

KEY CONCEPTS

■ Salient Features of the Code ■ Preliminary ■ BI-Partite Forums ■ Trade Unions ■ Voluntary Reference of Disputes to Arbitration ■ Strikes and Lock-Outs ■ Unfair labour practices ■ Offences and Penalties

Learning Objectives

To understand:

- Understand the scope, purpose and structure of the Industrial Relations Code, 2020.
- Explain the key definitions such as employer, employee, worker, industry, industrial dispute, lay-off, retrenchment, and strike.
- Analyse the statutory framework relating to Trade Unions, including registration, recognition, rights and duties.
- Examine the provisions regarding Standing Orders, certification process and obligations of employers.
- Describe the mechanism for resolution of industrial disputes—conciliation, arbitration, industrial tribunal.
- Interpret the rules relating to discipline, misconduct and subsistence allowance.
- Evaluate the statutory provisions on notice of change, strikes, lock-outs, lay-off, retrenchment and closure.
- Apply the Code's provisions to practical industrial dispute situations.

Lesson Outline

- Introduction
- Preliminary – Scope, Extent and Definitions
- Bi-Partite Forums – Works Committees and Grievance Redressal
- Trade Unions – Registration, Rights and Liabilities
- Standing Orders – Certification, Modification and Compliance
- Industrial Disputes – Conciliation, Arbitration and Adjudication
- Strikes and Lockouts – Restrictions and Procedures
- Lay-off, Retrenchment and Closure – Conditions and Compensation
- Negotiating Union / Negotiating Council – Recognition and Functions
- Voluntary Arbitration – Procedures and Legal Effect
- Re-skilling Fund – Purpose and Utilisation
- Offences and Penalties – Contraventions and Compounding
- Inspectors-cum-Facilitators – Powers and Duties
- Miscellaneous – Exemptions, Delegated Legislation and Repeals
- Lesson Summary
- Test Yourself

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

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

The Code reflects long-standing recommendations of the Second National Commission on Labour (2002) to consolidate labour laws into broad, comprehensive codes aimed at promoting industrial harmony. Designed with the objectives of simplifying procedures, strengthening collective bargaining, enhancing ease of doing business, enabling faster dispute resolution, and balancing flexibility with worker protection, the Code represents a forward-looking and technology-enabled framework for India's evolving industrial relations landscape.

Towards end to disputes by amalgamating 3 Labour Laws into the Industrial Relations Code the Central Government has taken steps for safeguarding the interests of Trade Unions as well as the workers. In this Code, all possible steps have been taken for industrial units and workers so that disputes do not arise in future.

The Industrial Relations Code, 2020 is structurally organised into 14 Chapters, comprising a total of 104 Sections and 3 Schedules. The Code begins with *Chapter I*, which contains preliminary provisions including the short title, extent, commencement, and key definitions. *Chapter II* introduces bipartite forums such as Works Committees and Grievance Redressal Committees. *Chapter III* deals with the registration, recognition, and functioning of Trade Unions, while *Chapter IV* lays down provisions relating to Standing Orders, including certification and modification. *Chapter V* addresses the law relating to industrial disputes, covering conciliation, arbitration, tribunals, and settlement mechanisms. *Chapter VI* contains restrictions and procedures regarding strikes and lockouts. *Chapter VII* governs lay-off, retrenchment, and closure, including compensation norms and procedural requirements. *Chapter VIII* introduces the framework for recognising a Negotiating Union or Negotiating Council. *Chapter IX* establishes the Re-skilling Fund for retrenched workers. *Chapter X* prescribes offences, penalties, and compounding provisions, while *Chapter XI* outlines the powers and duties of Inspectors-cum-Facilitators. The remaining chapters—*Chapters XII to XIV*—cover procedural matters, rule-making powers, exemptions, protection of actions, and repeal and savings clauses. The Three Schedules appended to the Code deal respectively with: matters to be included in Standing Orders, list of unfair labour practices, and transitional provisions related to prior enactments. Together, the structural arrangement ensures clarity, consolidation, and ease of compliance across India's industrial relations framework.

Salient Features of the Code

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

to employers.

