no parent of the child is alive.
 - Grandparent if no parent of the employee is alive

Explanation:

- For 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(26)

Employee 

- Any person other than an apprentice engaged under the Apprentices Act, 1961.
- Employed on wages by an establishment either directly or through a contractor.
- Work may be skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work.
- Terms of employment may be express or implied.
- Includes a person declared to be an employee by the appropriate Government.
- Does not include any member of the Armed Forces of the Union.

Proviso 1: For Chapter III (except Employees' Provident Fund Scheme) and Chapter IV, employee means such

employee drawing wages less than or equal to the wage ceiling notified by the Central Government and includes such other persons as notified.

Proviso 2: For counting employees for coverage of an establishment under Chapter III and Chapter IV, employees whose wages are more than the wage ceiling shall also be taken into account.

Proviso 3: For Chapter VII, employee means only such persons as specified in the Second Schedule and such other persons as the Central Government or the State Government may add to the Schedule by notification.

Section
2(27)

Employer 

- 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.
- Where establishment is carried on by department of Central or State Government, the authority specified by the head of such department or the head of the department.
- In relation to establishment carried on by a local authority, the chief executive of that authority.

Includes:

- In relation to a factory – the occupier of the factory.
- In relation to mine – the owner, agent or manager having requisite qualification and appointed by the owner or agent.
- In relation to any other establishment – the person or authority having ultimate control over the affairs of the establishment, or manager or managing director.
- Contractor.
- Legal representative of a deceased employer.

Section
2(28)

**Employment
Injury** 

- Personal injury to an employee caused by accident or occupational disease.
- Arising out of and in the course of his employment.

i. For the purposes of Chapter IV:

- If the employee is an insured or insurable employee under section 28.
- Accident occurs or occupational disease is contracted within or outside the territorial limits of India.

ii. For the purposes of Chapter VII:

Accident occurs or occupational disease is contracted within or outside the territorial limits of India.

Section
2(29)

Establishment 🏢

- A place where any industry, trade, business, manufacture or occupation is carried on.
- A factory, motor transport undertaking, newspaper establishment, audiovisual production, building and other construction work or plantation.
- 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(30)

Executive Officer 👤

Means such officer of the appropriate Government as may be notified by that Government for the purposes of Chapter XIII.

- Includes an officer authorised in writing by such executive officer to discharge his duties under that Chapter.

Section
2(31)

Exempted Employee 📄

- For the purposes of Chapter III, means an employee to whom any of the schemes referred to in section 15 would have applied but for the exemption granted under this Code.
- For the purposes of Chapter IV, means an employee whose wage is specified in the notification by the Central Government and who is not liable to pay employee's contribution.

Section
2(32)

Factory 🏭

- Any premises including the precincts thereof.
 - a) Where 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 carried on with the aid of power or is ordinarily so carried on.
 - b) Where 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 carried on without the aid of power or is ordinarily so carried on.

Does not include:

- A mine.
- A mobile unit belonging to the Armed Forces of the Union.
- Railways running shed.
- A hotel, restaurant or eating place.

	Explanation 1: For computing the number of employees, all the employees in different groups and relays in a day shall be taken into account. Explanation 2: The mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises shall not be construed as factory if no manufacturing process is carried on in such premises.
Section 2(33) Family 🧑🏻🧑🏻🧑🏻	Relatives of an employee or an unorganised worker include: - A spouse. - A minor legitimate or adopted child dependent upon the employee or unorganised worker. - A child wholly dependent on the earnings of the employee or unorganised worker and who is: - Receiving education till he attains the age of twenty-one years. - An unmarried daughter. - A child who is infirm due to physical or mental abnormality or injury and wholly dependent on the earnings of the employee or unorganised worker 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. - If the employee or unorganised worker is unmarried and parents are not alive, a minor brother or sister wholly dependent upon the earnings of the insured person.
Section 2(34) Fixed Term Employment 📅	Engagement of an employee on the basis of a written contract of employment for a fixed period. Provided that: - 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 similar nature. - 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 even if the period of employment does not extend to the required qualifying period.
Section 2(35) Gig Worker 🧑🏻💻	A person who performs work or participates in a work arrangement.

	Earns from such activities outside of traditional employer-employee relationship.
Section 2(35) Home-Based Worker 	- 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(41) Inter-State Migrant Worker  	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. - Has come on his own from one State and obtained employment in an establishment of another State (destination State) or has subsequently changed the establishment within the destination State. - Under an agreement or other arrangement for such employment. - 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(42) Manufacturing Process  	Means any process for – - 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. - Pumping oil, water, sewage or any other substance. - Generating, transforming or transmitting power. - 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. - Constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels. - Preserving or storing any article in cold storage. - Such other activities as the Central Government may notify.

Section 2(52) Occupier 	In respect of a factory means the person who has ultimate control over the affairs of the factory. Provided that: - In the case of a firm or association of individuals – any one of the individual partners or members. - 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. - In the case of a factory owned or controlled by the Central Government, State Government or local authority – the person or persons appointed to manage the affairs of the factory by such Government or authority shall be deemed to be the occupier. Provided further: - In case of a ship being repaired or maintained in a dry dock available for hire – the owner of the dock shall be deemed to be the occupier for all purposes except matters related to the condition of the ship for which the owner of the ship shall be deemed to be the occupier.
Section 2(54) Organised Sector 	• Means an enterprise which is not an unorganised sector.
Section 2(55) Permanent Partial Disablement 	• Disablement of a permanent nature. • Reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement. • Every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement.
Section 2(56) Permanent Total Disablement 	• Disablement of a permanent nature which incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement. • Permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule. • Also from any combination of injuries specified in Part II where the aggregate percentage of loss of earning capacity amounts to one hundred per cent.
Section 2(57) Pension Fund 	• Pension Fund established under clause (b) of sub-section (1) of section 16.

Section 2(58)	Pension Scheme 	• Employees' Pension Scheme framed under clause (b) of sub-section (1) of section 15.
Section 2(60)	Platform Work 	• Work arrangement outside of a traditional employer-employee relationship. • Organisations or individuals use an online platform to access other organisations or individuals. • To solve specific problems or provide specific services. • Includes such other activities as may be notified by the Central Government. • In exchange for payment.
Section 2(61)	Platform Worker 	• A person engaged in or undertaking platform work.
Section 2(74)	Seasonal Factory 	• A factory exclusively engaged in one or more manufacturing processes such as cotton ginning, cotton or jute pressing, decortication of ground-nuts, manufacture of indigo, lac, sugar (including gur). • Includes manufacturing processes incidental or connected with the aforesaid processes. • Includes a factory engaged for a period not exceeding seven months in a year in a manufacturing process as specified by the Central Government by notification.
Section 2(75)	Self-Employed Worker 	• Any person who is not employed by an employer. • 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 from time to time. • Or holds cultivable land subject to such ceiling as may be notified by the State Government.
Section 2(76)	Shop 	• In respect of a State means a shop as defined in any law for the time being in force dealing with the shop in that State.
Section 2(77)	Sickness 	○ A condition which requires medical treatment and attendance ○ Necessitates abstention from work on medical ground.
Section 2(78)	Social Security 	○ Measures of protection afforded to employees, unorganised workers, gig workers and platform workers. ○ Ensures access to health care. ○ Provides income security particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner.

	○ Provided by means of rights conferred on them and schemes framed under this Code.
Section 2(79) Social Security Organisation 	Organisations established under this Code, namely – a. The Central Board of Trustees of Employees' Provident Fund constituted under section 4. b. The Employees' State Insurance Corporation constituted under section 5. c. The National Social Security Board for Unorganised Workers constituted under section 6. d. The State Unorganised Workers' Social Security Board constituted under section 6. e. The State Building and Other Construction Workers' Welfare Boards constituted under section 7. f. Any other organisation or special purpose vehicle declared to be the social security organisation by the Central Government.
Section 2(82) Superannuation 	○ In relation to an employee means the attainment of such age as fixed in the contract or conditions of service. ○ On attainment of such age the employee shall vacate the employment. ○ For the purposes of Chapter III the age of superannuation shall be fifty-eight years.
Section 2(83) Temporary Disablement 	○ A condition resulting from an employment injury. ○ Requires medical treatment. ○ Renders an employee temporarily incapable of doing the work which he was doing prior to or at the time of the injury.
Section 2(85) Unorganised Sector 	○ An enterprise owned by individuals or self-employed workers. ○ Engaged in the production or sale of goods or providing service of any kind. ○ Where the enterprise employs workers, the number of such workers is less than ten.
Section 2(86) Unorganised Worker 	○ A home-based worker, self-employed worker or a wage worker in the unorganised sector. ○ 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(88) Wages 	• All remuneration whether by way of salaries, allowances or otherwise expressed in terms of money or capable of being so expressed.



- Payable to a person employed in respect of his employment or work done.
- **Includes:**
 - Basic pay.
 - Dearness allowance.
 - Retaining allowance, if any.
- **Does not include:**
 - Bonus payable under any law which does not form part of remuneration.
 - Value of house accommodation or supply of light, water, medical attendance or other amenity or service excluded by order of the appropriate Government.
 - Employer's contribution to pension or provident fund and interest thereon.
 - Conveyance allowance or value of travelling concession.
 - Sum paid to defray special expenses entailed by the nature of employment.
 - House rent allowance.
 - Remuneration payable under any award, settlement or order of a court or Tribunal.
 - Overtime allowance.
 - Commission payable to the employee.
 - Gratuity payable on termination of employment.
 - Retrenchment compensation or other retirement benefit or any ex-gratia payment on termination of employment.

Proviso:

- If payments under sub-clauses (a) to (i) exceed one-half or such other per cent notified by the Central Government of all remuneration, the amount exceeding such one-half shall be deemed as remuneration and added in wages.
- For equal wages to all genders and payment of wages, emoluments in sub-clauses (d), (f), (g) and (h) shall be taken for computation of wage.

Explanation:

Remuneration in kind not exceeding fifteen per cent of the total wages payable shall be deemed to form part of wages.

Section
2(90)

Wage Worker 

- A person employed for remuneration in the unorganised sector.

- Employed 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.
- Includes home-based worker, temporary or casual worker, 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 or the State Government.

Registration and Cancellation of an Establishment (Section 3) 🏢📄

- Every **establishment** to which this **Code applies** shall be **electronically or otherwise registered** within such **time** and in such **manner** as may be **prescribed by the Central Government**. 🖨️
- The **establishment** which is **already registered under any other Central labour law** for the time being in force **shall not be required to obtain registration again under this Code**. 📄
- Such **registration shall be deemed to be registration for the purposes of this Code**. ✓
- Any **establishment to which Chapter III or Chapter IV applies**, and whose **business activities are in the process of closure**, may make an **application for cancellation of registration** granted under this **section**. 🏢✗
- The **manner of making application for cancellation of registration**, the **conditions subject to which the registration shall be cancelled**, and the **procedure of cancellation and other matters relating thereto** shall be **such as may be prescribed by the Central Government**. ⚖️📄

CHAPTER II - SOCIAL SECURITY ORGANISATIONS

Constitution of Board of Trustees of Employees' Provident Fund (Section 4) 🏢📄

- **Central Government** may, by **notification**, constitute the **Board of Trustees of the Employees' Provident Fund (Central Board)** for **Chapter III** and **fund administration**. 📁

Members of Central Board 👥

- **Chairperson & Vice-Chairperson** appointed by **Central Government**. 👤
- **Up to 5 officials** of **Central Government**. 📄



- **Up to 15 representatives** of **State Governments**, appointed by **Central Government**. 🏢
- **10 representatives of employers** under **schemes in section 15(1)**, after **consultation with recognised employer organisations**. 🏭
- **10 representatives of employees** under **schemes in section 15(1)**, after **consultation with recognised employee organisations**. 👤
- **Central Provident Fund Commissioner – ex officio**. 📌

Key Features

- **Central Board** is a **body corporate** with **perpetual succession** and **common seal**; can **sue and be sued**. ⚖️
- **Executive Committee** can be **constituted** from **Central Board members** to **assist in functions**. 📋
- **Committees** may be **formed** to **assist in discharge of functions**. 📋
- **Delegation of powers** to **Chairperson, Executive Committee, officers**, or **State Board** under **section 12**, with **conditions & limitations**. 📋
- **Terms, conditions & tenure** of members **as prescribed by Central Government** ⌚
 - **Members continue in office** until **successor is appointed**. 📌
- **Central Board** may perform **other functions** as prescribed by **Central Government**. 🏛️

Constitution of Employees' State Insurance Corporation (Section 5) 🏢 📋

- **Central Government** may, by **notification**, constitute the **Employees' State Insurance Corporation (ESIC)** for **Chapter IV** and **administration of provisions**. 📋



Members of Corporation 👥

- **Chairperson & Vice-Chairperson** appointed by **Central Government**. 👤
- **Up to 5 officials** of **Central Government**. 📋
- **One representative per State**, as prescribed. 🏢
- **One representative for Union Territories**. 🏛️
- **10 employer representatives**, appointed in **consultation with recognised employer organisations**. 🏭
- **10 employee representatives**, appointed in **consultation with recognised employee organisations**. 👤
- **2 medical professionals**, appointed in **consultation with recognised medical organisations**. 🏥
- **3 Members of Parliament** – 2 from **Lok Sabha**, 1 from **Rajya Sabha**, elected by respective houses. 🏛️

- **Director General of Corporation, ex officio.** 📌

Key Features

- **Corporation** is a **body corporate** with **perpetual succession** and **common seal**; can **sue and be sued**. ⚖️
- **Standing Committee** can be **constituted from members** to **assist Corporation**. 📄
 - **Administers affairs**, exercises powers, and performs functions as prescribed. 🔑
 - **Submits cases & matters** for decision to Corporation. 📄
- **Medical Benefit Committee** may be **constituted** to **assist in medical benefits administration**. 🏥
- **Other committees** may be **formed** to **assist in discharge of functions**. 📄
- **Terms, conditions & tenure** of members **as prescribed by Central Government** ⌚
 - **Members continue in office** until **successor is appointed**. 📌

National Social Security Board & State Unorganised Workers' Board (Section 6) 🏛️ 📄

1. National Social Security Board (NSSB) 🌐

- **Constituted by Central Government** via **notification** for **unorganised workers**.
- **Members of NSSB** 👥:
 - **Union Minister for Labour & Employment** – Chairperson. 👤
 - **Secretary, Ministry of Labour & Employment** – Vice-Chairperson. 📌
 - **40 members nominated by Central Government**:
 - 7 representing **unorganised workers** 👤
 - 7 representing **employers of unorganised sector** 🏭
 - 7 eminent persons from **civil society** 🌟
 - 2 **Lok Sabha + 1 Rajya Sabha** members 🏛️
 - 10 representing **Central Govt. Ministries & Departments** 🏛️
 - 5 representing **State Governments** 🏛️
 - 1 representing **Union Territories** 🏛️
 - **Director General Labour Welfare**, ex officio – Member-Secretary. 📌
- **Members (except Chairperson)** should have **eminence in labour welfare, management, finance, law, administration**. ⚖️
- **Term**: 3 years ⌚
- **Meetings**: At least **3 times a year** 📅
- **Functions**:
 - Recommend **schemes for unorganised, gig & platform workers** 📄



- Advise Central Government on **administration of Code** 💡
- Monitor **social welfare schemes** ✓
- Review **record-keeping & expenditure** 📊
- Perform **other functions assigned by Central Government** 🔑
- **Advisory Committees** may be **constituted** to advise Central Government. 📄

2. State Unorganised Workers' Board (SUWB) 🏢

- **Constituted by State Government** via **notification** for **State-level unorganised workers**.
- **Members of SUWB** 👤 :
 - **State Minister of Labour & Employment** – Chairperson, ex officio 👤
 - **Principal Secretary/Secretary (Labour)** – Vice-Chairperson 📎
 - **One Central Government representative** in Ministry of Labour 🏛️
 - **31 members nominated by State Government:**
 - 7 representing **unorganised workers** 👤
 - 7 representing **employers of unorganised workers** 🏭
 - 2 representing **State Legislative Assembly** 🏛️
 - 5 eminent persons from **civil society** 🌟
 - 10 representing **State Govt. Departments** 🏢
 - **Member-Secretary** as notified by State Government 📎
- **Members (except Chairperson)** should have **eminence in labour welfare, management, finance, law, administration** ⚖️
- **Term:** 3 years ⌚
- **Meetings:** At least **once per quarter** 📅
- **Functions:**
 - Recommend **schemes for unorganised workers** 📄
 - Advise State Government on **administration of Code** 💡
 - Monitor **social welfare schemes** ✓
 - Review **record-keeping at district level** 📊
 - Review **registration & card issuance** 📋
 - Review **expenditure from funds** 💰
 - Perform **other functions assigned by State Government** 🔑
- **Advisory Committees** may be **constituted** to advise State Government 📄

Constitution of State Building Workers' Welfare Boards (Section 7) 🏢 📄

1. Constitution of Board 🏛️

- Every **State Government** shall, by **notification**, appoint a **State Building & Other Construction Workers' Welfare Board**.
- Board exercises **powers and functions** under this section and **Chapter VIII**.



2. Body Corporate 🏢

- The Board shall be a **body corporate** with **perpetual succession** and a **common seal**.
- It can **sue and be sued** in its name.

3. Composition of Board 👥

- **Chairperson** nominated by State Government. 👤
- **One member** nominated by Central Government. 🏛️
- **Other members** (max 15) appointed by State Government.
- Board must have **equal representation** of **State Government, employers, and building workers**. ⚖️
- **At least one member** shall be a **woman**. 👩

4. Terms & Conditions 📌

- Appointment terms, **salaries, allowances**, and **filling casual vacancies** prescribed by State Government.

5. Secretary & Staff 👤

- Board shall appoint a **Secretary** and other **officers/employees** as needed.
- **Secretary** is the **chief executive officer**.
- **Terms, salary, and allowances** of Secretary and staff prescribed by State Government.

6. Functions of Board ✅

- **Provide death & disability benefits** to beneficiaries or dependants 📞
- **Pension payments** to beneficiaries aged 60+ 💰
- **Group Insurance premium payments** as prescribed 🗣️
- **Educational schemes** for children of beneficiaries 🎓
- **Medical expenses** for major ailments 🏥
- **Maternity benefits** for beneficiaries 🤰
- **Skill development & awareness schemes** 🛠️
- **Transit accommodation / hostel facilities** 🏠
- **Formulate other welfare schemes** in concurrence with Central Government 📄
- **Improve other welfare measures and facilities** as prescribed by Central Government ⚙️

7. Advisory Committees 📋

- State Government may **constitute advisory committees** to advise on **administration and related matters**.

Disqualification and Removal of a Member of any Social Security Organisation (Section 8) ⚖️

1. Disqualification of a Member ✖️

No person shall be chosen or continue as a member of a Social Security Organisation or any Committee thereof who:

- (a) Is or has been **adjudged insolvent** 💰

- (b) Is **lunatic or of unsound mind** 🧠
- (c) Is or has been **convicted of an offence involving moral turpitude** ⚖️
- (d) Is an **employer in default of payment of dues** under this Code 💰
- (e) Is a member of Parliament/State Assembly and **ceases to be such member** 🏛️
- (f) Is a member of Parliament/State Assembly and becomes:
 - i. **Minister** of Central/State Government 🏛️
 - ii. **Speaker/Deputy Speaker** of Lok Sabha/State Assembly 🗣️
 - iii. **Deputy Chairman** of Council of States 🏛️

Explanation:

- Clause (d) disqualification decision rests with **appropriate Government**. ☑️
- Clause (f) **does not apply to ex officio Ministers** in the Organisation.

2. Removal of a Member 🗑️

Central/State Government may remove a member who:

- (a) Is subject to any **disqualification** in subsection (1) ✖️
- (b) Is **absent without leave** for **3 consecutive meetings** ⌚
- (c) **Abuses position** or is **unfit** to continue in office ⚠️

Conditions:

- Member must be given an **opportunity to show cause** before removal under (b) & (c).
- Members of **Executive Committee (Central Board)** or **Standing Committee (Corporation)** cease if they **cease to be a member** of the Board or Corporation.

3. Resignation 📝

- Member may **resign in writing** to Central/State Government.
- On **acceptance**, the office becomes **vacant**.

4. Removal due to inadequate representation or expertise 🧑

Government may remove a member if:

- (a) They **cease to adequately represent** employers, employees, or unorganised workers ⚖️
- (b) An **expert member** is found not to possess required **expertise** 🧠
- (c) A member **cannot continue** to represent the Government due to **circumstances or service** ⚠️

Condition:

- Member must be given **opportunity to show cause** before removal under (a) & (b).