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

Trade Union Recognition: Unions with 51% membership get recognition as the Negotiating Union; otherwise, a Negotiating Council is formed from unions, not less than 20% membership of trade union. Such an arrangement strengthens collective bargaining.

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

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

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

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

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

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

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

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

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

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

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

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

PRELIMINARY

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; 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.

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 hereby appoints the 21st day of November, 2025 as the date on which the provisions of the said Code, shall come into force.

Definitions

In this Code, unless the context otherwise requires, —

“Appellate Authority” means an authority appointed by the appropriate Government to exercise such functions in such area as may be specified by that Government by notification in the Official Gazette. {Section 2(a)}

Section 2(b) of the Code defines **“Appropriate Government”** as, —

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

Explanation: For the purposes of this clause, the Central Government shall continue to be the appropriate Government for Central Public Sector Undertakings even if the holding of the Central Government reduces to less than fifty per cent. equity in that public sector undertaking after the commencement of this Code;

- (ii) 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” includes an umpire; {Section 2(c)}

“Average Pay” means the average of the wages payable to a worker, —

- (i) in the case of monthly paid worker, in three complete calendar months;
- (ii) in the case of weekly paid worker, in four complete weeks;
- (iii) in the case of daily paid worker, in twelve full working days,

preceding the date on which the average pay becomes payable.

If the worker had worked for three complete calendar months or four complete weeks or twelve full working

days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a worker during the period he actually worked; {Section 2(d)}

“Award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Industrial Tribunal referred to in section 44 or National Industrial Tribunal referred to in section 46 and includes an arbitration award made under section 42; {Section 2(e)}

“Banking Company” means a banking company as defined in section 5 of the Banking Regulation Act, 1949 and includes

- the Export-Import Bank of India,
- the Industrial Reconstruction Bank of India,
- the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989,
- the Reserve Bank of India,
- the State Bank of India,
- a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970,
- a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. {Section 2(f)}

“Certifying Officer” means any officer appointed by the appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV. {Section 2(g)}

“Closure” means the permanent closing down of a place of employment or part thereof. {Section 2(h)}

“Conciliation Officer” means a conciliation officer appointed under section 43. {Section 2(i)}

“Conciliation Proceeding” means any proceeding held by a conciliation officer under this Code. {Section 2(j)}

“Controlled Industry” means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest. {Section 2(k)}

“Employee” means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed by an industrial establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union. {Section 2(l)}

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

- (i) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (n) of section 2 of the Factories Act, 1948 and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the said Act, the person so named;
- (ii) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

- (iii) contractor; and
- (iv) legal representative of a deceased employer. {Section 2(m)}

“Executive”, 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. {Section 2(n)}

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

Provided that—

- (a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;
- (b) he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and
- (c) he shall be eligible for gratuity if he renders service under the contract for a period of one year. {Section 2(o)}

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

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit,

but does not include—

- (i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or
- (ii) any activity of the appropriate Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or
- (iii) any domestic service; or
- (iv) any other activity as may be notified by the Central Government. {Section 2(p)}

“Industrial Dispute” means any dispute or difference between employers and employees or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person and includes any dispute or difference between an individual worker and an employer connected with, or arising out of discharge, dismissal, retrenchment or termination of such worker. {Section 2(q)}

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

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

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

undertaking;

- (ii) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking. {Section 2(r)}

“Insurance Company” means a company as defined in section 2 of the Insurance Act, 1938. {Section 2(s)}

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

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

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

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day. {Section 2(t)}

“Lock-Out” means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him. {Section 2(u)}

“Major Port” means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908. {Section 2(v)}

“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. {Section 2(w)}

“Mine” means a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952. {Section 2(x)}

“National Industrial Tribunal” means a National Industrial Tribunal constituted under section 46. {Section 2(y)}

“Negotiating Union or Negotiating Council” means the negotiating union or negotiating council referred to in section 14. {Section 2(z)}

“Notification” means a notification published in the Official Gazette of India or the Official Gazette of a State, as the case may be, and the expression “notify” with its grammatical variation and cognate expressions shall be construed accordingly. {Section 2(za)}

“Office-Bearer”, in relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor. {Section 2(zb)}

“Prescribed” means prescribed by rules made under this Code. {Section 2(zc)}

“Railway” means the railway as defined in clause (31) of section 2 of the Railways Act, 1989. {Section 2(zd)}

“Registered Office” means that office of a Trade Union which is registered under this Code as the head office thereof. {Section 2(ze)}

“Registered Trade Union” means a Trade Union registered under this Code. {Section 2(zf)}

“Registrar” means a Registrar of Trade Unions appointed by the State Government under section 5. {Section 2(zg)}

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

- (i) voluntary retirement of the worker; or
- (ii) retirement of the worker on reaching the age of superannuation; or
- (iii) termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (iv) termination of service of the worker as a result of completion of tenure of fixed term employment; or
- (v) termination of the service of a worker on the ground of continued ill-health. {Section 2(zh)}

“Settlement” means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and to the conciliation officer. {Section 2(zi)}

“Standing Orders” means orders relating to matters set-out in the First Schedule. {Section 2(zj)}

“Strike” means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal, under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment and includes the concerted casual leave on a given day by fifty per cent. or more workers employed in an industry. {Section 2(zk)}

“Trade Union” means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions: *Provided that the provisions of Chapter III of this Code shall not affect—*

- (i) any agreement between partners as to their own business; or
- (ii) any agreement between an employer and those employed by him as to such employment; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft. {Section 2(zl)}

“Trade Union Dispute” means any dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union inter se. {Section 2(zm)}

“Tribunal” means an Industrial Tribunal constituted under section 44. {Section 2(zn)}

“Unfair Labour Practice” means any of the practices specified in the Second Schedule. {Section 2(zo)}

“Unorganised Sector” shall have the same meaning as assigned to it in clause (l) of section 2 of the Unorganised Workers’ Social Security Act, 2008. {Section 2(zp)}

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

- (i) basic pay;
- (ii) dearness allowance;
- (iii) retaining allowance, if any,

but does not include—

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

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

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

Explanation: Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee. {Section 2(zq)}

“Worker” means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the

purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who is employed in a supervisory capacity drawing wages exceeding eighteen thousand rupees per month or an amount as may be notified by the Central Government from time to time:

Provided that for the purposes of Chapter III, “worker”—

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

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, consisting of representatives of employer and workers engaged in the establishment. It is provided that 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 the provisions of 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 and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

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.

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

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

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

The decision of the Grievance Redressal Committee on any application filed under sub-section (5) shall be made on the basis of majority view of the Committee, provided more than half of the members representing the workers have agreed to such decision; otherwise, it shall be deemed that no decision could be arrived at by the Committee.

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

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

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

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

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,

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

Jurisdiction and Authority: Subject to the provisions of any order made by the State Government

- Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions, as the case may be, shall be deemed to be the Registrar in relation to that Trade Union for

the purposes of this Code where either 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 otherwise complying with the provisions of this Code with respect to registration, apply for registration of the Trade Union under this Code.
- *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 the members of such Trade Union on the date of making of application for registration.
- *Validity of Application in case of withdrawal of applicants:* Where an application has been made under sub-section (1) for registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.
- *Condition for continuing registration:* A registered Trade Union shall at all times maintain:
 - a) At least **10% of the workers or 100 workers**, whichever is less, as members.

Subject to a minimum of **seven members** engaged in the establishment/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 under this Code, unless the executive thereof is constituted in accordance with the provisions of this Code, and the rules of the Trade Union provide for the following matters, namely: —

- (a) the name of the Trade Union;
- (b) the whole of the objects for which the Trade Union has been established;
- (c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Code;
- (d) the maintenance of a list of members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;
- (e) the admission of ordinary members (irrespective of their craft or category) who shall be persons actually engaged or employed in the industrial establishment, undertaking or industry, or units, branches or offices of an industrial establishment, as the case may be, with which the Trade Union is connected, and also the admission of such number of honorary or temporary members, who are not such workers, as are not permitted under section 21 to be office-bearers to form the executive of the Trade Union;
- (f) the payment of a subscription by members of the Trade Union from such members and others, as may be prescribed;
- (g) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on any member;

- (h) the annual general body meeting of the members of the Trade Union, the business to be transacted at such meeting, including the election of office-bearers of the Trade Union;
- (i) the manner in which the members of the executive and the other office-bearers of the Trade Union shall be elected once in a period of every three years and removed, and filling of casual vacancies;
- (j) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the office-bearers and members of the Trade Union;
- (k) the manner in which the rules shall be amended, varied or rescinded; and
- (l) the manner in which the Trade Union may be dissolved.