5. Conflict of Interest 🔗

- If a member is a **director of a company** and has **direct/indirect pecuniary interest** in any matter:
 - i. Must **disclose the nature of interest** immediately
 - ii. Disclosure is **recorded in proceedings** 📄
 - iii. Member **shall not participate** in discussions/decisions relating to that matter 🚫

Procedure for Transaction of Business of Social Security Organisation (Section 9)

1. Meetings and Procedure 📅

- Social Security Organisation or any **Committee** shall meet at **prescribed intervals** ⌚
- Must **observe procedure** for **transaction of business**, including **quorum**, as prescribed by Central Government ☑

2. Authentication of Orders and Instruments 🖋

- All **orders and decisions** authenticated by:
 - **Central Provident Fund Commissioner**
 - **Director General**
 - **Director General Labour Welfare**
 - **State Principal Secretary/Secretary (Labour)**
 - Or any **officer notified** by the appropriate Government
- **All instruments** issued by the Organisation must be signed by an **authorised officer**

3. Validity of Actions ☑

- No act or proceeding can be **questioned** merely due to:
 - **Vacancy** in the Organisation or Committee
 - **Defect in constitution** of Organisation or Committee

4. Fees and Allowances 💰

- Members are entitled to **fees and allowances** as prescribed by Central Government

Executive Heads (Section 10) ⚖

- **Central Provident Fund Commissioner** → Whole-time officer of **Central Board**
- **Director General** → Whole-time officer of **Corporation**
- Such officers **cannot undertake work unrelated** to their office **without prior approval** of Central Government

Supersession of Corporation, Central Board, National Social Security Board or State Unorganised Workers' Board or the Building Workers' Welfare Board (Section 11) ⚖

1. Grounds for Supersession 🔔

- **Central Government** (for Central Board, Corporation, National Social Security Board) or **State Government** (for State Unorganised Workers' Board or Building Workers' Welfare Board) may supersede if the body or any Committee:
 - **Unable to perform its functions** ⚙
 - **Persistently delays** in discharge of functions ⌚
 - **Exceeds or abuses its powers or jurisdiction** ⚠

2. Opportunity to Show Cause 📝

- Before issuing supersession notification, the Government shall:

- Give the body or Committee an **opportunity to show cause** why it should not be superseded
- **Consider explanations and objections** before taking action

3. Alternate Arrangements 🏠

- After supersession and until reconstitution, the Government shall **make alternate arrangements** for administration of the relevant provisions of this Code, as prescribed

4. Reporting to Legislature 📄

- Government shall **lay a full report** of:
 - Action taken
 - Circumstances leading to supersession
- Report must be presented to **each House of Parliament or State Legislature** at the **earliest opportunity** and **within 3 months** of the supersession notification

CHAPTER III: EMPLOYEES' PROVIDENT FUND

Appointment of Officers of Central Board (Section 14) 📄

• Section 14(1):

- **Central Government** may appoint a **Central Provident Fund Commissioner (CPFC)** who shall be the **Chief Executive Officer (CEO) of the Central Board** and head of the **Employees' Provident Fund Organisation (EPFO)**. 🏢
- **Explanation:** EPFO consists of officers and employees of the Central Board. 🏢



• Section 14(2):

- CPFC shall be under **general control and superintendence of the Central Board** in performing functions under this Code. ⚖️

• Section 14(3):

- **Central Government** shall appoint a **Financial Advisor and Chief Accounts Officer** to assist the CPFC. 📁

• Section 14(4):

- **Central Board** may appoint:
 - Additional Central Provident Fund Commissioners
 - Deputy Provident Fund Commissioners
 - Regional Provident Fund Commissioners
 - Assistant Provident Fund Commissioners
 - Other officers/employees necessary for efficient administration of:
 - **Provident Fund Scheme**
 - **Pension Scheme**
 - **Insurance Scheme** or other responsibilities assigned. ⚙️

• Section 14(5):

- No appointment to posts like **CPFC, Additional CPFC, Financial Advisor/Chief Accounts Officer**, or other **Group 'A'/'B' equivalent posts** without **consultation with UPSC**, except:
 - For a period **≤ 1 year**, or
 - If the person is already:
 - **IAS officer**, or
 - In **Central Government/Central Board service** in Group 'A' or 'B' post. ☑
- **Section 14(6):**
 - **Recruitment, salary, allowances, discipline, and other conditions** of CPFC and Financial Advisor/Chief Accounts Officer shall be specified by **Central Government**. 💰
 - Salary and allowances paid from **Provident Fund**. 📄
- **Section 14(7)(a):**
 - Recruitment, salary, allowances, discipline, and conditions for **Additional CPFCs, Deputy, Regional, Assistant PF Commissioners, and other officers/employees** shall be specified by **Central Board** according to **Central Government rules**.
 - **Departure from rules** requires **prior approval of Central Government**.
 - Salary/allowances **shall not exceed scale provided in Provident Fund Scheme**. ⚖️
- **Section 14(7)(b):**
 - While determining **corresponding pay scales**, Central Board shall consider:
 - **Educational qualifications**
 - **Method of recruitment**
 - **Duties and responsibilities**
 - In case of **doubt**, matter referred to **Central Government**, whose decision shall be **final**. 🏛️

Schemes (Section 15) 📄

- **Section 15(1):** The **Central Government** may, by notification:
 - (a) Frame the **Employees' Provident Fund Scheme (EPF)** for establishing provident funds for employees or any class of employees, specifying applicable establishments. 💰
 - (b) Frame the **Employees' Pension Scheme (EPS)** to provide:
 - **Superannuation, retiring, or permanent total disablement pension** for employees. 👤
 - **Widow/widower, children, or orphan pension** for beneficiaries. 👤
 - **Nominee pension**. 📄
 - (c) Frame the **Employees' Deposit Linked Insurance Scheme (EDLI)** for providing **life insurance benefits** to employees. 🗣️

- (d) Frame any **other scheme** for providing **social security benefits** to self-employed workers or other classes of persons. 📁
- (d) **Modify any scheme** referred to in clauses (a), (b), (c), or (d) by **adding, amending, or varying** provisions, **prospectively or retrospectively**. 📅
- **Section 15(2)**: Schemes in clauses (a), (b), and (c) may provide for matters specified in **Part A, Part B, and Part C of the Fifth Schedule**. 📄
- **Section 15(3)**: Schemes may specify that **provisions take effect either prospectively or retrospectively** from a date mentioned in the scheme. 📅

Funds (Section 16) 💰

- **Section 16(1)**: The **Central Government** may establish funds for different schemes:

(a) Provident Fund Scheme (PF) 🏠

- **Employer contribution: 10% of wages** for each employee (directly or via contractor).
- **Employee contribution: equal to employer's contribution**, may exceed 10% if employee desires.
- **Modification**: For certain establishments, contribution may be **12%** instead of 10%.
- Central Government may **specify employee contribution rates** and applicable periods.

(b) Pension Scheme (EPS) 👤

- Establish a **Pension Fund** as per the scheme.
- Contributions include:
 - **Employer's portion from PF**: up to **8⅓% of wages** (or notified rate).
 - Contributions from **employers of exempted establishments** where EPS applies.
 - **Sums specified by Central Government** after Parliament appropriation.



(c) Insurance Scheme (EDLI) 🛡️

- Establish **Deposit-Linked Insurance Fund** as per the scheme.
- Employer contribution: **up to 1% of wages** (or notified rate).
- Additional contribution: up to **¼ of employer's contribution** to cover **administrative expenses**, excluding benefit costs.
- **Section 16(2)**: **PF, Pension Fund, and Insurance Fund** shall **vest in and be administered by the Central Board** as specified in the respective schemes. 📄

Contribution in respect of Employees and Contractors (Section 17) 📁

- **Section 17(1)**: Employer's contribution, employee's contribution under any scheme, and employer's contribution under the Insurance Scheme, **paid or payable by an employer in respect of an employee employed by or**

through a contractor, may be **recovered by the employer from the contractor**, either:

- By deduction from amounts payable to the contractor under any contract, or
- As a debt payable by the contractor.
- **Section 17(2):** A contractor from whom such amounts are recovered **may recover the employee's contribution** from the employee **by deduction from wages** payable to that employee.
- **Section 17(3): No contractor**, notwithstanding any contract, shall be entitled to:
 - Deduct the **employer's contribution** or charges from the wages of an employee employed by or through him, or
 - Otherwise recover such contribution or charges from such employee.

Fund to be recognised under Act 43 of 1961 (Section 18) 🏠

- For **Income-tax Act, 1961** purposes, the **Provident Fund** shall be deemed to be a **recognised provident fund** under clause (38) of section 2 of that Act.
- **Provided** that nothing in the Income-tax Act shall **render ineffective** any provision of the **Provident Fund Scheme** which is repugnant to the Act or rules made thereunder.



Priority of Payment of Contributions Over Other Debts (Section 19) ⚖️

- Notwithstanding any other law, **any amount due under this Chapter** shall be a **charge on the assets of the establishment**.
- Such amount shall be **paid in priority** in accordance with the provisions of the **Insolvency and Bankruptcy Code, 2016**.

Chapter III not to apply to Certain Establishments (Section 20) 🏢

1. Chapter III shall not apply –

- (a) to any **establishment registered** under the **Co-operative Societies Act, 1912** or under any other law for the time being in force in any State relating to **co-operative societies** employing **less than 50 persons** and working **without the aid of power**; or
- (b) to any other **establishment belonging to or under the control** of the **Central Government** or a **State Government** and whose **employees** are entitled to the benefit of **contributory provident fund** or **old age pension** in accordance with any **scheme or rule** framed by the **Central Government** or the **State Government** governing such benefits; or
- (c) to any other **establishment set up** under any **Central** or **State** or any other law for the time being in force and whose **employees** are entitled

- to the benefits of **contributory provident fund or old age pension** in accordance with any **scheme or rule** framed under that law governing such benefits; or
- (d) to the **employees** who, **immediately before the commencement** of this **Code**, were receiving benefits of **Provident Fund** under any **Central or State enactment**.
2. If the **Central Government** is of the opinion that having regard to the **financial position** of any **class of establishment** or other **circumstances of the case**, it is **necessary or expedient** so to do, it may, by **notification** and subject to such **conditions**, as may be specified in the **notification, exempt**, whether **prospectively or retrospectively**, that **class of establishments** from the operation of this **Chapter** for such **period** as may be specified in the **notification**.

Authorising Certain Employers to Maintain Provident Fund Accounts (Section 21)

1. The **Central Government** may, on **application** by the **employer** and the **majority of employees** of an establishment with **100 or more persons**, **authorise the employer** by **order in writing** to **maintain a provident fund account** in the establishment, in the manner **prescribed** and subject to **terms and conditions** in the **Provident Fund Scheme**.
Provided that no **authorisation** shall be made if the **employer** committed any **default** in **PF contribution** or any other **offence** under this **Code** in the **three years preceding** the application.
2. Where an establishment is **authorised**, the **employer** shall:
 - **Maintain the account**
 - **Submit returns**
 - **Deposit contributions** as prescribed
 - **Provide inspection facilities**
 - **Pay administrative charges**
 - **Abide by other terms and conditions** of the **Provident Fund Scheme**
3. The **Central Government** may **cancel authorisation** by **order in writing** if the **employer** fails to **comply** with **terms or conditions** or commits any **offence** under this **Code**.
Provided that the **employer** must be given a **reasonable opportunity of being heard** before **cancellation**.

Transfer of accounts (Section 22)

☐ **Where an employee –**

- (a) **Employed in an establishment to which this Chapter applies, relinquishes employment and joins any other establishment (whether Chapter III applies or not); or**

(b) Employed in an establishment to which this Chapter does not apply, relinquishes employment and joins an establishment to which this Chapter III applies;

- Then, the employee's accumulated amount in provident fund account or pension account shall be transferred or handled as per the Provident Fund Scheme or Pension Scheme, as applicable.**

Appeal to Tribunal (Section 23)

1. Any **person aggrieved** by an **order** passed by any **authority** in regard to the following **matters** may prefer an **appeal** to the **Tribunal** constituted by the **Central Government**, namely: –
 - (a) **determination and assessment of dues** under **section 125** relating to **Chapter III**; and
 - (b) **levy of damages** under **section 128** relating to **Chapter III**.
2. Every **appeal** under sub-section (1) shall be in such **form and manner**, within such **time** and **accompanied** by such **fees** as may be prescribed by the **Central Government**.
3. No **appeal** under **clause (a)** of sub-section (1) by the **employer** shall be **entertained** by the **Tribunal** unless he has **deposited** with **Social Security Organisation concerned twenty-five per cent** of the **amount due** from him as **determined** by an **officer** under **section 125**.
4. The **Tribunal** shall **endeavour** to **decide** the **appeal** within a **period of one year** from the **date** on which the **appeal** has been **preferred**.



CHAPTER IV-EMPLOYEES' STATE INSURANCE FUND (SECTION 25)

1. All **contributions** and **user charges** under **Chapter IV** and all other **moneys received** on behalf of the **Corporation** shall be paid into the **Employees' State Insurance Fund**, which shall be **held and administered** by the **Corporation** for the purposes of this **Code**. **Provided** that **user charges** from other **beneficiaries** under **section 44** shall be treated as **contributions** and form part of the **Fund**.
2. The **Corporation** may **accept grants, donations, CSR Fund, and gifts** from the **Central or State Government, local**



authorities, or any **individual or body**, for any purposes of this **Chapter**.

3. All **moneys** payable to the **Fund** shall be **deposited** in **banks approved** by the **Central Government** to the credit of an account styled **Employees' State Insurance Fund**, subject to other provisions and **rules/regulations**.
4. The **Fund** or any other **money held** by the **Corporation** shall be **deposited or invested** as **prescribed** by the **Central Government**, and the account shall be **operated** by **officers authorised** by the **Standing Committee** under **section 5(3)**, with the **approval** of the **Corporation**.

Purposes for which Employees' State Insurance Fund may be Expended (Section 26)

The **Employees' State Insurance Fund** shall be expended only for the following purposes:

1. **Payment of benefits** and provision of **medical treatment** to **Insured Persons** under **section 28**, including **family medical benefits**, and defraying related **charges and costs**.
2. **Payment of fees and allowances** to **members** of the **Corporation**, **Standing Committee**, **Medical Benefit Committee**, or other **Committees**.
3. **Payment of salaries, allowances, gratuities, pensions, provident fund contributions**, and meeting **office and service expenses** for **officers and staff** of the Corporation.
4. **Establishment and maintenance** of **hospitals, dispensaries, and other institutions**, and provision of **medical and ancillary services** for **Insured Persons** and, if applicable, their **families**.
5. **Payment of contributions** to **State Governments, local authorities, private bodies, or individuals** for **medical treatment** provided to **Insured Persons** and their **families**, including **building and equipment costs** under agreements with the Corporation.
6. **Defraying costs** of **auditing accounts** and **valuation of assets and liabilities** of the Corporation.
7. **Defraying costs** of **Employees' Insurance Courts** established under this Chapter.
8. **Payment of sums** under **contracts** entered into for the purposes of this Code by the **Corporation, Standing Committee, or authorised officers**.
9. **Payment of sums** under any **decree, order, or award** of a **Court or Tribunal** against the Corporation or its officers/staff, including settlements or compromises.
10. **Defraying costs and charges** of **civil or criminal proceedings** arising from actions under this Chapter.
11. **Expenditure**, within limits prescribed by the **Central Government**, for **health and welfare improvement, rehabilitation**, and **re-employment** of **disabled or injured Insured Persons**.
12. **Any other purposes** authorised by the **Corporation** with prior approval of the **Central Government**.

All Employees to be Insured (Section 28)

1. **Every employee** in an establishment to which this **Chapter applies** shall be **insured** in the manner **prescribed by the Central Government**, whether **electronically or otherwise**.
2. An **employee** in respect of whom **contributions are or were payable**, and who is **entitled to benefits** under this Chapter, shall be called an **"Insured Person"**.



Contributions (Section 29)

1. **Contributions** under Chapter IV consist of:
 - **Employer's contribution** (paid by the employer)
 - **Employee's contribution** (paid by the employee)
 Both shall be **paid to the Corporation**.
2. The **rates** of contributions (employer and employee) shall be **prescribed by the Central Government**.
3. The **wage period** of an employee shall be the **unit** for which **all contributions** are payable under this Chapter.
4. **Contributions** for each **wage period**:
 - **Ordinarily due** on the **last day** of the wage period.
 - If an employee works for **part of the wage period** or under **multiple employers** in the same period, contributions shall be due on such **days as specified in regulations**.



Provisions as to Payment of Contributions by Employer (Section 31)

1. The **employer** shall pay, for every employee (directly employed or through a contractor), both the **employer's contribution** and the **employee's contribution**.
2. For employees **directly employed** (not exempted), the **employer** may **recover the employee's contribution** only by **deduction from wages**, and only for the **period to which the contribution relates**.
3. Neither the **employer** nor the **contractor** shall **deduct the employer's contribution** from any employee's wages.
4. Any **sum deducted** from wages under Chapter IV is **deemed entrusted** to the employer for **payment of contributions**.
5. The **employer** shall **bear the expenses of remitting contributions** to the Corporation.

6. If contributions are paid for an employee employed **through a contractor**, the **employer** may **recover the amount** (employer's + employee's contribution) from the **contractor**, either:
 - By **deduction** from amounts payable under the contract, or
 - As a **debt payable** by the contractor.
7. The **contractor** shall **maintain a register** of employees employed by or through him and **submit it to the employer** before settling amounts under sub-section (6).
8. The **contractor** may **recover the employee's contribution** from the employee by **deduction from wages** only, subject to conditions in sub-section (2).
9. The **Corporation** may make **regulations** regarding any matter **relating or incidental** to the **payment and collection of contributions** under this Chapter.

Benefits (Section 32)

1. **Insured Persons**, their **dependants**, or other eligible persons are entitled to the following benefits:
 - (a) **Sickness Benefit** – Periodical payments to an **Insured Person** in case of **sickness**, certified by a qualified medical practitioner or authority as per regulations.
 - (b) **Maternity Benefit** – Periodical payments to a **woman Insured Person** in case of **confinement, miscarriage, pregnancy-related sickness, or premature birth**, certified by the authority specified in regulations.
 - (c) **Disablement Benefit** – Periodical payments to an **Insured Person** suffering **disablement due to an employment injury**, certified as eligible under regulations.
 - (d) **Dependants' Benefit** – Periodical payments to **dependants** of an Insured Person who **dies due to an employment injury**, as entitled under this Chapter.
 - (e) **Medical Benefit** – **Medical treatment and attendance** for Insured Persons.
 - (f) **Funeral Expenses** – Payment to the **eldest surviving family member** or the person who incurs the **funeral expenditure** of a deceased Insured Person.
 - **Provided** that the **amount** is as prescribed by the Central Government.
 - **Claim** must be made within **three months** of death or within an **extended period** allowed by the Corporation.
2. The **Corporation** may **extend medical benefits** to the **family of an Insured Person**, subject to regulations.



3. **Qualification, conditions, rate, and period of sickness, maternity, disablement, and dependants' benefits** shall be **prescribed by the Central Government**.
4. The **Corporation** may make **regulations** for any matter **relating or incidental** to the **accrual and payment of benefits** under this Chapter.

Corporation's Power to Promote Measures for Health (Section 33) 🏢

1. The **Corporation** may, in addition to **Chapter IV benefits**, promote measures for:

- **Improvement of health and welfare of Insured Persons.**
- **Rehabilitation and re-employment of Insured Persons who are disabled or injured.**

2. **Expenditure for such measures may be incurred from the Employees' State Insurance Fund, within limits prescribed by the Central Government.**

Presumption as to Accident Arising in Course of Employment (Section 34) ⚠️

1. **Accident arising in employment** is **presumed to have arisen out of that employment**, unless proven otherwise.
2. An accident at or near **premises of employment** is deemed **arising out of employment** if it occurs while taking steps, in **actual or supposed emergency**, to:
 - (a) **Rescue, protect, or aid persons** in danger.
 - (b) **Prevent or minimise serious property damage.**
3. An accident while **commuting** between **residence and workplace** is deemed arising out of employment if a **nexus exists** between the **circumstances, time, place**, and the employment.
4. An accident while **travelling with employer's permission** in a **vehicle, vessel, or aircraft** is deemed arising out of employment if:
 - (a) It would be deemed so **had travel been obligatory.**
 - (b) At the time of accident:
 - (i) Vehicle is operated by or on behalf of employer.
 - (ii) Vehicle is **not in ordinary public transport service.**



Accidents Happening while Acting in Breach of Law (Section 35) ⚖️

1. An accident **arising out of employment** may still be deemed so even if the employee acts in **contravention of law or employer orders**, provided:
 - (a) Accident would have been deemed arising out of employment **if act were lawful.**

- (b) Act is done **for purposes of and in connection with the employer's trade or business.**

Occupational Disease (Section 36) 🏠

- If an employee in an employment specified in **Part A, B, or C** of the **Third Schedule** contracts a disease peculiar to that employment:
 - Part A:** Any employee contracting a disease specified is deemed to have an **employment injury**, unless proven otherwise.
 - Part B:** Employee employed for **continuous ≥6 months** contracting specified disease is deemed to have an **employment injury**, unless proven otherwise.
 - Part C:** Employee employed for a **continuous period as specified by Corporation** contracting specified disease is deemed to have an **employment injury**, unless proven otherwise.
- No benefit** shall be payable for any disease **not falling under sub-section (1)** unless it is **directly caused by a specific injury by accident** arising out of and in the course of employment.
- The **presumption under Section 34(1)** (that an accident arises in the course of employment) **does not apply** to cases covered under this section.



References to Medical Board (Section 37) 🏠

- "Disablement question"** refers to any question regarding:
 - Whether an accident has resulted in **permanent disablement**.
 - Whether **loss of earning capacity** can be assessed **provisionally or finally**.
 - Whether the assessment of the proportion of loss of earning capacity is **provisional or final**.
 - In provisional assessments, the **period for which the assessment holds**.

All such questions are determined by a **medical board**.
- Cases for **permanent disablement benefit** are referred to the **medical board**, and any **provisional assessment** must be referred again before the end of the period considered.
- A **medical board decision** may be reviewed if **fresh evidence** shows **non-disclosure or misrepresentation** of a material fact, whether or not fraudulent.
- The **extent of disablement** may be reviewed if there is a **substantial and unforeseen aggravation** of the injury:
 - ☐ Review only if the board considers **substantial injustice** would occur by not reviewing.

5. Time limits for review:

- ☐ Not less than **five years** from final assessment or **six months** from provisional assessment.
 - ☐ Period before the application date is **excluded** in revised assessment.
6. A **medical board** may deal with a review as it would an **original reference**, including making a **provisional assessment**, and provisions of sub-section (2) apply to reviews.

7. Appeals against medical board decisions:

(a) Insured Person or Corporation may appeal to:

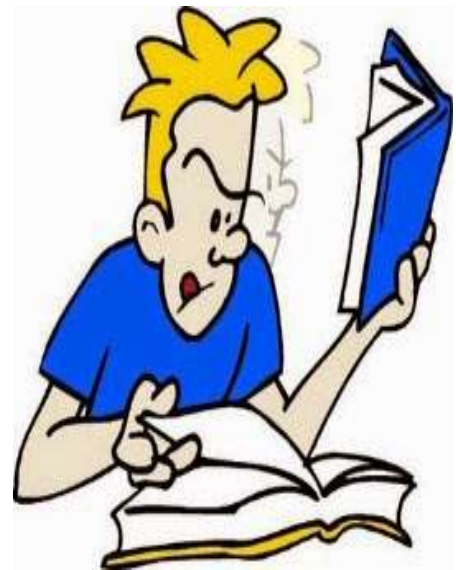
- i. **Medical Appeal Tribunal**
- ii. **Employees' Insurance Court**

Exceptions:

- (a) No appeal by Insured Person if they received **commuted disablement benefit**.
- (b) No appeal by Corporation if it **paid commuted value** based on the decision.
- (b) Further appeal from **Medical Appeal Tribunal** to **Employees' Insurance Court** is allowed within prescribed manner and time.

Dependants' Benefit (Section 38) 🧑

1. If an **Insured Person dies due to employment injury**, dependants' benefit is payable to **dependants specified in section 2(24)(a) and (b)**, at rates and periods prescribed by the Central Government.
2. If the deceased has **no such dependants**, the benefit is paid to **other dependants** at rates and periods prescribed.
3. Any decision awarding dependants' benefit may be **reviewed by the Corporation** if:
 - There is **non-disclosure** or **misrepresentation** of a material fact, or
 - Circumstances change due to **birth, death, marriage, re-marriage, ceasing of infirmity, or attainment of age 25** by a claimant.
4. On review, the Corporation may **continue, increase, reduce, or discontinue** the dependants' benefit.



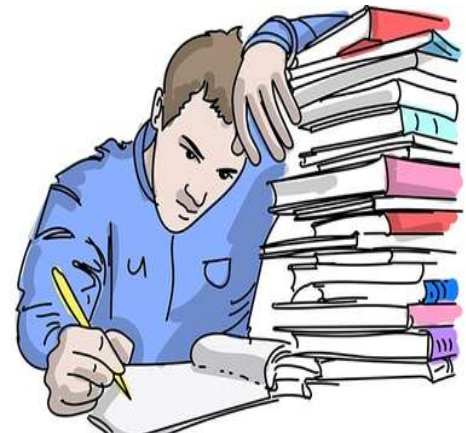
Medical Benefit (Section 39) 🏥

1. An **Insured Person** or, if extended, **family member** is entitled to **medical treatment and attendance**.
2. **Medical benefit may be provided as:**
 - **Out-patient treatment** in hospital, dispensary, clinic, or institution,
 - **Home visits**, or

- **In-patient treatment** in hospital or institution.
- 3. **Eligibility, conditions, scale, and period** of medical benefits are prescribed by the Central Government.
 - Persons whose **contribution ceases** may still receive benefits for a prescribed period.
 - **Superannuated, retired, or voluntarily retired persons** and their spouses are eligible on **payment of contribution**.
 - Persons with **permanent disablement due to employment injury** continue to receive benefits on contribution.
 - Conditions for medical benefits during **employment injury** are specified in regulations.
- 4. **Medical education institutions:**
 - Corporation may establish **colleges, dental colleges, nursing colleges, training institutes** to improve service quality.
 - Students may be required to **furnish a bond** to serve the Corporation as prescribed.
- 5. **Institutions may be run by:**
 - Corporation itself,
 - Central/State Government,
 - Public Sector Undertakings, or
 - Other notified bodies capable of running such institutions.
- 6. Corporation may conduct **occupational and epidemiological surveys** for **preventive and curative measures** and assessment of health and working conditions of Insured Persons.

Provision of Medical Treatment by State Government or by Corporation (Section 40)

1. **State Government** shall provide reasonable **medical, surgical, and obstetric treatment** to Insured Persons and, if extended, their families.
 - May arrange treatment at **clinics of medical practitioners** with Corporation approval.
2. If **sickness benefit payments exceed all-India average**, the **excess amount** shall be shared between Corporation and State Government as per agreement.
 - Corporation may **waive recovery** of part or whole of the State Government's share.
3. Corporation may enter into **agreement with State Government** regarding:
 - Nature and scale of medical treatment,
 - Provision of **buildings, equipment, medicines, staff**, and
 - Sharing of costs, including excess sickness benefit.
4. If no agreement is reached, an **arbitrator** appointed by Central Government in



consultation with the State Government shall determine:

- Nature and extent of treatment, and
 - Proportion of costs and excess payment sharing.
5. State Government may, with **Central Government approval**, establish an **organisation** to provide certain benefits for sickness, maternity, and employment injury.
 - References to State Government include such organisation.
 6. The organisation shall have **structure, functions, powers, and activities** as prescribed by the Central Government.
 7. Corporation may **establish and maintain hospitals, dispensaries, and other medical services** for Insured Persons and, if extended, their families.
 8. Corporation may enter into **agreements with local authorities, private bodies, or individuals** for medical treatment provision and cost-sharing.
 9. Corporation may **commission and run ESI hospitals through third-party participation** to provide medical treatment to Insured Persons and their families.
 10. Corporation, in consultation with State Government, may **take responsibility for medical benefits** in the State, with the **State sharing the cost** as agreed.
 11. If Corporation exercises this responsibility, **provisions referring to State Government** shall be read as **referring to Corporation**.
 12. For establishments in States where **Corporation provides medical benefit**, the **Central Government** shall be the appropriate Government.

General Provisions as to Benefits (Section 41)

1. **No commutation** – A person cannot convert disablement benefit into a lump sum, unless regulations allow.
2. **No benefit on work, leave, holiday, or strike** – Sickness or temporary disablement benefit is not payable for days worked, on leave/holiday with wages, or on strike.
3. **Obligations while receiving benefits:**
 - (a) Remain under medical treatment at dispensary, hospital, clinic, or other institution.
 - (b) Follow instructions of medical officer/attendant.
 - (c) Avoid actions that may delay recovery.
 - (d) Stay in treatment area unless permission is granted.
 - (e) Allow examination by any authorised medical officer/person.
4. **Mutually exclusive benefits** – A person cannot receive simultaneously:
 - (a) Sickness and maternity benefit, or
 - (b) Sickness and temporary disablement benefit, or
 - (c) Maternity and temporary disablement benefit.
5. **Choice of benefit** – If eligible for more than one mutually exclusive benefit, the person can **choose which benefit to receive**.
6. **Payment after death** – Cash benefits due up to the day of death are payable to:

- (a) Nominee of the deceased (in prescribed form), or
 - (b) Legal heir/representative if no nomination exists.
7. **Exclusion of employer benefits:**
- (a) Dependant/disablement benefit recipients cannot claim **Employees' Compensation** under Chapter VII.
 - (b) Women receiving maternity benefit cannot claim **maternity benefit from employer** under Chapter VI.
8. **Recovery of wrongfully received benefits** – Any person who received benefits unlawfully must **repay the Corporation**.
- (a) In case of death, the legal representative must repay from the deceased's assets.
9. **Valuation of non-cash benefits** – Determined by authority specified in regulations; decision is **final**.
10. **Recovery procedure** – Amount recoverable under this section shall be recovered as per **Sections 129–132**.

Corporation's Rights when an Employer Fails to Register (Section 42)

1. **Employer defaults** – If an employer:
 - (a) Fails or neglects to **insure an employee** at appointment or within prescribed period, causing loss of benefits.
 - (b) Insures an employee **after the date of accident**, making the employee ineligible for dependant or disablement benefit.
 - (c) Fails or neglects to **pay contributions**, causing loss of benefits or lower entitlement.
2. **Corporation's action** – On satisfaction that benefit is payable:
 - (a) Pay the employee the benefit at the correct rate they are or would have been entitled to.
3. **Recovery from employer** – The Corporation can **recover from the employer** the capitalised value of the benefit paid:
 - (a) Employer must be given a **reasonable opportunity of being heard**.
 - (b) Capitalised value may be adjusted for any **contributions, interest, or damages** owed by the employer for delays or non-payment.
4. **Recovery procedure** – Amount recoverable may be recovered:
 - (a) As if it were **arrears of land revenue**, or
 - (b) In the manner specified under **Sections 129–132**.

Liability of Owner or Occupier of Factories for Excessive Sickness Benefit (Section 43)



1. **Excess sickness** – If Corporation finds excessive sickness due to:
 - (a) Insanitary conditions in factory/establishment or neglect by owner/occupier to follow health regulations.
 - (b) Insanitary conditions of tenements/lodgings of Insured Persons due to neglect of owner.

2. Claim & Inquiry –

- (a) Corporation may send a **claim** for extra expenditure incurred on sickness benefit.
- (b) If not settled, **refer to appropriate Government** for inquiry.

3. Determination of liability –

- (a) Inquiry proves default/neglect → determine extra expenditure and responsible person(s) for payment.

4. Enforcement – Determination enforceable **like a Civil Court decree**.

5. Definition of “owner” – Includes agents and lessees entitled to collect rent.

Scheme for other Beneficiaries (Section 44) 📖

1. Central Government may **frame/amend/rescind schemes** for other beneficiaries & families.
2. **Purpose: medical facilities in underutilised hospitals** of the Corporation, on payment of **user charges**.
3. **Definitions:**
 - “Other beneficiaries” → persons not insured under section 28.
 - “Underutilised hospital” → hospital not fully used by insured employees.
 - “User charges” → fees specified in regulations with Central Government approval.

Schemes for Unorganised, Gig, and Platform Workers (Section 45) 📖

1. Central Government may **frame schemes** for unorganised, gig, platform workers & their families.
2. Scheme details: **contributions, user charges, benefits, eligibility, and other terms** as specified in the scheme.

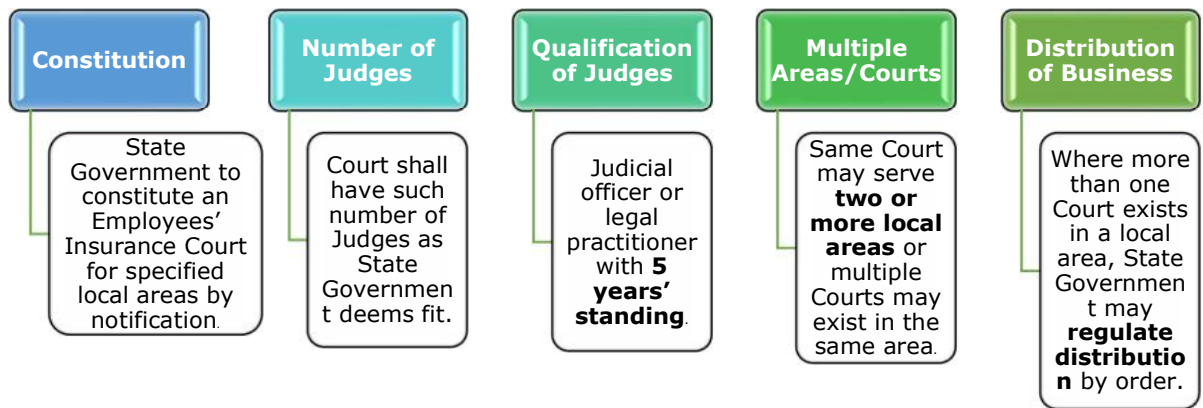
Exemption of Government/Local Authority Establishments (Section 46) 🏛️

1. Appropriate Government may **exempt Government or local authority factories/establishments**.
2. Condition: employees already receive **substantially similar or superior benefits** under Chapter IV.
3. Exemption granted **by notification** after consultation with Corporation.

Priority of Contributions over Other Debts (Section 47) 💰

1. Any amount due under Chapter IV → **charge on establishment assets**.
2. Payment has **priority** over other debts under **Insolvency and Bankruptcy Code, 2016**.

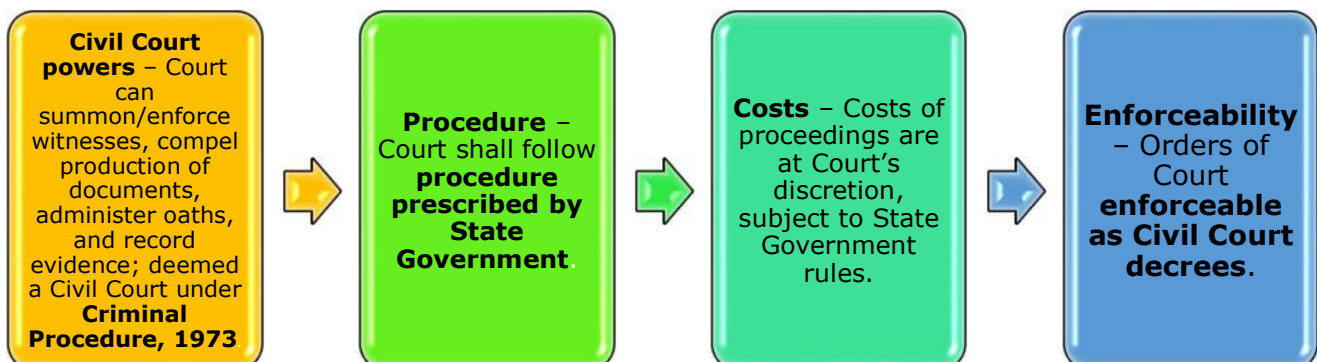
Constitution of Employees' Insurance Court (Section 48)



Matters to be Decided by Employees' Insurance Court (Section 49)

- Scope of disputes** – Court decides questions regarding:
 - Whether a person is an employee or liable to pay contribution.
 - Rate of wages or average daily wages.
 - Employer's contribution in respect of employee.
 - Identity of employer for any employee.
 - Right to benefits, including amount and duration.
 - Directions by Corporation on review of dependants' benefit.
 - Any dispute between employer & Corporation, employer & contractor, person & Corporation, or employee & employer/contractor regarding contributions, benefits, or dues.
 - Recovery of contributions from employer.
 - Recovery of benefits received unlawfully under section 41(8).
 - Claims against employer under section 42.
 - Orders of appellate authority under section 126.
 - Employer claim to recover contributions from contractor.
 - Any other claim for recovery of benefits under this Chapter.
- Deposit requirement** – Employer must deposit **50% of amount claimed by Corporation** before raising dispute; Court may waive/reduce deposit with reasons recorded.
- Exclusive jurisdiction** – No Civil Court can decide disputes listed in sub-section (1) or adjudicate matters assigned to **medical board, medical appeal tribunal, or Employees' Insurance Court**.

Powers of Employees' Insurance Court (Section 50)



Proceedings of Employees' Insurance Courts (Section 51)

1. **Commencement & procedure** – Manner of commencement, fees, and procedure prescribed by the appropriate Government.
2. **Limitation period** – Proceedings must be initiated within **3 years** from the date the cause of action arises.
 - "Cause of action" includes claims by Insured Persons/dependants, recovery of contributions by Corporation from employer, and recovery of contributions by employer from contractor; specific timelines as per regulations.
3. **Representation** – Applications, appearances, or acts (other than witness examination) may be made:
 - By legal practitioner, or
 - By officer of registered trade union authorised in writing, or
 - By any other authorised person with Court permission.
4. **Reference to High Court** – Court may submit questions of law to High Court and decide pending matters in accordance with its decision.

Appeal to High Court (Section 52)

General rule	No appeal lies from an order of Employees' Insurance Court unless expressly provided
Appeal permitted	Appeal to High Court allowed if order involves a substantial question of law .
Time limit	Appeal must be filed within 60 days from the date of the Court's order.
Limitation Act applicability	Sections 5 and 12 of Limitation Act, 1963 apply to such appeals.
Stay of payment	If Corporation appeals, Employees' Insurance Court may, or if directed by High Court, shall withhold payment pending appeal decision.

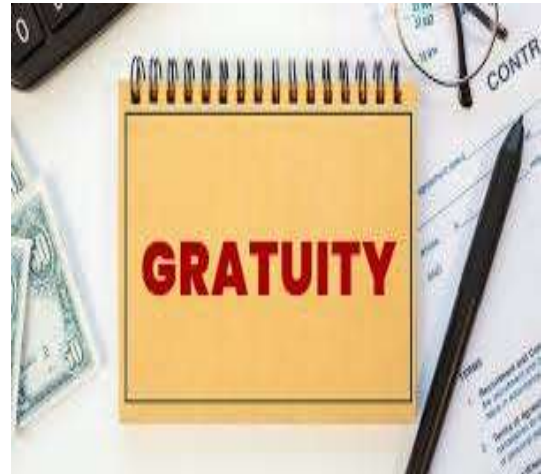


CHAPTER V- GRATUITY

Payment of Gratuity (Section 53)

1. **Gratuity** payable to an **employee** on **termination** of employment after **continuous service** of not less than **five years** –
 - (a) on **superannuation**;
 - (b) on **retirement** or **resignation**;
 - (c) on **death** or **disablement** due to **accident** or **disease**;
 - (d) on termination of **fixed term employment**;
 - (e) on events **notified by the Central Government**:

- For **working journalists**, "five years" = **three years**.
 - Completion of **five years** not needed if termination due to **death, disablement, fixed term expiration**, or notified events.
 - On **death**, gratuity paid to **nominee** or **heirs**; if **minor**, deposited with **competent authority** until majority.
2. Employer pays gratuity for every completed year or part exceeding **six months** at **fifteen days' wages** based on **last drawn wages**:
 - For **piece-rated employees**, daily wages = **average of last three months** (excluding **overtime**).
 - **Seasonal employees: seven days' wages per season**.
 - **Fixed term or deceased employees: pro-rata** gratuity.
 3. **Gratuity amount** shall not exceed **limit notified by Central Government**.
 4. For **employees on reduced wages after disablement**, wages before disablement considered; reduced wages considered after disablement.
 5. Nothing affects employee's right to **better gratuity** under any **award, agreement, or contract**.
 6. Notwithstanding sub-section (1) –
 - a. Gratuity **forfeited for damage/loss** caused by employee's act, omission, or negligence,
 - b. Gratuity may be **wholly/partially forfeited** –
 - i. for **riotous/disorderly conduct** or **violence**;
 - ii. for **offence involving moral turpitude** during employment.



Explanation 1: Employee does not include **Central/State Government posts** governed by other **Acts/rules**.

Explanation 2: Disablement = incapacity to perform previous work due to **accident or disease**.

Explanation 3: For **monthly rated employees**, fifteen days' wages = $(\text{monthly wages} \div 26) \times 15$.

Continuous Service (Section 54)

For the purposes of this Chapter V –

- A. An **employee** shall be said to be in **continuous service** for a period if he has been in **uninterrupted service**, including service interrupted due to **sickness, accident, leave, absence from duty without leave** (unless treated as break in service by **standing orders, rules or regulations**), **lay-off, strike, lock-out**, or **cessation of work** not due to employee's fault, whether before or after the commencement of this Code.
- B. Where an employee (**not in seasonal establishment**) is **not in continuous service** under clause (A), for any period of **one year** or **six months**, he shall be deemed in **continuous service** –

- (1) For the **one year** period, if during preceding **12 calendar months**, he has actually worked:
 - i. **190 days**, if employed **below ground in a mine** or in an establishment working **less than six days/week**;
 - ii. **240 days** in any other case.
- (2) For the **six months** period, if during preceding **6 calendar months**, he has actually worked:
 - i. **95 days**, if employed **below ground in a mine** or in an establishment working **less than six days/week**;
 - ii. **120 days** in any other case.

Explanation: Days actually worked include –

- i. **Laid-off** under agreement or permitted by **standing orders** under **Industrial Employment (Standing Orders) Act, 1946, Industrial Disputes Act, 1947**, or any other applicable law;
 - ii. **Leave with full wages** earned in previous year;
 - iii. Absence due to **temporary disablement** caused by accident **arising out of and in course of employment**;
 - iv. In case of a **female, maternity leave**, provided total period does not exceed **26 weeks**.
- C. Where an employee, employed in a **seasonal establishment**, is not in continuous service under clause (A), for any period of **one year** or **six months**, he shall be deemed in **continuous service** if he has actually worked **not less than 75% of days** the establishment was in operation during that period.

Nomination (Section 55)

- (1) Each **employee** who has completed **one year of service** shall make a **nomination** within such **time, form, and manner** as prescribed by the appropriate Government.
- (2) An employee may **distribute gratuity** among **more than one nominee**.
- (3) If the employee has a **family**, nomination shall be in favour of **one or more family members**; nomination in favour of non-family members is **void**.
- (4) If the employee has **no family**, nomination may be made in favour of **any person(s)**; if family is later acquired, nomination becomes **invalid** and a **fresh nomination** must be made within prescribed time.
- (5) Nomination may be **modified** by the employee at any time, after giving **written intimation** to the employer in prescribed form and manner.
- (6) If a **nominee predeceases** the employee, the interest reverts to the employee who must make a **fresh nomination**.
- (7) Every **nomination, fresh nomination, or alteration** shall be sent to the **employer**, who shall keep it in **safe custody**.

Determination of Amount of Gratuity (Section 56)

1. Eligible person or authorised representative shall **apply in writing** to the **employer** within prescribed **time and form**.

2. Employer shall **determine gratuity** and give **written notice** to the person and **competent authority**, whether or not application is made.
3. Employer shall **pay gratuity within 30 days** of it becoming payable.
4. If **delayed**, employer shall pay **simple interest** at rate notified by Central Government, unless delay is due to **employee's fault** and **written permission** obtained from competent authority.
5. **Disputes** regarding gratuity –
 - (a) Employer deposits **admitted amount** with **competent authority**.
 - (b) Dispute may be referred to **competent authority** in prescribed form.
 - (c) Competent authority shall **inquire**, hear parties, and **determine amount payable**.
 - (d) Authority shall pay **deposited amount** (including excess) to the person entitled.
 - (e) If no dispute as to applicant's right, deposit may be paid to **employee, nominee, guardian, or heir**.
6. Competent authority has **powers of a civil court**:
 - (a) **Enforce attendance** and examine on **oath**;
 - (b) Require **discovery/production of documents**;
 - (c) Receive **evidence on affidavit**;
 - (d) Issue **commissions** for witness examination.
7. Any inquiry is a **judicial proceeding** under sections 193, 228, and 196 of **IPC**.
8. Aggrieved person may **appeal within 60 days** to appropriate Government or authority; period may be **extended 60 more days** for sufficient cause.
 - Employer's appeal requires **certificate or deposit** of gratuity amount with competent/appellate authority.
9. Appropriate Government or appellate authority may, after **hearing parties, confirm, modify, or reverse** competent authority's decision.

Compulsory Insurance (Section 57)

- (1) Every **employer** (except Central/State Government establishments) shall, from **notified date**, obtain **insurance** for **gratuity liability** from any **insurance company regulated by IRDA**.
 - Different dates may be appointed for **different establishments, classes, or areas**.
- (2) **Exemptions**:
 - Employers with an **approved gratuity fund** already in place may continue it.
 - Employers with **500 or more employees** who establish an **approved gratuity fund** as prescribed are also exempted.
- (3) Employer shall **register establishment** with **competent authority** within prescribed time; registration is allowed only if insurance is taken or an **approved gratuity fund** is established.
- (4) **Appropriate Government may**:
 - Provide **composition of Board of Trustees** of approved gratuity fund.
 - Enable **recovery of gratuity** from **insurer** or **Board of Trustees** in prescribed manner.

(5) If employer **fails to pay insurance premium** or **contribute to fund**, he is liable to pay **gratuity due (including interest, if any)** to the competent authority.

Explanation: "Approved gratuity fund" has meaning as in sub-section (5) of section 2 of Income-tax Act, 1961.

Competent Authority (Section 58)

(1) **Appropriate Government may appoint an officer with prescribed qualifications and experience as competent authority for implementation of this Chapter in specified area.**

(2) **If more than one competent authority is appointed for an area, the Government may regulate distribution of business among them.**

(3) **A competent authority may choose experts with special knowledge to assist in inquiries relevant to any matter referred under this Chapter.**

CHAPTER VI- MATERNITY BENEFIT

Employment of, or Work by, Women Prohibited During Certain Period (Section 59)

(1) No **employer** shall knowingly employ a **woman** in any establishment during the **six weeks immediately following** the day of her **delivery, miscarriage, or medical termination of pregnancy.**

(2) No **woman** shall work in any establishment during the **six weeks immediately following** the day of her **delivery, miscarriage, or medical termination of pregnancy.**

(3) Without prejudice to **section 62**, a **pregnant woman**, on her **request**, shall not be required by her employer during the period specified in **sub-section (4)** to do any work which:

- is of an **arduous nature**,
- involves **long hours of standing**, or
- is likely to **interfere with pregnancy, normal development of foetus, cause miscarriage, or adversely affect her health.**

(4) The period referred to in **sub-section (3)** shall be –

- i. **one month immediately preceding** the period of **six weeks before expected delivery**;
- ii. **any period during the said six weeks** for which the pregnant woman **does not avail leave** under **section 62.**



Explanation: "Work of arduous nature" means work involving **strenuous effort** or work that is **difficult and tiring**.