Application for Registration, 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 be 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 of the Trade Union adopting such rules;
- (c) a copy of the resolution adopted by the members of the Trade Union authorising the applicants to make an application for registration; and
- (d) in the case of a Trade Union, being a federation or a central organisation of Trade Unions, a copy of the resolution adopted by the members of each of the member Trade Unions, meeting separately, agreeing to constitute a federation or a central organisation of Trade Unions.

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

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

Power of Registrar to call for further information: The Registrar may call for further information for the purpose of satisfying himself that

- the application complies with the provisions of this Code and
- the Trade Union is entitled for registration under this Code, and

Registrar is vested with discretionary power to refuse to register the Trade Union until such information is furnished.

Resemblance of name of applicant Trade Union: The Registrar shall require the persons applying for altering the name of the Trade Union if the name under which the Trade Union is proposed to be registered is

- identical with that of an existing registered Trade Union or
- in the opinion of the Registrar so nearly resembles the name of an existing Trade Union that such name is likely to deceive the public or the members of either Trade Union.

The Registrar shall refuse to register the Trade Union until such alteration has been made.

Registration of Trade Union and Cancellation thereof (Section 9)

This section lays down the process for registration of Trade Unions, issuance of certificates, recognition of existing unions, and grounds for cancellation or withdrawal of registration. It ensures that registration is conclusive, continuity is maintained for unions already registered under earlier law, and cancellation is subject to due process and recorded reasons.

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

Certificate of Registration: Where the Registrar makes an order for registration of a Trade Union, he shall issue a certificate of registration to the applicant Trade Union, in such form as may be prescribed. The sub section states the certificate of registration so issued, shall be the conclusive evidence that the Trade Union has been registered under this Code.

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

Recognition of Existing Unions: Every Trade Union registered under the Trade Unions Act, 1926 having valid registration immediately before the commencement of this Code shall be deemed to have been registered under this Code.

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

Withdrawal or Cancellation of Registration: The certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar—

- (i) on the application of the Trade Union verified in such manner as may be prescribed; or
- (ii) on the information received by him regarding the contravention by the Trade Union of the provisions of this Code or the rules made thereunder or its constitution or rules; or
- (iii) if he is satisfied that the members in a Trade Union falls below ten per cent. of total workers or one hundred workers, whichever is less:

It is provided that-

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

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

Reasoned order of cancellation: While cancelling the certificate of registration of a Trade Union, the Registrar shall record the reasons for doing so and communicate the same in writing to the Trade Union concerned.

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

This section vests right to appeal in cases where the Registrar either refuses registration or cancels a certificate of registration, with provisions for condonation of delay and fair hearing.

Right to Appeal: Any person may within such period as may be prescribed, prefer an appeal to the Tribunal, if aggrieved by

- the refusal of the Registrar to grant registration to a Trade Union under section 9 or
- the cancellation of a certificate of registration under sub-section (5) of the said section.

It is provided that the Tribunal may entertain the appeal after the limitation prescribed for preferring the appeal under this sub-section, if the appellant satisfies the Tribunal that such delay has been caused due to sufficient reason or unavoidable circumstances.

Powers of the Tribunal: The Tribunal may, after giving the parties concerned an opportunity of being heard,

- dismiss the appeal or
- pass an order directing the Registrar to register the Trade Union and to issue a certificate of registration or
- set aside the order of cancellation of certificate of registration, as the case may be, and

Copy of such order shall be forwarded to the Registrar.

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

This section outlines the ongoing compliance responsibilities of registered Trade Unions by ensuring proper communication channels, continuous monitoring of membership thresholds, and timely reporting of changes in particulars or rules to the Registrar.