Right to Payment of Maternity Benefit (Section 60)

(1) Subject to the provisions of the **Wage Code**, every **woman** shall be entitled to **maternity benefit**, and the employer shall be liable to pay it at the **average daily wage** for the period of her **actual absence**, including:

- the period **immediately preceding the day of delivery**, and
- the period **immediately following that day**.

Explanation: "Average daily wage" means the **average of wages** payable for the **days worked during the three calendar months immediately preceding the date of absence**, subject to the **minimum wage under the Code on Wages, 2019**.

(2) A woman shall not be entitled to **maternity benefit** unless she has **actually worked at least 80 days** in the **12 months immediately preceding the expected date of delivery**.

Explanation: For calculating this period, the following days are included:

- days **actually worked**,
- days **laid off**, and
- **holidays with wages** declared under any law.

(3) **Maximum maternity benefit period: 26 weeks**, of which **not more than 8 weeks** shall precede the **expected delivery date**.

Provided that:

- For a woman with **two or more surviving children**, maximum benefit is **12 weeks**, of which **not more than 6 weeks** shall precede delivery.

Provided further that:

- If the **woman dies** during this period, benefit is payable **only up to the day of her death**.

Provided also that:

- If the **woman dies after delivery** but leaves the **child**, the employer shall pay **maternity benefit for the entire entitled period**.
- If the **child also dies during the period**, benefit is **payable up to the date of the child's death**.

Explanation: "Child" includes a **stillborn child**.

(4) A woman who **legally adopts a child below 3 months** or a **commissioning mother** shall be entitled to **maternity benefit for 12 weeks** from the date the child is **handed over** to her.



- (5) If the nature of work allows, the **employer may allow work from home** after maternity benefit for such **period and conditions mutually agreed** between the employer and the woman.

Continuance of Payment of Maternity Benefit in Certain Cases (Section 61)

Every **woman entitled to maternity benefit** under **Chapter VI** shall, **notwithstanding the application of Chapter IV** to the factory or establishment, **continue to be entitled** to maternity benefit **until she becomes qualified** to claim maternity benefit under **section 32**.

Notice of Claim for Maternity Benefit and Payment Thereof (Section 62)

- (1) Any **woman employed in an establishment** and entitled to **maternity benefit** may give **notice in writing** (in prescribed form) to her **employer** stating:
 - maternity benefit or other amount be **paid to her or her nominee**, and
 - she will **not work in any establishment** during the period she receives maternity benefit.
- (2) If the woman is **pregnant**, the notice shall state the **date from which she will be absent**, which shall **not be earlier than 8 weeks before expected delivery**.
- (3) If a woman **did not give notice during pregnancy**, she may give such **notice as soon as possible after delivery**.
- (4) On receipt of the notice, the **employer shall permit her absence** during the **maternity benefit period**.
- (5) **Payment of maternity benefit:**
 - Amount for the period **before delivery** shall be **paid in advance** on proof of **pregnancy**.
 - Amount for the period **after delivery** shall be **paid within 48 hours** of proof that she has **delivered a child**.
- (6) **Failure to give notice** shall **not disentitle** the woman to maternity benefit if she is otherwise entitled; an **Inspector-cum-Facilitator** may order **payment within specified time**.

Payment of Maternity Benefit in Case of Death of a Woman (Section 63)

If a **woman entitled to maternity benefit dies before receiving it**, the **employer shall pay the benefit:**

- to the **nominee named in the notice under section 62**, or
- if no nominee exists, to her **legal representative**.

Payment of Medical Bonus (Section 64)

Every woman entitled to **maternity benefit** shall also receive a **medical bonus of ₹3,500** or such **amount as notified by the Central Government**, if the employer does **not provide free pre-natal and post-natal care**.

Leave for Miscarriage (Section 65)

- (1) In case of **miscarriage or medical termination of pregnancy**, a woman shall be entitled to **leave with wages at the rate of maternity benefit for 6 weeks** immediately following the day of miscarriage or termination, on **production of proof**.
- (2) In case of **tubectomy operation**, a woman shall be entitled to **leave with wages at the rate of maternity benefit for 2 weeks** immediately following the day of operation, on **production of proof**.
- (3) A woman suffering from **illness arising out of pregnancy, delivery, premature birth, miscarriage, or medical termination of pregnancy** shall be entitled, on **production of proof**, to **additional leave with wages at the rate of maternity benefit for a maximum period of 1 month**, in addition to leave under **section 62 or sub-section (1)**.



Nursing Breaks – Section 66 🕒

- A woman who **returns to work after childbirth** is entitled to:
 - **Two additional nursing breaks** during her daily work.
- These breaks are **in addition to the regular rest interval**.
- The benefit continues **until the child becomes 15 months old**.

Purpose: Allows the mother to **breastfeed or attend to the child** during working hours.

Crèche Facility – Section 67 👶

- If an establishment has **50 or more employees**, it must provide a **crèche (childcare facility)**.

Important points

- The crèche must be **within the prescribed distance**.
- It can be:
 - Set up **individually by the employer**, or
 - **Shared/common crèche** with:
 - Government
 - Municipality
 - NGO
 - Private organisation
 - Group of establishments.



Visits Allowed

- A woman employee can **visit the crèche 4 times a day**, including rest intervals.

Information Requirement

- The employer must **inform every woman employee in writing and electronically** about all maternity benefits **at the time of appointment**.

Protection from Dismissal During Pregnancy – Section 68

An employer **cannot**:

- Dismiss or discharge** a woman during maternity leave.
- Issue a notice that **expires during her maternity absence**.
- Change her service conditions to her disadvantage**.

Exception

If there is **gross misconduct**, the employer may:

- Deprive her of maternity benefit or medical bonus **through a written order**.

Right to Appeal

- If she is dismissed or denied benefits, she may **appeal within 60 days** to the **competent authority**.

No Deduction of Wages – Section 69

A woman's **daily wages cannot be reduced** because of:

- Light work assigned during pregnancy** (Section 59).
- Nursing breaks** provided under Section 66.

Forfeiture of Maternity Benefit – Section 70

A woman **loses maternity benefit for that period** if she:

- Works for remuneration elsewhere** during the maternity leave allowed by the employer.

Duties of Employer – Section 71

The employer must:

- Display a **summary (abstract) of maternity provisions** and rules
- In **local language(s)**
- At a **conspicuous place in the establishment**.

Complaint to Inspector-cum-Facilitator – Section 72

(1) Any woman claiming that –

- maternity benefit or any other amount due to her under this Chapter has **not been paid or has been improperly withheld**, or any person claiming that such payment has been improperly withheld;
- her employer has **discharged or dismissed her during or because of her absence from work** in accordance with the provisions of this Chapter, **may make a complaint to the Inspector-cum-Facilitator**.

(2) On receiving the complaint mentioned in sub-section (1), the **Inspector-cum-Facilitator may conduct an inquiry or get an inquiry conducted** and if satisfied that –

- (a) the payment has been **wrongfully withheld**, he may **order in writing that the payment be made;**
- (b) the woman has been **discharged or dismissed during or because of her absence from work**, he may **pass such orders as he considers just and proper according to the circumstances of the case.**

(3) Any person **aggrieved by the order of the Inspector-cum-Facilitator** under sub-section (2) may **appeal within 30 days** from the date the order is communicated, to the **authority prescribed by the appropriate Government.**

(4) The **decision of the prescribed authority** (if an appeal is made) **or the decision of the Inspector-cum-Facilitator** (if no appeal is made) **shall be final.**

CHAPTER VII- EMPLOYEE'S COMPENSATION

Reports of Fatal Accidents and Serious Bodily Injuries (Section 73)

(Under the Code on Social Security, 2020)

(1) Where any law requires an employer or his representative to give **notice of an accident occurring in the premises** which results in **death or serious bodily injury**, the person giving such notice **shall within seven days** send a **report to the competent authority** explaining the circumstances of the death or serious bodily injury.

Provided that where the **State Government specifies**, the report may be sent **to the authority to whom the notice is already required to be given instead of the competent authority.**

Explanation – For this sub-section, “**serious bodily injury**” means an injury involving or likely to involve:

- **Permanent loss or injury to any limb, or**
- **Permanent loss or injury to sight or hearing, or**
- **Fracture of any limb, or**
- **Absence from work for more than twenty days**



(2) The **State Government may, by notification**, extend the provisions of sub-section (1) to **other classes of premises**, and may specify **the persons who must send the report to the competent authority.**

(3) This section **does not apply to establishments** to which **Chapter IV relating to Employees' State Insurance Corporation applies.**

Employer's Liability for Compensation (Section 74)

(Under the Code on Social Security, 2020)

(1) If an employee suffers **personal injury due to an accident or an occupational disease listed in the Third Schedule arising out of and during employment**, the **employer is liable to pay compensation** under this Chapter.

Provided that the employer shall **not be liable** –

- a. if the injury **does not cause total or partial disablement for more than three days;**
- b. if the injury **does not result in death or permanent total disablement** and is directly caused by –
 - the employee being **under the influence of drink or drugs**, or
 - **wilful disobedience of safety orders or rules**, or
 - **wilful removal or disregard of safety guards or safety devices** provided for employee safety.

(2) An accident or occupational disease shall still be **deemed to arise out of and in the course of employment** even if the employee was **acting in violation of law, employer's orders, or without instructions**, if –

- (a) the accident or disease **would have been considered employment-related even if such violation had not occurred**; and
- (b) the act was **done for the purpose of and in connection with the employer's trade or business**.

(3) If an employee employed in any **employment listed in the Second Schedule** contracts a **disease listed in the Third Schedule**, which is peculiar to that employment, **after working continuously for at least six months**, the disease shall be **deemed to be an injury by accident arising out of employment**, unless proved otherwise.

(4) An accident occurring **while commuting between residence and workplace** shall be considered **arising out of and in the course of employment** if a **connection (nexus) between the accident and employment circumstances, time, and place is established**.

(5) The **Central Government or State Government**, after giving **at least three months' notice by notification**, may **modify or add employments in the Second Schedule and diseases in the Third Schedule**, and specify the diseases considered **occupational diseases for those employments**.

(6) Except as provided in sub-sections **(2), (3), and (4)**, **no compensation is payable** unless the accident or disease is **directly attributable to an injury arising out of and during employment**.

(7) No employee shall have the **right to compensation** if he has **filed a civil suit for damages regarding the same accident or disease**.

Also, **no civil suit for damages shall be maintainable** –

- (a) if the employee has **already filed a compensation claim before the competent authority**; or

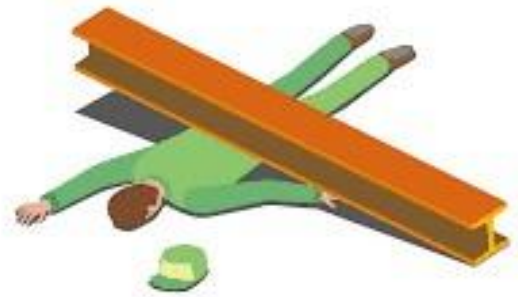
- (b) if an **agreement exists between the employee and employer for compensation under this Chapter.**

Compensation in case of Death or Injury in Plantation (Section 75)

If **death or injury** is caused to any **worker or a member of his family** due to the **collapse of a house provided by the employer in a plantation**, the **employer is liable to pay compensation under Section 76 and the Sixth Schedule**, provided that the collapse is **not solely and directly due to the fault of the occupant or a natural calamity.**

Explanation – Meaning of “Worker”:

A **worker** means a person employed in a plantation **for hire or reward**, directly or through an agency, to do **skilled, unskilled, manual or clerical work**, including a **contract worker employed for more than 60 days in a year.**



But it **does not include**:

- i. A **medical officer** employed in the plantation.
- ii. Any person whose **monthly wages exceed the amount notified by the appropriate Government.**
- iii. Any person employed **primarily in managerial or administrative capacity**, even if wages are within the limit.
- iv. Any person **temporarily employed for construction, development or maintenance** of buildings, roads, bridges, drains or canals.

Amount of Compensation (Section 76)

(1) Amount of Compensation:

(a) **Death:**

Compensation = **50% of monthly wages × relevant factor** or **amount notified by the Central Government, whichever is higher.**

(b) **Permanent Total Disablement:**

Compensation = **60% of monthly wages × relevant factor** or **amount notified by the Central Government, whichever is higher.**

Proviso:

The **Central Government may enhance the compensation amount** from time to time by notification.

Explanation – Relevant Factor:

“Relevant factor” means the **factor specified in Column (3) of the Sixth Schedule**, corresponding to the **completed age of the employee on his last birthday before the compensation became due.**

(c) **Permanent Partial Disablement:**

- i. **Injury specified in Part II of Fourth Schedule:**

Compensation = **Specified percentage of compensation payable for permanent total disablement** according to **loss of earning capacity mentioned in the Schedule.**

ii. **Injury not specified in Fourth Schedule:**

Compensation = **Percentage of compensation payable for permanent total disablement, proportionate to the loss of earning capacity assessed by a medical practitioner.**

Explanation 1:

If **multiple injuries occur from the same accident**, compensation will be **aggregated but shall not exceed the amount payable for permanent total disablement.**

Explanation 2:

While assessing **loss of earning capacity**, the **medical practitioner must consider the percentages given in the Fourth Schedule.**

(d) Temporary Disablement (Total or Partial):

Compensation = **Half-monthly payment equal to 25% of monthly wages**, paid according to sub-section (4).

(2) Accident Outside India:

If the accident occurs **outside India**, the **competent authority will consider compensation already awarded under the law of that country and deduct it from the amount fixed in India.**

(3) Monthly Wages:

The **Central Government may specify monthly wages** for the purpose of calculating compensation.

(4) Payment of Half-Monthly Compensation:

Half-monthly payment shall be payable on the **16th day:**

- (i) **From the date of disablement**, if disablement lasts **28 days or more**; or
- (ii) **After a waiting period of 3 days**, if disablement lasts **less than 28 days.**

Payments continue **half-monthly during the disablement or for 5 years, whichever is shorter.**

Provided that:

- (c) **Any payment or allowance already received from the employer as compensation during disablement shall be deducted, but medical treatment expenses shall not be deducted.**
- (d) **Half-monthly payment cannot exceed the difference between half of pre-accident wages and half of post-accident wages.**

(5) Medical Expenses:

The **employer must reimburse the actual medical expenses** incurred for treatment of employment injuries.

(6) End of Disablement:

If disablement **ends before the next half-monthly payment**, the employee will receive **proportionate payment for that period**.

(7) Funeral Expenses:

If the **injury results in death**, the employer must **deposit at least ₹15,000 (or higher amount prescribed by the State Government)** with the competent authority for **funeral expenses**, payable to:

- the **eldest surviving dependant**, or
- the **person who actually incurred the funeral expenses** if there is no dependant.

Proviso:

The **Central Government may increase this amount by notification**.

Compensation to be Paid When Due and Damages for Default (Section 77)

- (1) Compensation under **section 76** shall be **paid as soon as it becomes due**.
- (2) If the **employer does not accept full liability**, he must **make a provisional payment** based on the **liability he accepts**.
Such payment shall be **deposited with the competent authority or paid to the employee**, without affecting the **employee's right to claim further compensation**.
- (3) If the **employer defaults in paying compensation within one month from the date it became due**, the **competent authority shall**:
 - i. Direct the employer to **pay interest at the rate prescribed by the Central Government** on the amount due.
 - ii. If the delay **has no justification**, direct the employer to **pay an additional sum up to 50% of the arrears as damages**.

Provided that:

No order for **payment of damages** shall be passed **without giving the employer a reasonable opportunity to show cause**.

- (4) The **interest and 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, "monthly wages"** means the **amount of wages payable for one month's service**, whether paid **monthly, periodically or at piece rates**, calculated as follows:

- (a) If the employee has worked for the employer for a **continuous period of at least 12 months before the accident**,

Monthly wages = 1/12 of the total wages payable during the last 12 months.

- (b) If the **continuous service before the accident is less than one month**,
Monthly wages = Average monthly wages earned during the last 12 months by another employee doing the same work with the same employer, or if none exists, by an employee doing similar work in the same locality.

- (c) In **other cases**, or where **information is insufficient to apply clause (b)**,

$$\text{Monthly wages} = \frac{30 \times \text{total wages earned during the last continuous period of service}}{\text{number of days in that period}}.$$

Explanation:

A period of service is considered continuous if it is not interrupted by absence from work exceeding 14 days.

Review (Section 79)

(1) Any **half-monthly payment** payable under this Chapter, either **by agreement or by order of the competent authority**, may be **reviewed by the competent authority** on application by the **employer or employee** along with a **medical practitioner's certificate stating a change in the employee's condition**, or **without such certificate subject to conditions prescribed by the State Government**.

(2) After review, the **half-monthly payment may be:**

- **Continued,**
- **Increased,**
- **Decreased, or**
- **Ended.**

If the accident is found to have resulted in **permanent disablement**, the payment may be **converted into a lump sum**, after **deducting the amount already paid as half-monthly payments**.

Commutation of Half-Monthly Payments (Section 80)

Any **right to receive half-monthly payments** may be **redeemed by payment of a lump sum:**

- **By agreement between the parties, or**
- If no agreement is reached and **payments have continued for at least six months**, either party may **apply to the competent authority**, which will **determine the lump sum amount**.

Distribution of Compensation (Section 81)

(1) No **compensation for death of an employee** and no **lump sum compensation to a woman or a person under legal disability** shall be paid **directly by the employer**. It must be **deposited with the competent authority**, otherwise it will **not be considered valid payment of compensation**.

Proviso:

In case of a **deceased employee**, the employer may **advance up to three months' wages** to any dependant. The **competent authority will deduct this advance from the compensation payable and repay it to the employer**.

(2) Any **other compensation of ₹5,000 or more** payable may also be **deposited with the competent authority** on behalf of the entitled person.

(3) The **receipt issued by the competent authority** shall be **sufficient discharge** for the employer for the compensation deposited.

(4) Procedure after deposit of compensation for a deceased employee:

- (a) The **competent authority may publish or serve notice to dependants** asking them to appear on a specified date to **determine distribution of compensation.**
- (b) If after inquiry **no dependant exists**, the **balance amount shall be repaid to the employer.**
- (c) On **application by the employer**, the competent authority shall **provide a detailed statement of all disbursements made.**

(5) The **competent authority shall apportion compensation among the dependants** of the deceased employee in such **proportion as he thinks fit**, or may **allot it to one dependant.**

Provided that:

The competent authority must **hear the dependants and record reasons** for the apportionment order.

(6) Where compensation is payable to **any person other than a woman or a person under legal disability**, the competent authority **may pay it directly to that person.**

(7) Where a **lump sum compensation is payable to a woman or a person under legal disability**, the competent authority may **invest, apply, or deal with the money for their benefit during the disability.**

If a **half-monthly payment is payable to a person under legal disability**, the competent authority may **direct that the payment be made to a dependant or another suitable person for the welfare of the employee.**

(8) The competent authority may **vary an order regarding distribution or investment of compensation** if satisfied that:

- there is **neglect of children by a parent**,
- there is **change in circumstances of dependants**, or
- there is **any other sufficient cause.**

Provided that:

No order **prejudicial to any person** shall be passed **without giving an opportunity to show cause**, and **no dependant shall be required to repay any amount already received.**

(9) If the competent authority finds that **compensation was obtained by fraud, impersonation or improper means**, the **amount paid may be recovered.**

(10) Such amount may be **recovered as arrears of land revenue**, and the **competent authority shall be deemed a public officer under section 5 of the Revenue Recovery Act, 1890.**

Notice and Claim (Section 82)

(1) No **claim for compensation** shall be entertained unless:

- **Notice of accident is given as soon as practicable**, and
- **Claim is made within 2 years** of the **accident**, or
- **Within 2 years from the date of death**, in case of death.

Proviso 1:

For **occupational diseases under section 74(3)**, the accident is deemed to have occurred on the **first day the employee was continuously absent from work due to the disease**.

Proviso 2:

If **partial disablement due to disease does not cause absence from work**, the **2-year period starts from the day the employee gives notice of disablement to the employer**.

Proviso 3:

If an employee **leaves employment after the required period under section 74(3)** and **develops symptoms of occupational disease within 2 years**, the accident is deemed to have occurred on the **day symptoms were first detected**.



(2) Defect or absence of notice will **not bar a claim**:

- (d) If **death occurred due to an accident on the employer's premises or workplace under employer's control**, and the employee **died there or nearby**.
- (e) If the **employer or responsible manager had knowledge of the accident from another source at or about the time it occurred**.

Provided that:

The **competent authority may entertain the claim even if notice was not given or claim was delayed**, if there was **sufficient cause**.

(3) The **notice of accident must contain**:

- **Name and address of the injured person**
- **Cause of injury**
- **Date of accident**

It must be **served on the employer, one of several employers, or a person responsible for management of the business or branch**.

(4) The **appropriate Government may require certain employers to maintain a notice-book** at the workplace, **accessible to injured employees or persons acting on their behalf**.

(5) Notice may be served by:

- **Delivering it personally,**
- **Sending by registered post,**
- **Electronic communication, or**

- **Entry in the notice-book**, if maintained.

Special Provisions Relating to Accidents Occurring Outside Indian Territory (Section 83)

(1) Applicability:

This section applies, with modifications, to the following employees working **outside India**:

- (f) **Masters of ships or seamen.**
- (g) **Captain and other crew members of aircraft.**
- (h) **Persons recruited by companies registered in India and working abroad.**
- (i) **Persons sent abroad with motor vehicles registered under the Motor Vehicles Act, 1988 as drivers, helpers, mechanics, cleaners or other employees.**

(2) Service of Notice and Claim:

Notice of accident and claim for compensation may be served on the following persons **as if they were the employer**:

- If the injured person is a **seaman (not the master)** – on the **master of the ship**.
- If the injured person is a **member of aircraft crew (not the captain)** – on the **captain of the aircraft**.
- For **persons recruited by Indian companies working abroad** – on the **local agent of the company**.
- For **persons sent abroad with motor vehicles** – on the **local agent of the vehicle owner in the country where the accident occurred**.

Provided that:

If the **accident occurred and disablement started on board the ship or aircraft**, **no notice of accident is required** from the seaman or aircraft crew.

(3) Time Limit for Claim:

- (c) In case of **death of the employee**, the claim must be made **within one year from the date the claimant receives news of the death**.
- (d) If the **ship or aircraft is lost with all hands**, the claim must be made **within eighteen months from the date the ship or aircraft was lost or deemed lost**.