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

Membership Threshold Notification: The Trade Union shall inform the Registrar if the members of such Trade Union fall below ten per cent. of total workers or one hundred workers, whichever is less.

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

Incorporation of Registered Trade Union (Section 12)

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

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

The provisions of the following Acts, namely: —

- (a) the Societies Registration Act, 1860;
- (b) the Co-operative Societies Act, 1912;
- (c) the Multi-State Co-operative Societies Act, 2002;
- (d) the Companies Act, 2013; and
- (e) any other corresponding law relating to co-operative societies for the time being in force in any State,

shall not apply to any registered Trade Union and the registration of any such Trade Union under any of the aforementioned Acts shall be void.

Recognition of Negotiating Union or Negotiating Council (Section 14)

This section provides for the framework for **collective bargaining in industrial establishments**. It has also laid down rules for recognition of a negotiating union or constitution of a negotiating council, depending on the number and strength of registered Trade Unions in the establishment. It ensures structured representation of workers and sets validity periods and facilities for effective negotiation

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 registered Trade Union for negotiating with the employer of the industrial establishment, on such matters as may be prescribed.

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

Recognition of Sole negotiating union of the workers in case of multiple Trade union: If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, then,

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

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

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

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

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

Spending of general funds: The general funds of a registered Trade Union shall not be spent on any objects other than such objects as may be prescribed.

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

Contribution to separate fund not mandatory:

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

by reason of his not contributing to the said fund; and.

Quantum of subscriptions: The subscriptions payable by the members of the Trade Union shall be such as may be prescribed.

Immunity from Civil Suit in Certain Cases (Section 16)

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

Immunity from Civil Suits: No suit or legal proceeding shall be maintainable in a civil court against:

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

For acts done in contemplation or furtherance of an industrial dispute to which a member of the Trade Union, merely because:

- It induces another person to break a contract of employment, or
- It interferes with trade, business, or employment of another person, or

It interferes with another person's right to dispose of capital or labour as he wills.

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

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

- The act was done **without the knowledge** of the union's executive, or
- The act was done **contrary to express instructions** of the union's executive.

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

Protection from Punishment

- No office-bearer or member of a registered Trade Union shall be liable to punishment under Section

120B (2) of the Indian Penal Code (criminal conspiracy) for any agreement made between members to further objects of the Trade Union specified in Section 15.

- Exception: This protection does not apply if the agreement is to commit an offence.

Enforceability of agreements (Section 18)

This section clarifies the legal status of agreements made between members of a registered Trade Union. It protects such agreements from being declared void merely because they involve restraint of trade, while also limiting their enforceability in civil courts.

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

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

Right to Inspect Books of Trade Union (Section 19)

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

- The books of account of a registered Trade Union and
- the list of members thereof.

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

Any person who has attained the age of fourteen years and is employed in a non-hazardous Industry

- may be a member of a registered Trade Union subject to any rules of the Trade Union, and
- may, subject to as aforesaid enjoy all the rights of a member and execute all instruments and given all acquaintances necessary to be executed or given under the rules.

Disqualification of Office Bearers of Trade Unions (Section 21)

Grounds of disqualification: A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union, if—

- he has not attained the age of eighteen years;
- he has been convicted by a court in India for any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has elapsed since his release;
- the Tribunal has directed that he shall be disqualified for being chosen or for being office-bearer of a Trade Union for a period specified therein.

Conflict of Interest Restriction: No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected) in the Union or a State shall be a member of the executive or other office-bearer of a Trade Union.

Adjudication of Disputes of Trade Unions (Section 22)

Application to the Tribunal: An application may be made in such manner as may be prescribed to the Tribunal having jurisdiction over the area where the registered office of the Trade Union or Trade Unions is located for adjudication of the disputes, where a dispute arises between—

- (a) one Trade Union and another; or
- (b) one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office bearers of the Trade Union; or
- (c) one or more workers who are refused admission as members and the Trade Union; or
- (d) where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union.

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

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

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

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

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

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

Save as otherwise above:

- 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.

Explanation: Retired or retrenched employees are not considered outsiders for the purpose of holding office in a Trade Union.