Provided that: The **competent authority may accept a delayed claim** if satisfied that the **delay was due to sufficient cause**.

(4) Admissibility of Depositions as Evidence:

If an injured employee is **discharged or left behind in India or in a foreign country**, depositions taken by a **Judge, Magistrate or Consular Officer** and sent to the **Central Government or State Government** shall be **admissible as evidence**, if:

- (a) The deposition is **authenticated by the signature** of the **Judge, Magistrate or Consular Officer**.

- (b) The **defendant or accused had an opportunity to cross-examine the witness.**
- (c) If recorded during a **criminal proceeding**, it was made **in the presence of the accused.**

It is **not necessary to prove the signature or official position** of the person signing the deposition. A **certificate confirming opportunity for cross-examination** is sufficient evidence unless proven otherwise.

(5) Half-Monthly Payment Restriction:

No **half-monthly payment** shall be payable during the period when the **ship owner is legally responsible for maintenance expenses of the injured master or seaman** under merchant shipping law.

(6) Delay in Notice or Claim:

Failure to **give notice, make a claim, or start proceedings within the prescribed time** will **not bar proceedings** if they are **commenced within one month from the date the Government furnishes a certificate to that effect to the claimant.**

Medical Examination (Section 84)

- (1) After giving **notice of accident**, the employee must **submit to medical examination** if the employer **offers free examination within 3 days of notice.**
An employee receiving **half-monthly payments** must also **submit to examination from time to time.**

Provided that:

The employee shall **not be required to undergo examination more frequently than the interval prescribed by the State Government.**

- (2) If the employee **refuses or obstructs medical examination** required by the employer or competent authority, his **right to compensation shall be suspended** during such refusal or obstruction, **unless there was sufficient cause.**

- (3) If the employee **leaves the vicinity of the workplace before the period for examination expires without being examined**, his **right to compensation shall be suspended until he returns and offers himself for examination.**

Provided that: If the employee proves that **failure to appear was due to circumstances beyond his control and he could not communicate it**, the **medical practitioner may condone the delay after recording**



reasons, and the right to compensation shall be revived.

- (5) If an employee **dies during suspension without undergoing medical examination, the competent authority may direct payment of compensation to his dependants.**
- (6) During the **period of suspension, no compensation is payable.** If suspension **starts before the waiting period under section 76(4)(ii) ends,** the **waiting period shall be extended by the suspension period.**
- (7) If an employee **refuses free medical treatment offered by the employer or deliberately ignores the doctor's instructions, and the injury is aggravated,** then the **injury and disablement shall be treated as if proper treatment had been followed, and compensation shall be determined accordingly.**

Contracting (Section 85)

- (1) When an **employer contracts with a contractor** for work that is **ordinarily part of the employer's trade or business,** the **employer is liable to pay compensation to employees engaged in that work,** as if they were **directly employed by him.**
Compensation is calculated based on **wages paid by the immediate employer (contractor).**
- (2) If the **employer pays compensation,** he has the **right to be indemnified by the contractor** or any person liable to pay compensation.
Similarly, a **contractor who pays compensation may claim indemnity from another contractor responsible.**
Any dispute regarding **right or amount of indemnity** shall be **decided by the competent authority** if not settled by agreement.
- (3) The employee may **recover compensation from the contractor instead of the employer.**
- (4) This section **does not apply** if the **accident occurs outside the premises where the employer executes or controls the work.**

Remedies of Employer Against Stranger (Section 86)

If an **employee receives compensation for an injury caused by a third person (stranger)** who is **legally liable to pay damages,** then the **employer who paid compensation and any person who paid indemnity under section 85** shall have the **right to recover that amount from the person liable for damages.**

Insolvency of Employer (Section 87)

(1) If the **employer has insurance covering liability under this Chapter**, and the **employer becomes insolvent, makes a composition with creditors, or is being wound up**, the **employee acquires the employer's rights against the insurer**.

- The **insurer shall have the same rights and liabilities as the employer**, but **not greater liability** than the employer would have had.

(2) If the **insurer's liability is less than the employer's liability**, the **employee bears the burden of proving the balance** in insolvency or liquidation proceedings.

(3) If the **insurance contract is void or voidable due to employer's non-compliance** (other than non-payment of premium), the **employee's rights under subsection (1) still apply**, and the **insurer can prove in insolvency for amounts paid to the employee**.

Provided that: This does **not apply** if the **employee fails to notify the insurer of the accident or disablement promptly**.



(4) Compensation **accrued before insolvency or winding up** is **deemed a debt payable in priority** to all other debts under the **Insolvency and Bankruptcy Code, 2016** or **Companies Act, 2013**.

(5) For **half-monthly payments**, the **amount due** is treated as the **lump sum for which the half-monthly payment could be redeemed** under section 80. The **competent authority's certificate is conclusive**.

(6) Subsection (4) **applies to amounts insurers can claim under subsection (3)**, but **not to other cases where employer had insurance under subsection (1)**.

(7) This section **does not apply** if a company is **voluntarily wound up for reconstruction or amalgamation**.

Power to Require from Employers' Statements Regarding Fatal Accidents (Section 88)

(1) If a **competent authority receives information of an employee's death due to a workplace accident**, he may **serve notice to the employer (by registered post or electronically)** to submit a **statement within 30 days**:

- Circumstances of the death.
- Whether the employer **accepts liability to deposit compensation**.
- A copy of the notice is **sent to dependants**.

(2) If the **employer admits liability**, he must **deposit compensation within 30 days**.

(3) If the **employer disclaims liability**, he must **state the grounds for non-liability** in his statement.

(4) If liability is disclaimed, the **competent authority may inform dependants** that they may **prefer a claim** and provide **additional guidance or information**.

(5) If a **dependant cannot engage an advocate**, the **competent authority may provide one from the State Government's panel** to file the claim.

Registration of Agreements (Section 89)

(1) When a **lump sum compensation is settled by agreement** (including redemption of half-monthly payments or payment to a woman/person under legal disability), the **employer must send a memorandum to the competent authority**.

- The competent authority, after verifying **genuineness**, shall **record it in a register** (electronic or otherwise) as prescribed.

Provided that:

- (a) No record shall be made **before 7 days** of notice to parties.
- (b) The competent authority may **rectify the register anytime**.
- (c) If the **sum is inadequate or obtained by fraud/undue influence**, the authority may **refuse registration** and **make any order as deemed just**, including sums already paid.

(2) A **registered agreement is enforceable under this Code, notwithstanding the Indian Contract Act, 1872** or any other law.

(3) If a **memorandum is not sent for registration**, the employer is **liable to pay the full compensation** under Chapter VII.

- He **cannot deduct more than half** of any amount already paid unless directed by the competent authority.



Reference to Competent Authority (Section 90)

- **Any dispute regarding liability, amount, duration, or nature of compensation shall, in default of agreement, be settled by a competent authority.**
- **Civil Courts have no jurisdiction over matters required to be settled by a competent authority under this Chapter.**

Appointment of Competent Authority (Section 91)

(1) The **State Government may appoint** a competent authority, who may be:

- A **member of State Judicial Service** (≥ 5 years)
- An **advocate** (≥ 5 years)
- A **Gazetted Officer** (≥ 5 years) with qualifications/experience in **personnel management, HR, industrial relations, legal affairs**, or other prescribed qualifications.

(2) If **more than one authority exists** in an area, the State Government may **regulate distribution of business**.

(3) The competent authority may **seek assistance from persons with special knowledge** relevant to any matter under inquiry.

Venue of Proceedings and Transfer (Section 92)

(1) Matters under Chapter VII must be handled by the **competent authority for the area** where:

- The **accident occurred**; or
- The **employee or dependant ordinarily resides**; or
- The **employer has a registered office**.

Provided that:

- No matter is processed by another authority without **giving notice** to the authority having jurisdiction over the accident area and the State Government.
- For **accidents outside India** (ships, aircraft, motor vehicles, or companies), the matter may be handled by the authority where the **owner/agent/registered office** resides or carries business.

(2) A competent authority other than the one holding deposits under Section 81 may **request transfer of records or money**, and the former must comply.

(3) If a matter can be more conveniently handled by another competent authority (same or different State), it may be **transferred for report or disposal**.

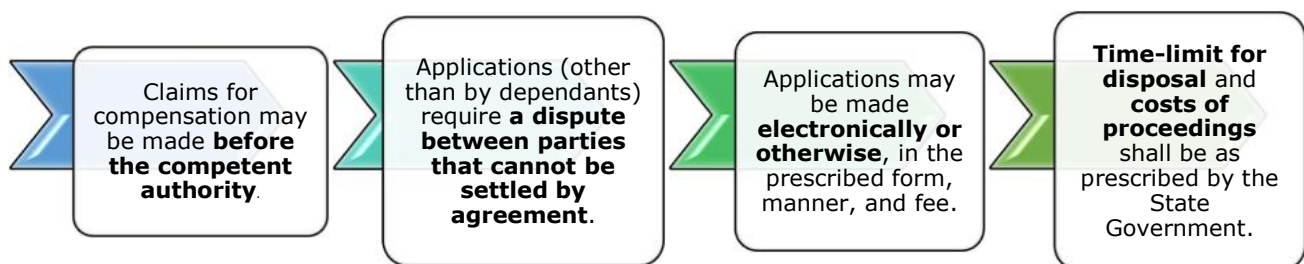
- All **relevant documents and money** must be transmitted.
- **Parties must be heard** before transferring matters involving distribution among dependants.

(4) The receiving authority shall **inquire and report**, or **continue proceedings** as if originally before it.

(5) The original authority shall **decide the matter in conformity** with any report received.

(6) The **State Government may transfer matters** between its appointed authorities.

Form of Application (Section 93)



Power of Competent Authority to require Further Deposit in Cases of Fatal Accident (Section 94)

- (1) If an **employer's deposited sum is insufficient** for death compensation, the competent authority may **issue notice** asking the employer to **show cause** why further deposit is not made.
- (2) If the employer fails to satisfy the authority, the competent authority may **determine the total amount payable** and **require the employer to deposit the deficiency**.

Appeal against order of Competent Authority (Section 99)

- (1) An **appeal to the High Court** lies against the following orders of a competent authority under Chapter VII:
 - (b) **Awarding or disallowing a lump sum** (including redemption of half-monthly payments).
 - (c) **Awarding interest or damages** under Section 77.
 - (d) **Refusing redemption** of a half-monthly payment.
 - (e) **Distribution of compensation** among dependants of a deceased employee, or **disallowing a dependant's claim**.
 - (f) **Allowing or disallowing indemnity claims** under Section 85(2).
 - (g) **Refusing or registering a memorandum of agreement**, or registering it **subject to conditions**.

Provided that:

- No appeal lies unless a **substantial question of law** is involved.
 - For orders other than clause (c), the **amount in dispute must be $\geq$ ₹10,000** or as notified by the Central Government.
 - No appeal lies if parties **agreed to abide by the competent authority's decision**, or if the order **gives effect to an agreement**.
 - An **employer's appeal under clause (a)** is allowed only if the memorandum of appeal is **accompanied by a certificate** that the appellant has deposited the amount payable under the order.
- (2) **Limitation period:** 60 days from the date of passing of the order.
 - (3) **Section 5 of the Limitation Act, 1963** applies to appeals under this section.

CHAPTER IX – SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS

Framing of Schemes for Unorganised Workers (Section 109)

(1) Central Government Schemes:

- Shall frame and notify welfare schemes for unorganised workers on:
 - (i) **Life and disability cover**

- (ii) Health and maternity benefits
- (iii) Old age protection
- (iv) Education
- (v) Any other benefit as determined by the Central Government



(2) State Government Schemes:

- Shall frame and notify welfare schemes for unorganised workers including:
 - (i) Provident fund
 - (ii) Employment injury benefit
 - (iii) Housing
 - (iv) Educational schemes for children
 - (v) Skill upgradation of workers
 - (vi) Funeral assistance
 - (vii) Old age homes

(3) Funding of Central Schemes:

- Wholly funded by Central Government
- Partly by Central & State Governments
- Partly by Central, State, and contributions from beneficiaries/employers
- Funded from any other source including CSR funds under Companies Act, 2013

(4) Implementation Matters in Central Schemes:

- Scope of scheme
- Implementing authority
- Beneficiaries
- Resources
- Implementing agencies
- Grievance redressal
- Any other relevant matter
- Special purpose vehicle may be constituted for implementation

Funding of State Government Schemes (Section 110)

(1) Funding Options:

- Wholly by State Government
- Partly by State Government and partly by contributions from beneficiaries/employers
- Funded from any other source including CSR fund

(2) State Government may seek **financial assistance from Central Government.**

(3) Central Government may provide assistance on **terms, period, and conditions** it deems fit.

Record Keeping (Section 111)

- Schemes shall **specify form and manner of keeping records**, electronically or otherwise.
- Authority maintaining records must be designated.

- Records should, as far as possible, have **continuous numbering** to avoid duplication and overlapping.

Helpline, Facilitation Centre for Unorganised, Gig, and Platform Workers (Section 112)

- The appropriate Government may set up **toll-free helplines or facilitation centres** to:
 - Disseminate information on social security schemes for unorganised, gig, and platform workers
 - Facilitate filing, processing, and forwarding of registration applications
 - Assist workers in obtaining registration
 - Facilitate enrolment of registered workers in social security schemes

Registration of Unorganised, Gig, and Platform Workers (Section 113)

(1) Eligibility:

- Age 16 years or as prescribed
- Submission of self-declaration electronically or otherwise

(2) Application Process:

- Application in prescribed form with documents including **Aadhaar**
- Workers assigned a **distinguishable registration number**
- System allows **self-registration electronically**

(3) Registered workers are **eligible for scheme benefits**

(4) Central/State Government contributes as specified in the scheme

Schemes for Gig Workers and Platform Workers (Section 114)

(1) Scheme Coverage:

- Life and disability cover
- Accident insurance
- Health and maternity benefits
- Old age protection
- Crèche facilities
- Any other benefit as determined by the Central Government

(2) Scheme Administration:

- Manner of administration
- Implementing agency/agencies
- Role of aggregators
- Funding sources
- Other necessary matters for efficient administration

(3) Funding Sources:

- Wholly by Central Government
- Partly by Central & State Governments
- Wholly by aggregators
- Mixed funding from Central, State, aggregators, and beneficiaries



- CSR funds under Companies Act, 2013
- Any other source

(4) Aggregator Contribution:

- Rate: 1%–2% of annual turnover (per Seventh Schedule)
- Categories include:
 1. Ride sharing services
 2. Food & grocery delivery
 3. Logistics services
 4. e-Marketplace (B2B/B2C)
 5. Professional services
 6. Healthcare
 7. Travel & hospitality
 8. Content & media services
 9. Any other goods/services provider platform
- Contribution cap: 5% of amount payable to workers
- Annual turnover excludes taxes, levies, cess

(5) Central Government notifies **date of commencement of contributions**

(6) Governing Board:

- National Social Security Board serves gig and platform workers welfare
- Members for this purpose:
 - (a) 5 representatives of aggregators
 - (b) 5 representatives of workers
 - (c) Director General of the Corporation
 - (d) Central Provident Fund Commissioner
 - (e) Expert members as nominated
 - (f) 5 State Government representatives (rotational)
 - (g) Joint Secretary, Ministry of Labour & Employment (Member Secretary)

(7) Central Government Powers:

- Authority to collect and spend contributions
- Interest on delayed/less/non-payment
- Self-assessment by aggregators
- Conditions for cessation of workers
- Any other matter for smooth scheme operation
- May **exempt certain aggregators** from contribution
- Aggregators with multiple businesses treated as **separate entities**

Maintenance of Records, Registers, Returns (Section 123)

Employers' Obligations:

(a) **Maintain records and registers** in prescribed form (electronically or otherwise) including:

1. Days and hours worked by employees
2. Wages paid, leave, overtime, and attendance
3. Employee identification numbers
4. Dangerous occurrences, accidents, injuries, and compensation under Chapter IV & VII

5. Statutory deductions under Chapter III & IV
6. Cess paid for building/construction work
7. Total number of employees (regular, contractual, fixed-term)
8. Recruitment details
9. Occupational details of employees
10. Vacancies for which suitable candidates not available



- (b) **Display notices** at workplaces in prescribed form
- (c) **Issue wage slips** to employees (electronic or otherwise)
- (d) **File returns** electronically or otherwise to prescribed officer/authority within specified periods

Notes:

- Chapter III related details may be provided in **Provident Fund, Pension, or Insurance Scheme**
- Chapter IV records/returns forms will be specified in **regulations**, not rules

Offences by Companies (Section 135)

(1) Responsibility of Officers:

- When a company commits an offence, **every person in charge and responsible for conduct** of business is deemed guilty
- Exception: Person not liable if they **prove offence occurred without knowledge** or they **exercised due diligence** to prevent it

(2) Consent/Negligence of Directors or Officers:

- If offence committed with **consent, connivance, or neglect** of any director, secretary, or officer, they are also guilty

Explanation:

- "Company" = any body corporate, firm, or association of individuals
- "Director" in a firm = partner in the firm



Compounding of Offences (Section 138)

(1) Applicability:

- First-time offences under this Code may be compounded if:
 1. Punishable **with fine only**, or
 2. Punishable **with imprisonment ≤ 1 year and fine**
- Compounding can be applied for **before or after prosecution**.

Payment for Compounding:

- **Fine-only offences:** Half of the maximum fine
- **Imprisonment ≤ 1 year + fine offences:** Three-fourths of the maximum fine

Authority to Compound:

- **Chapter III & IV offences:** Officer authorised by **Central Government**

- **Other provisions:** Officer authorised by **appropriate Government**
- Compounding done **as prescribed**

(2) Restrictions:

- Offence **cannot be compounded** if committed **second time or more within 3 years:**
 1. Similar offence earlier compounded, or
 2. Similar offence earlier convicted

(3) Supervision:

- Officers exercise powers **under direction, control, and supervision** of:
 - **Central Government** (Ch. III & IV)
 - **Appropriate Government** (other provisions)

(4) Application:

- Must be in **prescribed form and manner**

(5) Effect before prosecution:

- No prosecution shall be instituted once offence is compounded

(6) Effect after prosecution:

- Compounding must be **notified to the court**
- Offender shall be **discharged**

(7) Non-compliance:

- Offender liable to pay **additional 20% of maximum fine** along with fine

Chapter-20

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

The Child Labour (Prohibition and Regulation) Act, 1986.



The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 prohibits employment of children below 14 years in hazardous occupations and processes and regulates the working conditions in other employments.

REGULATORY FRAMEWORK

- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

Introduction

- ☐ The **Child and Adolescent Labour (Prohibition & Regulation) Act, 1986** enacted to **prohibit the engagement of children in all occupations** and to **prohibit the engagement of adolescents in hazardous occupations and processes** and the matters connected therewith or incidental thereto.
- ☐ It **extends to whole of India**.
- ☐ It **prohibits employment of children in all occupations and processes** to facilitate their **enrolment in schools** in view of the **Right of Children to Free and Compulsory Education Act, 2009**.
- ☐ It **prohibits employment of adolescents (persons who have completed fourteenth year of age but have not completed eighteenth year) in hazardous occupations and processes**.
- ☐ It **regulate the conditions of service of adolescents** in line with the **ILO Convention 138 and Convention 182**, respectively.



Definition

Section 2 of the Act defines various terms used in the Act, some of the definitions are given here under:

Term	Definition
Appropriate Government 	• in relation to an establishment under the control of the Central Government or • a railway administration or • a major port or a mine or

Term	Definition
	- oilfield, - the Central Government, and in all other cases, the State Government.
Adolescent 👧👦	- means a person - who has completed his fourteenth year of age but has not completed his eighteenth year.
Child 👧	- means a person - who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more.
Day 🕒	means a period of twenty-four hours beginning at midnight.
Establishment 🏢	includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.
Occupier 👤	- in relation to an establishment or a workshop, - means the person who has the ultimate control over the affairs of the establishment or workshop.
Workshop 🏭	- means any premises (including the precincts thereof) - wherein any industrial process is carried on, - but does not include any premises to which the provisions of Sec. 67 of the Factories Act, 1948 (63 of 1948), for the time being, apply.

⚠️ Prohibition of Employment of Children in any Occupations and Processes

- ☐ **Section 3 of the Act** provides that **no child shall be employed or permitted to work in any occupations or process** except:-
- helps his family or family enterprise**, which is other than any **hazardous occupations or processes set forth in the Schedule**, after his school hours or during vacations;
 - works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus**, subject to such conditions and safety measures, as may be prescribed.
- ☐ However **no such work shall effect the school education of the child**.
- ☐ It may be noted that the expression:

(a) **"family"** 👪 in relation to a child, means his mother, father, brother, sister and father's sister and brother and mother's sister and brother;

(b) **"family enterprise"** 🏠 means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;

(c) **"artist"**  means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2)."

 Prohibition of Employment of adolescents in hazardous Occupations and Processes

- ☐ **Section 3A** provides that **no adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule.**
- ☐  **Hazardous occupations or processes set forth in the Schedule** are as under:
 - (1) **Mines** 
 - (2) **Inflammable substances or explosives** 
 - (3) **Hazardous process** 
- ☐ **Explanation.** – For the purposes of this Schedule, **"hazardous process"** has the meaning assigned to it in clause (cb) of the Factories Act, 1948.
- ☐ However, the **Central Government may, by notification, specify the nature of the non-hazardous work to which an adolescent may be permitted to work under the Act.**

 Hours and Period of Work

- ☐ **Section 7** provides that
 - **no adolescent shall be required or permitted to work in any establishment in excess of such number of hours, as may be prescribed for such establishment or class of establishments.**
- ☐ **Period of work on each day-**
 - **no period shall exceed three hours and**
 - **no adolescent shall work for more than three hours before he has had an interval for rest for at least one hour.**
- ☐ **Period of work of a child** shall be so arranged that **inclusive of his interval for rest, it shall not be spread over more than six hours, including the time spent in waiting for work on any day.**
- ☐ This section also stipulates that :
 - a.  **No adolescent shall be permitted or required to work between 7 p.m. and 8 a.m.**
 - b.  **No adolescent shall be required or permitted to work overtime.**
 - c.  **No adolescent shall be required or permitted to work in, any establishment on any day on which he has already been working in another establishment.**

Weekly Holidays

- ☐ As per **section 8** every adolescent employed in an establishment is entitled in each week, **a holiday of one whole day.**
- ☐ The day shall be specified by the occupier in a **notice permanently exhibited in a conspicuous place in the establishment.**
- ☐ The day so specified shall not be altered by the occupier **more than once in three months.**

Notice to inspector

- ☐ **Section 9** provides that every occupier in relation to an establishment who employs, or permits to work, any adolescent shall, within a period of thirty days from the date of such employment, **send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars namely:**
 -  **The name and situation of the establishment;**
 -  **The name of the person in actual management of the establishment;**
 -  **The address to which communications relating to the establishment should be sent; and**
 -  **The nature of the occupation or process carried on in the establishment.**



Maintenance of Register

Every occupier in respect of adolescent employed or permitted to work in any establishment, **maintained a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment showing –**

-  **the name and date of birth of every adolescent so employed or permitted to work;**
-  **hours and periods of work of any such adolescent and the intervals of rest to which he is entitled;**
-  **the nature of work of any such adolescent; and**
-  **such other particulars as may be prescribed**



Display of Notice Containing Abstract of Sections 3A and 14

- ☐ Every **railway administration** , **port authority** , and **occupier**  shall display, in a **conspicuous and accessible place** :
 - At every **station on its railway** ,
 - Within the **limits of a port** , or
 - At the **place of work** , as applicable.