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

This section governs the process of changing the name of a registered Trade Union or amalgamating two or more registered Trade Unions. It ensures that such changes are democratic, legally valid, and do not prejudice existing rights or obligations.

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

Amalgamation of registered Trade Union: Any two or more registered Trade Unions may be amalgamated in such manner as may be prescribed. {Sub-section (2)}

Notice to Registrar: Notice in writing of every change of name and of every amalgamation signed—

- (a) in the case of a change of name, by the secretary and by seven members of the Trade Union changing its name; and
- (b) in the case of an amalgamation, by the secretary and by seven members of each and every Trade Union which is a party thereto,

shall be sent to the Registrar and, where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State in such manner as may be prescribed. *{Sub-section (3)}*

Registrar's Power to Refuse: If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name. *{Sub-section (4)}*

Effect of Registration of Change of Name: Save as provided in sub-section (4), the Registrar shall, if he is satisfied that the provisions of this Code in respect of change of name have been complied with, register the change of name in the register referred to in sub-section (3) of section 9, and the change of name shall have effect from the date of such registration. *{Sub-section (5)}*

Effect of Registration of Amalgamation: The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Code in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 9, register the Trade Union and the amalgamation shall have effect from the date of such registration. *{Sub-section (6)}*

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

Protection of Rights in Amalgamation: An amalgamation of two or more registered Trade Unions shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them. *{Sub-section (8)}*

Dissolution (Section 25)

This section governs the procedure and consequences of dissolving a registered Trade Union. It ensures that dissolution is carried out in accordance with union rules, properly notified to the Registrar, and that funds are fairly distributed if rules are silent on the matter.

Notice of Dissolution: When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall,

- within fourteen days of the dissolution, be sent to the Registrar, and
- shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and

the dissolution shall have effect from the date of such registration.

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

Annual Returns (Section 26)

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

Every registered Trade Union shall forward to the Registrar—

- forward **annually** to the Registrar, on or before such date, in such form, audited in such manner and by such person, as may be prescribed,
 - (i) a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year **ending on the 31st day of December** next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December; **{Sub-section (1) (a)}**
 - (ii) along with the general statement referred to in clause (a), forward to the Registrar a **statement showing changes of office-bearers** made by the Trade Union during the year to which such general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar. **{Sub-section (1)(b)}**
- A copy of every alteration made in the rules of a registered Trade Union *within fifteen days of the making of the alteration*. **{Sub-section (2)}**

Registrar's Power of Inspection: For the purpose of examining the documents referred to in clauses (a) and (b) of sub-section (1), and sub-section (2), the Registrar or any officer authorised by him, by general or special order, may at all reasonable times

- inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office or
- may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than fifteen kilometres from the registered office of such Trade Union. **{Sub-section (3)}**

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

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

Recognition at Central Level: Where the Central Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as Central Trade Union at the Central level, it may recognise such Trade Union or federation of Trade Unions as Central Trade Union in such manner and for such purpose, as may be prescribed. If any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the Central Government. **{Sub-section (1)}**

Recognition at State Level: Where the State Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as State Trade Union at the State level, it may recognise such Trade Union or federation of Trade Unions as State Trade Union in such manner and for such purpose, as may be prescribed. If any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the State Government. **{Sub-section (2)}**

STANDING ORDERS

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

This section defines the **scope of applicability** of the Chapter IV (Standing Order), clarifying which industrial establishments are covered and which are excluded due to the application of specific service rules or regulations.

General Applicability: The provisions of this Chapter shall apply to every industrial establishment wherein three

hundred or more than three hundred workers are employed, or were employed on any day of the preceding twelve months. **{Sub-section (1)}**

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

Making of model standing orders by Central Government and temporary application (Section 29)

This section lays the **framework for model standing orders** prepared by the Central Government which shall serve as a default set of service conditions for industrial establishments until their own certified standing orders come into effect

Model Standing Order by the Central Government: The Central Government shall make model standing orders relating to conditions of service and other matters incidental thereto or connected therewith.

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

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

This section lays down the **procedure for employers to prepare, consult, and certify standing orders** for their industrial establishments. It ensures that service conditions are codified, fair, and consistent with the Code, while involving trade unions and workers in the process.