- ☐ The **notice**  shall be in **local language**  and **English**, containing **an abstract of Sections 3A and 14** .

Penalties

Provision	Punishment
Whoever employs any child or permits any child to work in contravention of the provisions of section 3	shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both. However; the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.
Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A	shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both. However; the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.
The parents or guardians of any child or adolescent	shall not be liable for punishment, in case of the first offence.
Whoever, having been convicted of an offence under section 3 or section 3A commits a like offence afterwards	he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.
The parents or guardians having been convicted of an offence under section 3 or section 3A, commits a like offence afterwards	he shall be punishable with a fine which may extend to ten thousand rupees.
Whoever fails to comply with or contravenes any other provisions of the Act or the rules made thereunder	shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

 District Magistrate to Implement the Provisions

- ☐ **Section 17A of the Act** provides that the **appropriate Government** in may **confer such powers**  and **impose such duties**  **on a District Magistrate**  as may

be necessary, to ensure that the **provisions of this Act** 📄 **are properly carried out** ☑.

- ☐ The **District Magistrate** 👮 may **specify the officer** 👮 **subordinate to him**, who shall **exercise all or any of the powers** ⚡, and perform all or any of the duties 📄, **so conferred or imposed**.
- ☐ The **local limits** 📍 within which such **powers** ⚡ **or duties** 📄 **shall be carried out by the officer** 👮 shall be **as may be prescribed** 📄.

Chapter-21

Apprentices Act, 1961



REGULATORY FRAMEWORK

- Apprentices Act, 1961

The Apprentices Act, 1961 enacted to regulate and control the programme of training of apprentices and for matters connected therewith. It extends to whole of India.

INTRODUCTION

- ☐ The **Apprentices Act, 1961** was enacted with the objective of **regulating the programme of training of apprentices in the industry** by utilising the **facilities available therein for imparting on-the-job training**.
- ☐ The Act was **amended in 1973 and 1986** to include training of **graduates, technicians and technician (vocational) apprentices** respectively under its purview.
- ☐ It was further **amended in 1997 and 2007** to amend various sections of the Act regarding definition of **"establishment", "worker", number of apprentices for a designated trade, and reservation for candidates belonging to Other Backward Classes**, etc.
- ☐ Comparing the **size and rate of growth of economy of India**, the performance of **Apprenticeship Training Scheme is not satisfactory**, and a **large number of training facilities available in the industry are going unutilised**, depriving **unemployed youth** to avail the benefits of the Apprenticeship Training Scheme.
- ☐ Employers are of the opinion that provisions of the Act are **too rigid to encourage them to engage apprentices**, and provisions relating to **penalty create fear amongst them of prosecution**, and they have suggested to **modify the Apprentices Act suitably**.
- ☐ In order to make the **apprenticeship more responsive to youth and industry**, the **Apprentices Act, 1961** has been amended and brought into effect from **22nd December, 2014**.
- ☐ The **Apprentices (Amendment) Act, 2014** expands the **apprenticeship opportunities for youth**.
- ☐ **Non-engineering graduates and diploma holders** have been made eligible for apprenticeship.
- ☐ A **portal is being set up** to make all **approvals transparent and time bound**.
- ☐ Apprenticeship can be taken up in **new occupations also**.

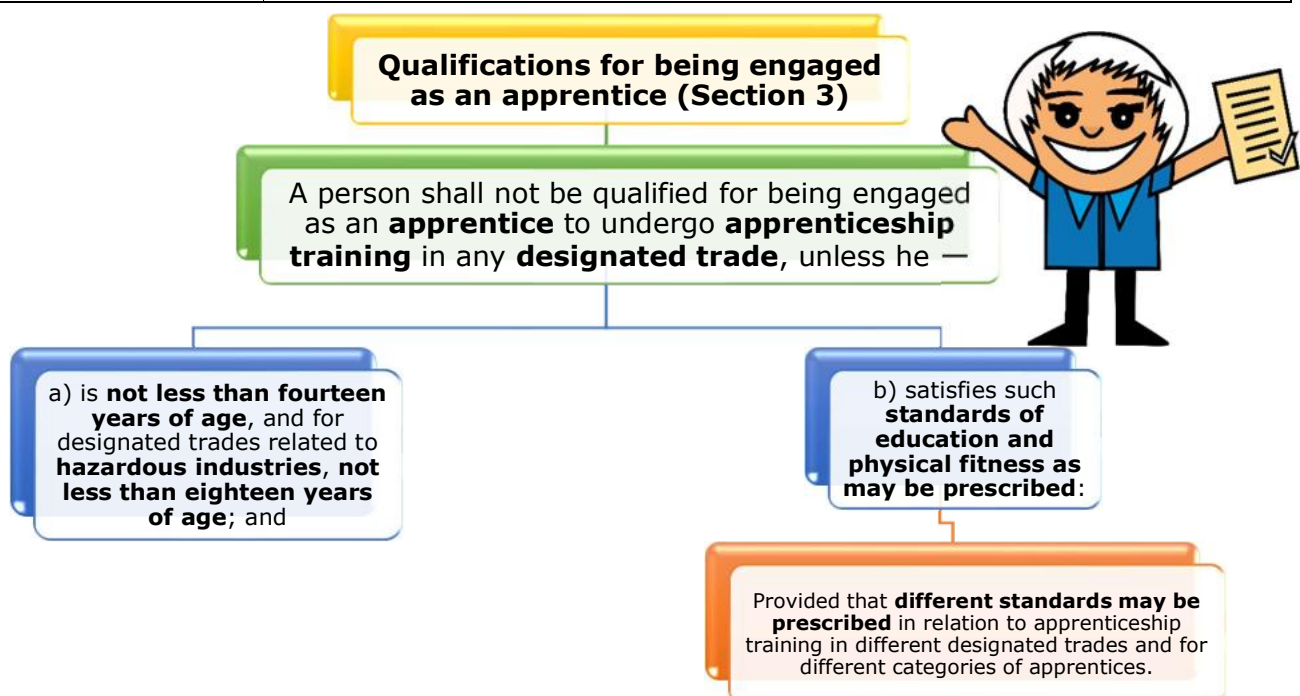
DEFINITIONS (Section 2)

Section 2(aa)

Apprentice means a person who is undergoing **apprenticeship training** in pursuance of a **contract of apprenticeship**.

Section 2(aaa)	Apprenticeship training means a course of training in any industry or establishment undergone in pursuance of a contract of apprenticeship and under prescribed terms and conditions which may be different for different categories of apprentices.
Section 2(d) 	Appropriate Government means — (1) in relation to — (a) the Central Apprenticeship Council , or (aa) the Regional Boards , or (aaa) the practical training of graduate or technician apprentices or of technician (vocational) apprentices , or (b) any establishment of any railway, major port, mine or oilfield , or (bb) any establishment which is operating business or trade from different locations situated in four or more States , or (c) any establishment owned, controlled or managed by — i. the Central Government or a department of Central Government , ii. a company in which not less than fifty-one per cent of the share capital is held by the Central Government or partly by that Government and partly by one or more State Governments , iii. a corporation (including a co-operative society) established by or under a Central Act which is owned, controlled or managed by the Central Government ; the Central Government ; (2) in relation to — (a) a State Apprenticeship Council , or (b) any establishment other than an establishment specified in sub-clause (1) of this clause, the State Government .
Section 2(e)	Designated trade means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course which the Central Government , after consultation with the Central Apprenticeship Council , may, by notification in the Official Gazette , specify as a designated trade for the purposes of this Act.
Section 2(f)	Employer means any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment.
Section 2(g)	Establishment includes any place where any industry is carried on and where an establishment consists of different departments or has branches, whether situated in the same place or at different places, all such departments or branches shall be treated as part of that establishment.

Section 2(j)	Graduate or technician apprentice means an apprentice who holds, or is undergoing training in order that he may hold a degree or diploma in engineering or non-engineering or technology or equivalent qualification granted by any institution recognised by the Government and undergoes apprenticeship training in any designated trade .
Section 2(k)	Industry means any industry or business in which any trade, occupation or subject field in engineering or non-engineering or technology or any vocational course may be specified as a designated trade or optional trade or both .
Section 2(ll)	Optional trade means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course as may be determined by the employer for the purposes of this Act.
Section 2(III)	Portal-site means a website of the Central Government for exchange of information under this Act.
Section 2(pp)	Technician (vocational) apprentice means an apprentice who holds or is undergoing training in order that he may hold a certificate in vocational course involving two years of study after the completion of the secondary stage of school education recognised by the All-India Council and undergoes apprenticeship training in designated trade .
Section 2(q)	Trade Apprentice means an apprentice who undergoes apprenticeship training in any designated trade .
Section 2(r)	Worker means any person working in the premises of the employer, who is employed for wages in any kind of work either directly or through any agency including a contractor and who gets his wages directly or indirectly from the employer but shall not include an apprentice referred to in clause (aa) .



Contract of apprenticeship (Section 4)

- No person shall be engaged as an **apprentice** to undergo apprenticeship training in a **designated trade** unless such person or, if he is **minor**, his guardian has entered into a **contract of apprenticeship** with the employer.

- The apprenticeship training shall be deemed to have commenced on the **date on which the contract of apprenticeship has been entered into** under sub-section (1).

- Every contract of apprenticeship may contain such **terms and conditions as may be agreed to by the parties to the contract**:

- Provided that no such term or condition shall be inconsistent with any provision of this Act or any rule made thereunder.

- Every contract of apprenticeship entered into under sub-section (1) shall be sent by the **employer within thirty days to the Apprenticeship Adviser** until a **portal-site** is developed by the Central Government, and thereafter the **details of contract of apprenticeship shall be entered on the portal-site within seven days**, for verification and registration.

- In the case of **objection in the contract of apprenticeship**, the **Apprenticeship Adviser shall convey the objection to the employer within fifteen days** from the date of its receipt. *(Section 4(4A))*

- The **Apprenticeship Adviser shall register the contract of apprenticeship within thirty days** from the date of its receipt. *(Section 4(4B))*

- Where the **Central Government**, after consulting the **Central Apprenticeship Council**, makes any rule varying the **terms and conditions of apprenticeship training** of any category of apprentices undergoing such training, then the **terms and conditions of every contract of apprenticeship** relating to that category of apprentices and subsisting immediately before the making of such rule shall be deemed to have been **modified accordingly**. *(Section 4(6))*

Important Notice

EASY TO REMEMBER

- **0** – No contract → No apprentice
- **Start date** – Date of contract
- **30** – Send within 30 days
- **7** – Portal entry within 7 days
- **15** – Objection within 15 days
- **30** – Registration within 30 days
- **Rule change** → **Automatic modification**



Novation of contracts of apprenticeship (Section 5)

- Where an employer with whom a **contract of apprenticeship** has been entered into is for any reason unable to fulfil his obligations under the contract and with the approval of the **Apprenticeship Adviser** it is agreed between the employer, the apprentice or his guardian and any other employer that the apprentice shall be engaged as apprentice under the other employer for the **un-expired portion of the period of apprenticeship training**, the agreement, on **registration**

with the Apprenticeship Adviser, shall be deemed to be the **contract of apprenticeship** between the apprentice or his guardian and other employer.

- On and from the **date of such registration**, the contract of apprenticeship with the first employer shall terminate and no obligation under the contract shall be enforceable at the instance of any party to the contract against the other party thereto.

Regulation of optional trade (Section 5A)

The **qualification, period of apprenticeship training, holding of test, grant of certificate and other conditions** relating to the apprentices in **optional trade** shall be such as may be **prescribed**.

Engagement of apprentices from other States (Section 5B)

- The **employer may engage apprentices from other States** for the purpose of providing **apprenticeship training** to the apprentices.

Period of apprenticeship training (Section 6)

The **period of apprenticeship training**, which shall be specified in the **contract of apprenticeship**, shall be as follows —

- (a) In the case of **trade apprentices** who, having undergone **institutional training** in a school or other institution recognised by the **National Council**, have passed the **trade tests or examinations** conducted by that Council or by an institution recognised by that Council, the period of apprenticeship training shall be such as may be **prescribed**.
- (aa) In the case of trade apprentices who, having undergone **institutional training** in a school or other institution affiliated to or recognised by a **Board or State Council of Technical Education** or any other authority or courses approved under any scheme which the **Central Government**, by notification in the **Official Gazette**, may specify in this behalf, have passed the trade tests or examinations conducted by that Board or State Council or authority or by any other agency authorised by the Central Government, the period of apprenticeship training shall be such as may be **prescribed**.
- (b) In the case of **other trade apprentices**, the period of apprenticeship training shall be such as may be **prescribed**.
- (c) In the case of **graduate or technician apprentices, technician (vocational) apprentices**, the period of apprenticeship training shall be such as may be **prescribed**.



Important Notice

EASY TO REMEMBER**T – Trade apprentices (National Council)**

- Trade apprentices who have undergone **institutional training** in a school or institution recognised by the **National Council** and passed **trade tests**.
- **Period of apprenticeship** = as may be **prescribed**.

T – Trade apprentices (Board / State Council / Other Authority)

- Trade apprentices trained in institutions affiliated to or recognised by **Board / State Council of Technical Education** or any other authority or approved courses notified by **Central Government**.
- **Period of apprenticeship** = as may be **prescribed**.

O – Other trade apprentices

- For **other trade apprentices** not covered above.
- **Period of apprenticeship** = as may be **prescribed**.

G – Graduate / Technician / Technician (Vocational) apprentices

- For **graduate or technician apprentices and technician (vocational) apprentices**.
- **Period of apprenticeship** = as may be **prescribed**.

Practical and basic training of apprentices (Section 9)

- Every **employer** shall make suitable arrangements in his **workplace** for imparting a course of **practical training** to every apprentice engaged by him.
- The **Central Apprenticeship Adviser** or any other person not below the rank of an **Assistant Apprenticeship Adviser** authorised by the **State Apprenticeship Adviser** in writing shall be given all reasonable facilities for **access to each such apprentice** to test his work and to ensure that the **practical training is being imparted in accordance with the approved programme**:
 - Provided that the **State Apprenticeship Adviser** or any other person not below the rank of an **Apprenticeship Adviser** authorised by the State Apprenticeship Adviser in writing shall also be given such facilities in respect of apprentices undergoing training in establishments in relation to which the **appropriate Government is the State Government**.
- Such of the **trade apprentices** who have not undergone **institutional training** in a school or other institution recognised by the **National Council** or any other institution affiliated to or recognised by a **Board or State Council of Technical Education** or any other authority specified by the **Central Government** by notification in the **Official Gazette**, shall, before admission in the workplace for practical training, undergo a course of **basic training**, and the course of basic training shall be given in any institute having **adequate facilities**.
- In the case of an apprentice other than a **graduate or technician apprentice or technician (vocational) apprentice**, the **syllabus** of and the **equipment** to be utilised for practical training including basic training in any **designated trade** shall be such as may be approved by the **Central Government** in consultation with the **Central Apprenticeship Council**.

- In the case of **graduate or technician apprentices or technician (vocational) apprentices**, the **programme of apprenticeship training** and the **facilities required** for such training in any designated trade shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council.
- **Recurring costs (including the cost of stipends)** incurred by an employer in connection with **basic training**, imparted to trade apprentices other than those referred to in clauses (a) and (aa) of Section 6 shall be borne —
 - i. If the employer employs **two hundred and fifty workers or more**, by the employer;
 - ii. If the employer employs **less than two hundred and fifty workers**, by the employer and the Government in **equal shares up to such limit** as may be laid down by the Central Government and beyond that limit, by the employer alone.
- **Recurring costs (including the cost of stipends)** incurred by an employer in connection with **practical training, including basic training**, imparted to trade apprentices referred to in clauses (a) and (aa) of Section 6 shall, in every case, be borne by the **employer**.
- **Recurring costs (excluding the cost of stipends)** incurred by an employer in connection with the **practical training** imparted to **graduate or technician apprentices or technician (vocational) apprentices** shall be borne by the employer, and the **cost of stipends** shall be borne by the **Central Government and the employer in equal shares up to such limit** as may be laid down by the Central Government and beyond that limit, by the employer alone except apprentices who hold **degree or diploma in non-engineering**.

EASY TO REMEMBER

E	Employer arranges practical training at workplace for every apprentice
A	Adviser access – Central/State Apprenticeship Adviser gets reasonable facilities to check training
B	Basic training first – Trade apprentices without prior institutional training must undergo basic training in institute
S	Syllabus & facilities – Non-graduate: syllabus/equipment approved by Central Govt + CAC; Graduate/Technician: program & facilities approved similarly
C	Cost of basic training – ≥250 workers: employer; <250: shared with Government up to limit, beyond that employer alone
R	Recurring costs for practical training – Trade apprentices Section 6(a/aa): employer; Graduate/Technician: employer bears cost except stipends, shared with Central Govt up to limit

Obligations of employers

Every employer shall have the following obligations in relation to an apprentice, namely:

To provide the apprentice with the **training in his trade** in accordance with the provisions of the Act and the **rules made thereunder**;

If the employer is not himself qualified in the trade, to ensure that a person who possesses the **prescribed qualifications** is placed in charge of the training of the apprentice;

To provide **adequate instructional staff**, possessing such qualifications as may be prescribed for imparting **practical and theoretical training** and facilities for **trade test of apprentices**.

To carry out his obligations under the **contract of apprenticeship**.

Obligations of apprentice

Every **trade apprentice** undergoing apprenticeship training shall have the following obligations, namely:

- To learn his trade **conscientiously and diligently** and endeavour to qualify himself as a **skilled craftsman** before the expiry of the period of training;
- To attend **practical and instructional classes regularly**;
- To carry out all **lawful orders of his employer and superiors** in the establishment;
- To carry out his obligations under the **contract of apprenticeship**.

Every **graduate or technician apprentice, technician (vocational) apprentice** undergoing apprenticeship training shall have the obligations:

- To learn his **subject field in engineering or technology or vocational course conscientiously and diligently** at his place of training;
- To attend the **practical and instructional classes regularly**;
- To carry out all **lawful orders of his employer and superiors** in the establishment;
- To carry out his obligations under the **contract of apprenticeship**.

Hours of work, overtime, leave and holidays (Section 15)

- The **weekly and daily hours of work** of an apprentice while undergoing practical training in a workplace shall be as determined by the **employer**, subject to compliance with the **training duration**, if prescribed.
- No apprentice shall be required or allowed to work **overtime** except with the approval of the **Apprenticeship Adviser**, who shall not grant such approval unless satisfied that such overtime is in the **interest of the training of the apprentice or in the public interest**.



- An apprentice shall be entitled to such **leave and holidays** as are observed in the establishment in which he is undergoing training.

Apprentices are trainees and not workers

Every apprentice undergoing apprenticeship training in a **designated trade** in an establishment shall be a **trainee and not a worker**, and the provisions of any law with respect to **labour** shall not apply to or in relation to such apprentice.

Records and returns (Section 19)

- Every **employer** shall maintain **records of the progress of training of each apprentice** undergoing apprenticeship training in his establishment in such **form as may be prescribed**.
- Until a **portal-site** is developed by the **Central Government**, every employer shall furnish such **information and return** in such form as may be prescribed, to such authorities at such **intervals as may be prescribed**.
- Every employer shall also give **trade-wise requirement and engagement of apprentices** in respect of apprenticeship training on the **portal-site developed by the Central Government** in this regard.



Settlement of disputes (Section 20)

- Any **disagreement or dispute** between an employer and an apprentice arising out of the **contract of apprenticeship** shall be referred to the **Apprenticeship Adviser** for decision.
- Any person aggrieved by the decision of the Apprenticeship Adviser may, within **thirty days** from the date of communication of such decision, prefer an **appeal** to the **Apprenticeship Council**, and such appeal shall be heard and determined by a **Committee of that Council** appointed for the purpose.
- The decision of the **Committee**, and subject only to such decision, the decision of the **Apprenticeship Adviser**, shall be **final**.

Holding of test and grant of certificate and conclusion of training (Section 21)

- Every **trade apprentice** who has completed the **period of training** may appear for a **test** to be conducted by the **National Council** or any other agency authorised by the **Central Government** to determine his proficiency in the **designated trade**.

- Every trade apprentice who passes the test shall be granted a **certificate of proficiency** in the trade by the National Council or by the other agency authorised by the Central Government.
- The progress in apprenticeship training of every **graduate or technician apprentice** shall be assessed by the **employer** from time to time.
- Every graduate or technician apprentice or **technician (vocational) apprentice** who completes his apprenticeship training to the satisfaction of the concerned **Regional Board** shall be granted a **certificate of proficiency** by that Board.

Offer and acceptance of employment (Section 22)

- Every employer shall formulate its own **policy for recruiting any apprentice** who has completed the period of apprenticeship training in his establishment.
- Where there is a condition in a **contract of apprenticeship** that the apprentice shall, after successful completion of apprenticeship training, serve the employer, the employer shall be bound to **offer suitable employment** to the apprentice, and the apprentice shall be bound to **serve the employer** for such period and on such **remuneration** as may be specified in the contract.
- Where such period or remuneration is not, in the opinion of the **Apprenticeship Adviser**, reasonable, he may **revise such period or remuneration** so as to make it reasonable, and the period or remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer.



Authorities under the Act

In addition to the **Government**, the following authorities are provided under the Act, namely:

- The **National Council**,
 - The **Central Apprenticeship Council**,
 - The **State Council**,
 - The **State Apprenticeship Council**,
 - The **All India Council**,
 - The **Regional Boards**,
 - The **Boards or State Councils of Technical Education**,
 - The **Central Apprenticeship Adviser**,
 - The **State Apprenticeship Adviser**.
- Every **State Council** shall be affiliated to the **National Council** and every **State Apprenticeship Council** shall be affiliated to the **Central Apprenticeship Council**.



- Every **Board or State Council of Technical Education** and every **Regional Board** shall be affiliated to the **Central Apprenticeship Council**.
- Each of the authorities specified above shall, in relation to **apprenticeship training under the Act**, perform such functions as are assigned to it by or under the Act or by the **Government**.
- A **State Council** shall also perform such functions as are assigned to it by the **National Council**.
- The **State Apprenticeship Council** and the **Board or State Council of Technical Education** shall also perform such functions as are assigned to it by the **Central Apprenticeship Council**.

Chapter-22

Labour Laws (Simplification of Procedure for Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988



REGULATORY FRAMEWORK

- Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain establishments) Act, 1988

The Labour Laws (Simplification of Procedure for Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 provides for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain labour laws. It extends to the whole of India.

INTRODUCTION

- The **Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Act, 2014** amended the **Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988**.
- The **Amendment Act, 2014** provides for the **simplification of procedure** for **furnishing returns** and **maintaining registers** in relation to **establishments employing a small number of persons** under certain labour laws.
- The Act may now be called the **Labour Laws (Simplification of Procedure for Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988**.
- The **Amendment Act** includes **7 more Labour Acts** under the **purview of the Principal Act**.
- The **coverage of the Principal Act** has been expanded from **establishments employing up to 19 workers to 40 workers**.
- The **Amendment Act** gives an option to **maintain registers electronically** and to **file returns electronically**, leading to **ease of compliance** as well as **better enforcement of labour laws**.



DEFINITIONS (Section 2)

Term	Definition / Key Points
Employer	In relation to a Scheduled Act or any other Scheduled Act, means the person required to furnish returns or maintain registers under that Act. (Section 2(a))
Establishment	Has the meaning assigned in a Scheduled Act and includes: i. Industrial or other establishment (Payment of Wages Act, 1936) ii. Factory (Factories Act, 1948) iii. Factory, workshop or place where employees are employed or work is given in scheduled employment (Minimum Wages Act, 1948) iv. Plantation (Plantations Labour Act, 1951) v. Newspaper establishment (Working Journalists and other Newspaper Employees Act, 1955) (Section 2(b))
Form	Means a Form specified in the Second Schedule . (Section 2(c)) Forms specified: ☐ Form I – Annual Return (furnished to Inspector / authority before 30th April of following year) ☐ Form II – Register of persons employed-cum-employment card ☐ Form III – Muster roll-cum-wage register
Scheduled Act	Means an Act specified in the First Schedule , in force on commencement of this Act, and includes rules made thereunder . (Section 2(d)) First Schedule Acts (16 Acts): 1. Payment of Wages Act, 1936 2. Weekly Holidays Act, 1942 3. Minimum Wages Act, 1948 4. Factories Act, 1948 5. Plantations Labour Act, 1951 6. Working Journalists and other Newspaper Employees Act, 1955 7. Motor Transport Workers Act, 1961 8. Payment of Bonus Act, 1965 9. Beedi and Cigar Workers Act, 1966 10. Contract Labour (Regulation and Abolition) Act, 1970 11. Sales Promotion Employees Act, 1976 12. Equal Remuneration Act, 1976 13. Inter-State Migrant Workmen Act, 1979 14. Dock Workers (Safety, Health and Welfare) Act, 1986 15. Child Labour (Prohibition and Regulation) Act, 1986 16. Building and Other Construction Workers Act, 1996

Term	Definition / Key Points
Small Establishment	An establishment employing not less than ten and not more than forty persons on any day of the preceding twelve months. (Section 2(e))
Very Small Establishment	An establishment employing not more than nine persons on any day of the preceding twelve months. (Section 2(f))

Exemption from furnishing or maintaining of returns and registers required under certain labour laws

- **Section 4(1):** Notwithstanding anything contained in a **Scheduled Act**, on and from the commencement of the **Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Act, 2014**, it shall **not be necessary** for an **employer** of a **small establishment** or **very small establishment** to **furnish returns or maintain registers** required under that Scheduled Act.
- Such employer shall:
 - (a) **Furnish**, in lieu of such returns, an **annual return in Form I**.
 - (b) **Maintain** at the work spot, in lieu of such registers:
 - i. **Registers in Form II and Form III** for **small establishments**.
 - ii. **Register in Form III** for **very small establishments**.
- Every such employer shall continue to:
 - **Issue wage slips** in the **Form prescribed** in the **Minimum Wages (Central) Rules, 1950** under **sections 18 and 30 of the Minimum Wages Act, 1948**.
 - **Issue slips** relating to **measurement of piece-rated work** under **Payment of Wages (Mines) Rules, 1956** under **sections 13A and 26 of the Payment of Wages Act, 1936**.
 - **File returns relating to accidents** under **sections 88 and 88A of the Factories Act, 1948** and **sections 32A and 32B of the Plantations Labour Act, 1951**.



Furnishing or maintaining of returns and registers in electronic form

- **Section 4(2):** The **annual return in Form I, registers in Forms II and III, wage slips, wage books, and other records** may be maintained by the employer either in:
 - **Physical form**, or
 - On **computer, computer floppy, diskette, or other electronic media**.
- In case of **electronic form**, a **printout of returns, registers, books, or records**, or a portion thereof, shall be made **available to the Inspector on demand**.
- **Section 4(3):** The **employer** or the **person responsible** may **furnish the annual return in Form I** to the **Inspector** or any **authority prescribed under the Scheduled Acts** either:

- In **physical form**, or
- Through **electronic mail**, if the **Inspector/authority has the facility** to receive it.

Penalty

- **Section 6:** Any **employer** who **fails to comply** with the provisions of the Act shall, on **conviction**:
 - **First conviction:** Fine **up to ₹5,000**.
 - **Second or subsequent conviction:**
 - **Imprisonment:** Not less than **1 month**, may extend to **6 months**; or
 - **Fine:** Not less than **₹10,000**, may extend to **₹25,000**; or
 - **Both imprisonment and fine.**



Chapter-23

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013



An Act for provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of 'sexual harassment and or matters connected therewith or incidental thereto.

REGULATORY FRAMEWORK

- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013

HISTORY OF THE LEGISLATION

- ☐ **Sexual harassment of a woman in workplace** is of **serious concern** to **humanity** on the whole.
- ☐ It **cannot be construed in a narrow sense**, as it may include **sexual advances** and other **verbal or physical harassment of a sexual nature**.
- ☐ **Victims of sexual harassment** face **psychological and health effects** such as **stress, depression, anxiety, shame, guilt**, and so on.
- ☐ Late **Chief Justice J.S. Verma, Justice Verma Committee Report, 2013**, stated:
 - "...the time has come when **women must be able to feel liberated and emancipated** from **fundamentally oppressive conditions** against which an **autonomous choice of freedom** can be exercised. This is **sexual autonomy in the fullest degree**."
- ☐ **Sexual harassment** results in **violation of fundamental rights** of a woman:
 - **Right to equality** under **Articles 14 and 15** of the **Constitution of India**.
 - **Right to life and to live with dignity** under **Article 21**.
 - **Right to practice any profession or carry on any occupation, trade or business**, which includes a **safe environment free from sexual harassment**.
- ☐ The **principle of gender equality** is **enshrined in the Constitution** in:
 - **Preamble**,
 - **Fundamental rights**,
 - **Fundamental duties**, and
 - **Directive Principles**.

- **Workplace sexual harassment** in India was **first recognized by the Supreme Court** in the **landmark judgment Vishaka v. State of Rajasthan, 1997 (6 SCC 241; AIR 1997 SC 3011)** ("**Vishaka Judgment**").
 - The **Supreme Court** framed certain **guidelines** and **issued directions** to the **Union of India** to **enact an appropriate law** for combating **workplace sexual harassment**.
- In the **absence of a specific law**, the **Vishaka Judgment** made it **mandatory** for every **employer** to provide a **mechanism to redress grievances** pertaining to **workplace sexual harassment (Vishaka Guidelines)**, which were **followed by employers until the enactment of the Act**.

THE VISHAKA JUDGEMENT

- In **1992**, **Bhanwari Devi**, a **Dalit woman** employed with the **rural development programme of the Government of Rajasthan**, was **brutally gang raped** due to her efforts to **curb child marriage**.
- This incident **revealed the hazards** that **working women** faced on a **day-to-day basis** and highlighted the **urgency for safeguards** to be implemented.
- **Women's rights activists and lawyers** filed a **public interest litigation (PIL)** in the **Supreme Court of India** under the banner of **Vishaka**.
- The **Supreme Court of India**, for the **first time**, **acknowledged legislative inadequacy** and recognized **workplace sexual harassment** as a **human rights violation**.
- In framing the **Vishaka Guidelines**, the Supreme Court relied on the **Convention on Elimination of All Forms of Discrimination against Women (CEDAW)**, adopted by the **UN General Assembly, 1979**, which **India has signed and ratified**.
- As per the **Vishaka Judgment**, the **Vishaka Guidelines**, issued under **Article 32 of the Constitution**, until a **legislative framework** is enacted:
 - **Have the effect of law.**
 - **Must be mandatorily followed** by **organizations** in both the **private and government sector**.

Definition of Sexual Harassment (Vishaka Judgment)

'**Sexual Harassment**' includes **unwelcome sexually determined behavior** (directly or by implication), such as:

- a. **Physical contact and advances.**
- b. **A demand or request for sexual favours.**
- c. **Sexually coloured remarks.**
- d. **Showing pornography.**
- e. **Any other unwelcome physical, verbal, or nonverbal conduct of sexual nature.**

SEXUAL HARASSMENT AT WORKPLACE – HISTORY AND LEGISLATION

- **Acts constituting sexual harassment** at workplace:
 - If the victim has **reasonable apprehension** that such conduct can be **humiliating** or a **health and safety problem**, it **amounts to sexual harassment**.

- It is **discriminatory** when the victim has **reasonable grounds** to believe objection will **disadvantage her employment** (recruitment, promotion) or creates a **hostile working environment**.
 - **Adverse consequences** might result if the victim **does not consent** or **raises objection**.
- The **Vishaka Judgment** initiated a **nationwide discourse** on workplace sexual harassment.
- **First case after Vishaka: Apparel Export Promotion Council v. A.K Chopra, (1999) 1 SCC 759.**
 - Supreme Court **reiterated Vishaka law**.
 - **Dismissed** a superior officer of Delhi Apparel Export Promotion Council for **sexually harassing** a subordinate female employee.
 - Enlarged the **definition of sexual harassment: physical contact not essential**.
 - Sexual harassment is a **form of sex discrimination** via **unwelcome sexual advances, request for sexual favours, verbal or physical conduct**, whether **direct or by implication**, affecting **employment** or creating **intimidating/hostile work environment**.
- **First legislative efforts:**
 - **2007: Protection of Women against Sexual Harassment at Workplace Bill, 2007** introduced in Parliament — did **not pass**.
 - **2010: Protection of Women against Sexual Harassment at Workplace Bill, 2010** introduced in **Lok Sabha** and referred to **Parliamentary Standing Committee** led by **Shri Oscar Fernandes**.
 - **2011:** Standing Committee submitted report; subsequent changes made, including title change to **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2013**.
 - Objective: **focus on prevention, prohibition, and redressal** of sexual harassment.
- **Implementation challenges:**
 - **Medha Kotwal Lele vs. Union of India, AIR 2013 SC 93:**
 - **Vishaka Guidelines** must be implemented in **form, substance, and spirit**.
 - **Employers and institutions** must **observe guidelines** and **prevent sexual harassment**.
 - **States falling short** in amendments to **Central Civil Services (Conduct) Rules, 1964** and **Standing Orders**.
 - **Bar Council of India, Medical Council of India, Council of Architecture, ICAI, ICSI, and other statutory institutes** to ensure **compliance**.
 - **Lip service, hollow statements, and inadequate laws** are insufficient for **women's empowerment**.
- **International recognition:**

- Protection against sexual harassment is a **universally recognized human right**.
- India ratified **CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women)** on **25th June, 1993**.
- **Enactment of POSH Act, 2013:**
 - **First legislation** addressing **workplace sexual harassment**.
 - **Ministry of Women and Child Development** enacted the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.
 - Came into **force w.e.f. 9th December, 2013**.
 - **Rules notified: Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013**.
- **Concurrent Criminal Law amendment, 2013:**
 - **Criminal Law (Amendment) Act, 2013** criminalized **sexual harassment, stalking, and voyeurism**.

OBJECT OF THE ACT

- The **Act** is enacted with the objective of **preventing and protecting women** against **workplace sexual harassment**.
- The Act ensures **effective redressal of complaints of sexual harassment**.

Preamble of the Act:

"An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under Articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under Article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace."

WHAT IS WORKPLACE SEXUAL HARASSMENT?

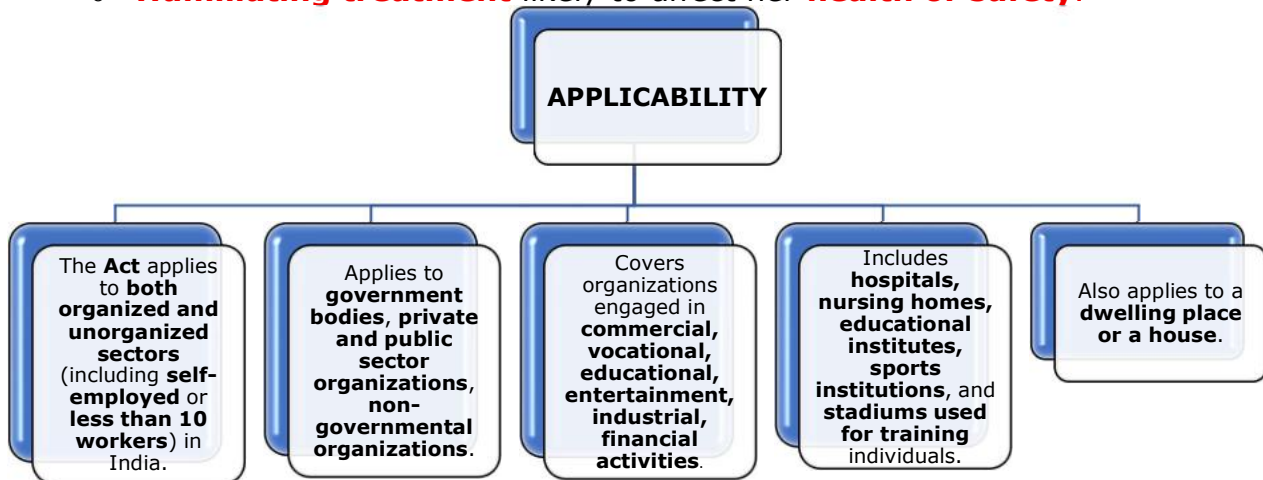
- **Workplace sexual harassment** is **sexual, unwelcome**, and the **experience is subjective**.
- It is the **impact**, not **intent**, that matters.

- It almost always occurs in a **matrix of power**.
- **Impact of workplace sexual harassment:**
 - Injury to **equal rights of women**.
 - Creates an **insecure and hostile working environment**.
 - **Impairs ability to deliver** in a competitive work environment.
 - Interferes with **work performance**.
 - Adversely affects **social and economic growth**.
 - Causes **physical and emotional suffering**.



FORMS OF WORKPLACE SEXUAL HARASSMENT

- **Quid Pro Quo** (literally “this for that”)
 - **Implied or explicit promise** of **preferential or detrimental treatment** in employment.
 - **Implied or express threat** about her **present or future employment status**.
- **Hostile Work Environment**
 - **Creating a hostile, intimidating, or offensive work environment**.
 - **Humiliating treatment** likely to affect her **health or safety**.



DEFINITIONS (SECTION 2)

Term	Definition / Key Points	Reference
Aggrieved Woman	- In relation to a workplace, a woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent. - In relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house. - Right to safe and secure workplace is recognized irrespective of age or employment/work status.	Section 2(a)

Term	Definition / Key Points	Reference
	- Covers all women working or visiting any workplace on regular, temporary, ad-hoc, or daily wages basis. - Includes women engaged directly or through an agent, including a contractor, with or without knowledge of principal employer. - May be working for remuneration, voluntary basis, or otherwise, with express or implied terms of employment. - Includes co-worker, contract worker, probationer, trainee, apprentice, or any other such name.	
Appropriate Government	For a workplace established, owned, controlled, or substantially financed by funds from: a) Central Government or Union territory administration → Central Government b) State Government → State Government - For any workplace not covered above within the State → concerned State Government (private sector).	Section 2(b)
Domestic Worker	- A woman employed to do household work in any household for remuneration (cash or kind), either directly or through any agency, on temporary, permanent, part-time, or full-time basis. - Excludes any member of the family of the employer.	Section 2(e)
Employee	- A person employed at a workplace for any work on regular, temporary, ad hoc, or daily wage basis, either directly or through an agent, including a contractor, with or without knowledge of principal employer, whether remunerated or not, or working voluntarily. - Includes co-worker, contract worker, probationer, trainee, apprentice, or called by any other such name.	Section 2(f)
Employer	- In relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or local authority, the head or such officer specified by the Government or local authority.	Section 2(g)

Term	Definition / Key Points	Reference
	- In any workplace not covered above, any person responsible for management, supervision, and control of the workplace. Explanation: "Management" includes the person, board, or committee responsible for formulation and administration of policies for the organisation. - In relation to workplace covered above, the person discharging contractual obligations with respect to employees. - In relation to a dwelling place or house, a person or household who employs or benefits from employment of domestic worker, irrespective of number, time period, type of worker, or nature of employment.	
Respondent	A person against whom the aggrieved woman has made a complaint under Section 9.	Section 2(m)
Sexual Harassment	Includes any one or more unwelcome acts or behaviour (whether directly or by implication), namely: - Physical contact and advances - Demand or request for sexual favours - Sexually coloured remarks - Showing pornography - Any other unwelcome physical, verbal, or non-verbal conduct of sexual nature	Section 2(n)
"Unorganised sector"	in relation to a workplace 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(p)]

Definition of Sexual Harassment under POSH Act

- POSH Act defines **"sexual harassment"** in line with the **Supreme Court's Vishaka Judgment**.
- Definition is **wide enough** to cover **both direct or implied sexual conduct**.
- Conduct may involve **physical, verbal, or written conduct**.
- **Key distinguishing feature:** Conduct is **unwanted and unwelcome** by the recipient.
- Includes creating an **intimidating, offensive, or hostile working environment**.
- Example: **Unwelcome comments about body type** causing embarrassment and inability to work properly.

Section 2(n) and Section 3 – Circumstances amounting to Sexual Harassment

- Circumstances that may amount to sexual harassment include:
 1. **Implied or explicit promise of preferential treatment** in the victim's employment.
 2. **Implied or explicit threat of detrimental treatment** in the victim's employment.
 3. **Implied or explicit threat about present or future employment status.**
 4. **Interference with victim's work** or creating an **intimidating, offensive, or hostile work environment.**
 5. **Humiliating treatment** likely to affect the victim's **health or safety.**

Wide Interpretation

- **Direct or implied sexual conduct** may vary depending on **individual interpretation.**
- Harassment may be **verbal or non-verbal.**
- Example: Statement such as **"come close to me, you will start feeling hot"** can constitute **sexual harassment** ([Albert Davit Ltd. vs. Anuradha Chowdhury, 2004]).

Definition of "Workplace" – Section 2(o)

Workplace includes:

1. Government/Authority establishments:

- Any **department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit**
- **Established, owned, controlled, or wholly/substantially financed by appropriate Government, local authority, Government company, corporation, or co-operative society**



2. Private sector organisations:

- Any **private sector organisation, private venture, undertaking, enterprise, institution, establishment, society, trust, NGO, unit or service provider**
- Carrying on **commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities**
- Including **production, supply, sale, distribution or service**

3. Hospitals and nursing homes

4. Sports facilities:

- Any **sports institute, stadium, sports complex, competition or games venue**
- **Whether residential or not, used for training, sports or other related activities**

5. Places visited during employment:

- Any **place visited by the employee arising out of or during the course of employment**
- Includes **transportation provided by employer** for such journey

6. Dwelling place or house

Workplace – Section 2(o) & Judicial Interpretation

• Definition of Workplace:

- Includes **private sector organisation, private venture, undertaking, enterprise, institution, establishment, society, trust, NGO, unit or service provider**
- Includes **places visited by employee** arising **out of or during course of employment**
- Includes **transportation provided by employer** for undertaking the journey
- **Harassment during transportation or lunch meetings is covered under the Act**



• Interpretation of “Workplace”:

- Should be given **broader and wider meaning**
- Cannot be restricted to **narrow campus or office**
- Applies **beyond the compound** of the workplace
- Ensures **working woman can attend work and continue service with honour and dignity**

Case Reference: Saurabh Kumar Mallick v. Comptroller & Auditor General of India, WP(C) No. 8649/2007

- Respondent argued alleged harassment **occurred at official mess**, not workplace
- Claimed **complainant was senior**, so no favour could be extracted
- **Delhi Court held argument ‘clearly misconceived’**
- **Delhi Court Observations:**
 - **Aim of Vishaka Guidelines:** prevent sexual harassment, deal sternly with guilty persons
 - **Narrow/office-only interpretation is inappropriate**
 - Consider **technology and remote work trends:** videoconferencing, work from residence
 - Harassment at **residences/remote offices** can still be **workplace harassment**
- **Factors for Determining Workplace:**
 - **Proximity from place of work**
 - **Control of management** over the place/residence
 - Residence should be **extension or contiguous part** of working place
- **Conclusion:**
 - Official mess where harassment occurred **falls under ‘workplace’**

COMPLAINTS COMMITTEE

The Act provides for **two kinds of complaints mechanisms**:

(i) Internal Complaints Committee (ICC); and

(ii) Local Complaints Committee (LCC)

Constitution of Internal Complaints Committee (ICC)

1. Mandatory constitution of ICC by order in writing:

- Every **employer** of a workplace shall, by an **order in writing**, constitute a **Committee** to be known as the **"Internal Complaints Committee"**.
- **Provided that** where offices or administrative units are at **different places** or **divisional/sub-divisional level**, the **Internal Committee shall be constituted at all administrative units or offices**.

2. Composition of the ICC:

- The **Internal Committee** shall consist of the following **members** nominated by the **employer**, namely:

a. Presiding Officer: ▪ A woman employed at a senior level at workplace from amongst the employees. ▪ However, if a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units. ▪ Provided further that if other offices or units do not have a senior level woman, the Presiding Officer shall be nominated from any other workplace of the same employer or other department/organisation.	b. Members: ▪ Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge.	c. External member: ▪ One member from non-governmental organisations or associations committed to the cause of women, or a person familiar with issues relating to sexual harassment. ▪ Provided that at least one-half of the total Members nominated shall be women.
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3. Tenure of office:

- The **Presiding Officer** and every **Member** of the Internal Committee shall hold office for such **period, not exceeding three years**, from the date of their **nomination** as may be specified by the **employer**.

4. Fees of external members:

- The **Member appointed** from non-governmental organisations or associations shall be paid such **fees or allowances** for holding the

proceedings of the **Internal Committee**, by the **employer**, as may be **prescribed**.

5. Casual vacancy in the office of Presiding Officer or any member of ICC:



- Where the **Presiding Officer** or any **Member**:
 - a. **Contravenes** provisions of **section 16**; or
 - b. Has been **convicted** for an **offence** or an **inquiry into an offence** is pending; or
 - c. Has been found **guilty in any disciplinary proceedings** or a disciplinary proceeding is **pending**; or
 - d. Has **abused position** rendering continuance in office **prejudicial to public interest**,
- Such **Presiding Officer or Member** shall be **removed**, and the **vacancy** shall be filled by **fresh nomination** in accordance with this section.

6. Judicial recognition:

- In **Vidya Akhave (Petitioner) v. Union of India and Ors, Writ Petition 796 of 2015, The Bombay High Court** ruled that it would **not interfere** with an **order of punishment passed by the ICC** unless the order is **shockingly disproportionate**.

Constitution of Local Complaints Committee (LCC)

1. Purpose of LCC:

- At the **district level**, the **Government** is required to set up a **Local Complaints Committee (LCC)** to **investigate and redress complaints** of sexual harassment:
 - From the **unorganized sector**.
 - From **establishments** where **ICC** has **not been constituted** due to **less than 10 employees**.
 - Where the **complaint is against the employer**.
- The **LCC** has special relevance in cases of **sexual harassment of domestic workers**, or where the **complaint is against the employer** or a **third party who is not an employee**.

2. Notification of District Officer (Section 5):

- The **Appropriate Government** may **notify** a **District Magistrate, Additional District Magistrate, Collector**, or **Deputy Collector** as a **District Officer** for every **District**.
- The **District Officer** exercises **powers** or discharges **functions** under the Act.

3. Constitution and jurisdiction of Local Committee (Section 6):

- Every **District Officer** shall **constitute a committee** known as the "**Local Committee**" in the district concerned.

- Receives **complaints of sexual harassment** from establishments where **ICC** has **not been constituted** due to **less than 10 workers** or if the **complaint is against the employer**.
- **District Officer** shall **designate** one **nodal officer** in every **block, taluka, tehsil (rural/tribal), or ward/municipality (urban)** to:
 - **Receive complaints.**
 - **Forward** to the concerned **Local Committee** within **seven days**.
- **Jurisdiction** of the Local Committee extends to the **areas of the district** where it is **constituted**.

4. Composition, tenure, and other terms of Local Committee (Section 7):

- **Local Committee members** to be **nominated** by the **District Officer**, namely:

a. Chairperson:	b. One Member:	c. Two Members:	d. Ex officio member:
Nominated from eminent women in the field of social work and committed to the cause of women.	Nominated from women working in block, taluka, tehsil, ward, or municipality in the district.	▪ Of whom at least one shall be a woman. ▪ Nominated from non-governmental organisations or associations committed to the cause of women, or person familiar with issues relating to sexual harassment. ▪ Provided at least one nominee preferably has a background in law or legal knowledge. Provided further that at least one nominee shall be a woman belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, or minority communities notified by the	▪ Concerned officer dealing with social welfare or women and child development in the district.



5. Tenure of office:

- **Chairperson** and every **Member** shall hold office for a **period not exceeding three years** from the date of **appointment** as may be specified by the **District Officer**.

6. Casual vacancy and removal:

- **Chairperson** or any **Member** shall be **removed** if:
 - a. **Contravenes provisions of section 16.**
 - b. **Convicted for an offence** or an **inquiry is pending.**
 - c. **Found guilty** in disciplinary proceedings or **disciplinary proceeding pending.**
 - d. **Abuses position** rendering continuance in office **prejudicial to public interest.**
- The **vacancy** shall be **filled by fresh nomination** in accordance with this section.

7. Fees of Members:

- **Chairperson** and **Members** other than those nominated under clauses **(b) and (d)** shall be entitled to **fees or allowances** for holding proceedings of the **Local Committee** as may be **prescribed.**

Grants and Audit

1. Power of Central Government (Section 8):

- The **Central Government** may, after **due appropriation** made by **Parliament by law**, make **grants** of sums of money to the **State Government.**
- The grants are to be **utilised for the payment of fees or allowances** referred to in **section 7.**

2. Role of State Government:

- The **State Government** may **set up an agency** and **transfer the grants** so made to that agency.
- The **agency** shall pay to the **District Officer** such sums as may be required for the **payment of fees or allowances** referred to in **section 7.**

3. Accounts and Audit:

- The **accounts** of the **agency** shall be **maintained and audited** in such manner as may, in consultation with the **Accountant General of the State**, be **prescribed.**

- The **person holding custody of the accounts** of the agency shall **furnish** to the **State Government**, before such **date as may be prescribed**, the **audited copy of accounts** together with **auditors' report** thereon.

Complaint of Sexual Harassment (Section 9)

1. Filing of complaint:

- Any **aggrieved woman** may make, **in writing**, a **complaint of sexual harassment** at the **workplace**:
 - To the **Internal Committee (ICC)**, if **constituted**, or
 - To the **Local Committee (LCC)**, if **ICC is not constituted**.
- **Time limit**: Within **three months** from the **date of incident**, or in case of a **series of incidents**, within **three months from the last incident**.

2. Assistance in writing complaint:

- **Provided** where complaint **cannot be made in writing**, the **Presiding Officer or any Member of ICC** or the **Chairperson or any Member of LCC** shall **render all reasonable assistance** to the woman for **making the complaint in writing**.

3. Extension of time:

- **Provided further**, ICC or LCC may, for **reasons recorded in writing**, **extend the time limit, not exceeding three months**, if satisfied that **circumstances prevented** the woman from **filing complaint** within the period.

4. Complaint by legal heir or authorized person:

- Where the aggrieved woman is **unable to make complaint** due to **physical or mental incapacity, death, or otherwise**, her **legal heir** or such **other person as may be prescribed** may make a **complaint** under this section.

5. Prompt reporting and authenticity:

- **Prompt reporting** of an act of **sexual harassment** is as important as **swift action** by authorities.
- The **more prompt** the complaint, the **more authentic** it can be treated.

6. Judicial observation:

- In **Manjeet Singh vs. Indraprastha Gas Limited 236 (2017) DLT 396**, the **Delhi High Court** observed that **anonymous complaints** under the Act are **bound to be rejected**.

7. Contents of written complaint:

- Should contain a **description of each incident(s)**.
- Include **relevant dates, timings, and locations**.
- Name of **respondent(s)**.

- **Working relationship** between the parties.
- A **designated person** to manage workplace sexual harassment **must provide assistance** in writing the complaint if requested by the complainant.

Conciliation (Section 10)

1. Conciliation by ICC or LCC:

- The **Internal Committee (ICC)** or, as the case may be, the **Local Committee (LCC)** may, **before initiating an inquiry under section 11** and at the **request of the aggrieved woman**, take steps to **settle the matter** between her and the **respondent** through **conciliation**.
- **Provided** that **no monetary settlement** shall be made as a basis of **conciliation**.



2. Recording and forwarding settlement:

- Where a **settlement** is arrived at, the **ICC or LCC** shall **record the settlement** and **forward** it to the **employer** or the **District Officer** to take action as per the **recommendation**.
- The **ICC or LCC** shall **provide copies** of the settlement to the **aggrieved woman** and the **respondent**.
- **No further inquiry** shall be conducted if such **settlement** is arrived at.

Inquiry into Complaint (Section 11)

1. Initiating inquiry:

- **Subject to section 10**, the **ICC or LCC**, where the **respondent is an employee**, shall **inquire into the complaint** in accordance with **service rules** applicable to the respondent, or if no such rules exist, in such **manner as may be prescribed**.
- In case of a **domestic worker**, the **LCC**, if **prima facie case exists**, shall **forward the complaint to the police** within **seven days** for registering the case under **section 509 of the IPC** and any other **relevant provisions**.

2. Non-compliance of settlement:

- Where the **aggrieved woman** informs the **ICC or LCC** that any **term or condition of settlement under section 10(2)** has not been complied with, the **ICC or LCC** shall **inquire into the complaint** or **forward it to the police**.

3. Opportunity to parties and findings:

- Where both parties are **employees**, they shall be given an **opportunity of being heard** during inquiry.
- A **copy of the findings** shall be made available to both parties to **make representation** against the findings before the **Committee**.

4. Court powers and compensation:

- **Notwithstanding section 509 IPC**, the **court**, when the **respondent is convicted**, may **order payment** of such sums as it considers appropriate to the **aggrieved woman** by the **respondent**, having regard to **section 15**.

5. Powers of ICC and LCC during inquiry:

- While **inquiring**, ICC and LCC shall have **same powers as a civil court** under the **Code of Civil Procedure, 1908** for:
 - a. **Summoning and enforcing attendance** of any person and **examining on oath**.
 - b. **Requiring discovery and production of documents**.
 - c. Any **other matter which may be prescribed**.

6. Timeframe of inquiry:

- The **inquiry** shall be **completed within ninety (90) days**.

Action during Pendency of Inquiry (Section 12)

1. Relief to aggrieved woman:

- During **pendency of inquiry**, on **written request** by the **aggrieved woman**, the **ICC or LCC** may **recommend** to the **employer** to:
 - a. **Transfer** the **aggrieved woman** or the **respondent** to any other **workplace**.
 - b. **Grant leave** to the **aggrieved woman** up to **three months**.
 - c. **Grant such other relief** to the **aggrieved woman** as may be **prescribed**.

2. Leave entitlement:

- The **leave granted** under this section shall be **in addition** to the leave the **aggrieved woman** is otherwise entitled to.

3. Implementation of recommendations:

- On such **recommendation** of the **ICC or LCC**, the **employer** shall **implement the recommendations** and **send the report of implementation** to the **ICC or LCC**.

Inquiry Report (Section 13)

1. Submission of report:

- On completion of **inquiry**, the **Internal Committee (ICC)** or **Local Committee (LCC)** shall **provide a report of findings** to the **employer** or **District Officer** within **ten days** from the date of completion.
- Such **report** shall be made **available to the concerned parties**.

2. Findings of not proved allegation:

- If the **allegation against respondent is not proved**, ICC or LCC shall **recommend** to the **employer** or **District Officer** that **no action is required**.

3. Findings of proved allegation:

- If the **allegation against respondent is proved**, ICC or LCC shall **recommend** to the **employer** or **District Officer** to:
 - (i) **Take action** for **sexual harassment as misconduct** in accordance with **service rules** applicable to the respondent, or if no such rules exist, in **such manner as may be prescribed**.
 - (ii) **Deduct** from the **salary or wages of respondent** such sum as considered appropriate to be **paid to the aggrieved woman** or her **legal heirs**, in accordance with **section 15**.

4. Failure or absence of respondent:

- If the **employer is unable** to deduct due to respondent's **absence** or **cessation of employment**, the **respondent** shall be **directed to pay** the sum to the **aggrieved woman**.
- If the **respondent fails to pay**, ICC or LCC may **forward the order for recovery** as an **arrear of land revenue** to the **concerned District Officer**.

5. Timeframe for employer/District Officer action:

- The **employer** or **District Officer** shall **act upon the recommendation** within **sixty days** of its receipt.

Punishment for False or Malicious Complaint and False Evidence (Section 14)

1. Action for malicious complaint:

- If ICC or LCC concludes that the **allegation is malicious** or the **complaint was knowingly false**, or the complainant **produced forged or misleading documents**, it may **recommend action** to the **employer** or **District Officer** under **section 9**.
- Action shall be in accordance with **service rules**, or where no rules exist, in **such manner as may be prescribed**.

2. Inability to substantiate:

- Mere **inability to substantiate** a complaint or provide adequate proof **does not attract action**.

3. Establishing malicious intent:

- **Malicious intent** must be **established after inquiry** before any **action is recommended**.

4. **False evidence by witnesses:**

- If any **witness gives false evidence** or **produces forged/misleading document**, ICC or LCC may **recommend action** to the **employer of witness** or **District Officer** in accordance with **service rules**, or if no rules exist, in **such manner as may be prescribed**.

Determining of Compensation (Section 15)

- For determining sums to be **paid to the aggrieved woman**, ICC or LCC shall have regard to:
 - a. **Mental trauma, pain, suffering, and emotional distress** caused to the **aggrieved woman**.
 - b. **Loss in career opportunity** due to the incident of **sexual harassment**.
 - c. **Medical expenses** incurred for **physical or psychiatric treatment**.
 - d. **Income and financial status** of the **respondent**.
 - e. **Feasibility of payment** in **lump sum** or **installments**.

Prohibition of Publication or Making Known Contents of Complaint and Inquiry Proceedings (Section 16)

1. **Non-disclosure of complaint and inquiry:**

- **Notwithstanding anything contained** in the **Right to Information Act, 2005**, the following shall **not be published, communicated or made known** to the **public, press, or media** in any manner:
 - **Contents of the complaint** made under **section 9**.
 - **Identity and addresses** of the **aggrieved woman, respondent, and witnesses**.
 - Any **information relating to conciliation and inquiry proceedings**.
 - **Recommendations** of the **Internal Committee (ICC)** or **Local Committee (LCC)**.
 - **Action taken** by the **employer** or **District Officer** under this Act.

2. **Permissible dissemination:**

- **Information may be disseminated** regarding **justice secured** to any **victim of sexual harassment** under this Act **without disclosing** the **name, address, identity**, or any other **particulars calculated to lead to identification** of the **aggrieved woman** and **witnesses**.

Penalty for Publication or Making Known Contents of Complaint and Inquiry Proceedings (Section 17)

Liability for contravention:

- Any **person entrusted** with the duty to **handle or deal with** the **complaint, inquiry, recommendations, or action** under this Act, who **contravenes the provisions of section 16**, shall be **liable for penalty**:
 - In accordance with the **service rules** applicable to the said person, or
 - Where no such service rules exist, in **such manner as may be prescribed**.

Appeal (Section 18)

1. Right to appeal:

- Any **person aggrieved** from the **recommendations** made under:
 - **Section 13(2)**, or
 - **Section 13(1)(i) or 13(1)(ii)**, or
 - **Section 14(1) or 14(2)**, or
 - **Section 17**, or
 - **Non-implementation** of such recommendations,
- May **prefer an appeal** to the **court or tribunal**:
 - In accordance with the **service rules** applicable to the said person, or
 - Where no such service rules exist, **in such manner as may be prescribed, without prejudice to other laws**.



2. Time limit for appeal:

- Such **appeal** shall be preferred within **ninety days** of the **recommendations**.

Duties of Employer (Section 19)

1. Safe working environment:

- Every **employer** shall **provide a safe working environment** at the **workplace**, which includes **safety from persons coming into contact** at the workplace.

2. Display of information:

- **Display** at a **conspicuous place**:
 - **Penal consequences of sexual harassment.**
 - **Order constituting the Internal Committee (ICC) under section 4(1).**

3. Workshops and awareness programmes:

- **Organise workshops and awareness programmes** at **regular intervals** to **sensitise employees** with provisions of the Act.
- Conduct **orientation programmes** for members of the **Internal Committee** as may be **prescribed**.

4. Facilities for Committee:

- **Provide necessary facilities** to **ICC or LCC**, as the case may be, for **dealing with complaints** and **conducting inquiry**.

5. Assistance in attendance:

- **Assist** in **securing attendance** of **respondent and witnesses** before **ICC or LCC**, as the case may be.

6. Provide information:

- **Make available information** to **ICC or LCC** as may be required having regard to **complaint under section 9(1)**.

7. Assistance in filing legal complaint:

- **Provide assistance** to the **aggrieved woman** if she chooses to **file complaint under IPC 1860** or any other law in force.

8. Initiate action under law:

- **Cause action** under **IPC 1860** or any other law against the **perpetrator**, or if the **perpetrator is not an employee**, at the **workplace where the incident occurred**, if the **aggrieved woman desires**.

9. Treatment as misconduct:

- **Treat sexual harassment** as **misconduct under service rules** and **initiate action** for such **misconduct**.

10. Monitoring reports:

- **Monitor** the **timely submission of reports** by the **Internal Committee (ICC)**.

Duties of District Officer (Section 20)**1. Monitor reports:**

- **Monitor the timely submission** of **reports furnished by the Local Committee (LCC)**.

2. Awareness creation:

- **Take measures** necessary for **engaging non-governmental organisations** for **creation of awareness** on **sexual harassment** and **women's rights**.

MISCELLANEOUS**Committee to Submit Annual Report (Section 21)****1. Preparation of annual report:**

- The **Internal Committee (ICC)** or **Local Committee (LCC)** shall, in each **calendar year**, **prepare an annual report** in such **form** and at such **time** as may be prescribed.

2. Submission of report:

- **Submit the annual report** to the **employer** and **District Officer**.

3. Forwarding by District Officer:

- The **District Officer** shall **forward a brief report** on the annual reports so received to the **State Government**.

Employer to Include Information in Annual Report (Section 22)

1. Contents of employer's report:

- The **employer** shall **include in its report**:
 - **Number of cases filed**, if any.
 - **Disposal of cases** under this Act.

2. Alternative reporting:

- Where no **annual report** is required to be prepared, the **employer** shall **intimate such number of cases** to the **District Officer**.

Appropriate Government to Monitor Implementation and Maintain Data (Section 23)

1. Monitoring implementation:

- The **appropriate Government** shall **monitor the implementation** of this Act.

2. Maintaining data:

- Maintain **data on number of cases filed and disposed of** in respect of **all cases of sexual harassment at workplace**.

Appropriate Government to Take Measures to Publicise the Act (Section 24)

1. Develop IEC materials and awareness programmes:

- Subject to **financial and other resources**, the **appropriate Government** may:
 - **Develop information, education, communication, and training materials**.
 - **Organise awareness programmes** to **advance public understanding** of the Act.

2. Orientation and training programmes:

- **Formulate orientation and training programmes** for **members of the Local Committee (LCC)**.

Power to Call for Information and Inspection of Records (Section 25)

1. Calling for information:

- The **appropriate Government**, if satisfied it is **necessary in public interest** or in the **interest of women employees**, may **call upon any employer or District Officer** to **furnish information** relating to **sexual harassment**.

2. Authorising inspection:

- Authorise any **officer** to **inspect records and workplace** related to **sexual harassment**.
- The officer shall **submit a report of inspection** within the **period specified** in the order.

3. Production of information and records:

- Every **employer and District Officer** shall **produce on demand** all **information, records, and documents** relevant to the **inspection**.

Penalty for Non-Compliance with Provisions of Act (Section 26)

1. Penalty for contravention:

- **Fine up to ₹50,000** where the **employer**:
 - Fails to constitute ICC** under **section 4(1)**.
 - Fails to take action** under **sections 13, 14, and 22**.
 - Contravenes, attempts to contravene, or abets contravention** of other provisions of this Act or rules.

2. Repeat offence:

- If **previously convicted**, subsequent offence attracts **twice the punishment**, subject to **maximum prescribed punishment**.
- If **higher punishment** exists under other law, **court shall take cognizance** while awarding punishment.

3. Additional consequences:

- **Liable for cancellation, withdrawal, non-renewal, or approval of licence or registration** by **Government or local authority** for carrying on business or activity.

Cognizance of Offence by Courts (Section 27)

1. Non-cognizable offences:

- **Offences under this Act are non-cognizable**; arrest **cannot be made without warrant**.

2. Court cognizance:

- **No court** shall take **cognizance** except on a **complaint by aggrieved woman or person authorised by ICC or LCC**.

3. Trial limitations:

- No court **inferior** to a **Metropolitan Magistrate** or **Judicial Magistrate of the first class** shall **try offences** punishable under this Act.

Act Not in Derogation of Any Other Law (Section 28)

Additional safeguard:

- The provisions of this Act are **in addition to**, and **not in derogation of**, **any other law for the time being in force**.

Power of Appropriate Government to Make Rules (Section 29)

1. Rule-making authority:

- The **Central Government** may, by **notification in the Official Gazette, make rules for carrying out the provisions** of this Act.

2. Subjects for rules:

- Without prejudice to generality, such rules may provide for all or any of the following:
 - a. **Fees or allowances** to be paid to **Members** under **section 4(4)**.
 - b. **Nomination of members** under **clause (c) of section 7(1)**.
 - c. **Fees or allowances** to be paid to **Chairperson and Members** under **section 7(4)**.
 - d. **Person who may make complaint** under **section 9(2)**.
 - e. **Manner of inquiry** under **section 11(1)**.
 - f. **Powers for making inquiry** under **section 11(2)(c)**.
 - g. **Relief to be recommended** under **section 12(1)(c)**.
 - h. **Manner of action** under **section 13(3)(i)**.
 - i. **Manner of action** under **section 14(1) and 14(2)**.
 - j. **Manner of action** under **section 17**.
 - k. **Manner of appeal** under **section 18(1)**.
 - l. **Organising workshops, awareness programmes, and orientation programmes** under **section 19(c)**.
 - m. **Form and time for preparation of annual report** by **ICC and LCC** under **section 21(1)**.



POSH Amendment 2019 – Registration and Compliance

1. Telangana mandate:

- All **businesses in Telangana** with **ten or more employees** are required to **register their Internal Committee (IC)** with the **State Shebox portal by July 15, 2019**.
- This is to **help officials monitor compliance** of local firms.

2. Maharashtra mandate:

- All **companies in Maharashtra** must **submit to the Sub-Divisional Magistrate by July 20, 2019**, a **form explaining compliance status and Internal Committee**.

3. Rule enactment:

- In exercise of **powers under section 29**, the **Central Government** made the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013**.

CASE LAWS**1. Binoy Jacob vs. State of Kerala and Ors. (01.11.2022 – KERHC) | CrI.MC No. 847 of 2022**

- **Petition filed:** To **quash proceedings** on the ground that **same complaint** by the 2nd respondent was **considered by ICC** and **found not proved**.
- **Court observation:**
 - **Section 28 of the Act 2013** states **provisions of the Act** are in **addition to, not in derogation of, other laws**.
 - **Action under Act** by employer and **complaint under IPC** are **independent**.
 - **Two-fold actions** **permissible** for **sexual harassment complaint**.
- **Court ruling:** Both **actions** are **independent** and **criminal prosecution** can proceed **simultaneously**.

2. Rayala Satyanarayana vs. SBI Funds Management Pvt. Ltd. and Ors. (19.10.2022 – APHC) | Writ Petition No. 8042 of 2019

- **Issue:** Whether **termination of services** is a **major punishment** that **requires separate departmental enquiry** or **opportunity of hearing**.
- **Court observation:**
 - **Conclusions by ICC** **cannot be basis** for imposing **major penalty of removal**.
 - **Committee's report** is a **finding/report in enquiry**, not a **preliminary investigation** for disciplinary action.
 - **Service Rules mandate:**
 - **Initiation of disciplinary proceedings** is mandatory.
 - **No major penalty** can be imposed **without regular departmental enquiry** and **opportunity of hearing**.
- **Court ruling:** Impugned proceedings **illegal** due to **absence of departmental enquiry** and **violation of Service Rules**.