Preparation of Draft Standing Orders:

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

Matters to be Provided in Standing Orders Under IR Code

1. Classification of workers, whether permanent, temporary, apprentices, probationers, badlis or fixed term employment.
2. Manner of intimating to workers periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.

4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workers arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workers.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workers against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be specified by the appropriate Government by notification.

Consultation with Unions:

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

Adoption of Model Standing Orders:

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

It is provided that if the certifying officer has any observation, he may direct such employer to amend the standing order so adopted within such period as may be prescribed. {Sub-section (3)}

Draft Modifications:

- The employer shall prepare the draft of the modifications required in the standing order, if any, in accordance with the provisions of this Code
- The employer shall forward such draft electronically or otherwise to the certifying officer for certification of those modifications.
- The draft shall be forwarded only within a period of six months from the date the provisions of this Chapter become applicable to his industrial establishment. {Sub-section (4)}

Certification Procedure:

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

- (i) the Trade Union or negotiating union of the industrial establishment or undertaking, or members of the negotiating council; or
- (ii) where there is no Trade Union operating, to such representatives of the workers of the industrial establishment or undertaking chosen in such manner as may be prescribed.

The notice is issued for seeking their comments in the matter and after receipt of their comments give an opportunity of being heard to the negotiating union or negotiating council, or as the case may be, to the Trade Unions or the representatives of the workers, The certifying officer shall then decide as to whether or not any modification or addition to such draft standing order is necessary to render the draft standing order certifiable, and shall make an order in writing in this regard:

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

- (a) the draft standing order so received within a period of sixty days from the date of the receipt of it; and
- (b) the draft modifications in the standing order so received within a period of sixty days from the date of the receipt of such modifications,

failing which such draft standing orders or, as the case may be, the modifications in the standing order shall be deemed to have been certified on the expiry of the said period. {Sub-section (5)}

Conditions for certification of standing orders:

The standing orders shall be certifiable under this Code, if—

- (a) provision is made therein for every matter set out in the First Schedule which is applicable to the industrial establishment; and
- (b) such orders are otherwise in conformity with the provisions of this Code. {Sub-section (6)}

Adjudication upon Fairness and Reasonableness:

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

Certification and communication:

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

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

Joint Drafts by employers in similar establishment: Subject to such conditions as may be prescribed, a group of employers in similar establishments may submit a joint draft of standing orders under this section and

For the purposes of proceedings specified in sub-sections (1), (5), (6), (8) and (9), the expressions “employer”, “Trade Union” and “negotiating union or negotiating council” shall respectively include all the employers, Trade Unions and negotiating unions or negotiating council of such similar establishments, as the case may be. {Sub-section (10)}

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

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

The section provides for powers of certifying officer and appellate authority.

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, and 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 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)

This section specifies **when certified standing orders come into effect** and the employer's duty to maintain them for workers' information.

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, or*
- (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)

The certifying officer shall

- file copy of all standing orders as finally certified under this Code in a register maintained for the purpose or uploaded in electronic form or such other form as may be prescribed, and

- furnish a copy thereof to any person applying therefor on payment of such fee as may be prescribed.

Duration and Modification of Standing Orders (Section 35)

This section lays down the **procedure and limitations for modifying certified standing orders**. And ensures stability in service conditions while allowing changes through agreement or prescribed procedure.

Minimum Time Before Modification: Certified standing orders (under Section 30(8)) shall not be to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

Exception: They 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. {Sub-section (1)}

Application for Modification:

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

Procedure for Certification: The foregoing provisions of this Code shall apply in respect of an application under sub-section (2) as they apply to the certification of the first-time standing orders. {Sub-section (3)}

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

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

Interpretation of Standing Orders (Section 37)

This section provides a **mechanism for resolving disputes about the application or interpretation of certified standing orders**.

Subject matter of Disputes: If any question arises as to the application, or interpretation, of the standing orders certified under sub-section (8) of section 30 or the modification made therein by an agreement entered into under sub-section (5) of that section, then application to Tribunal can be made.

Who may make such application?

- the employer or
- any worker or workers concerned or the Trade Union in relation to the workers employed in the industrial establishment or undertaking, wherein the question has arisen,

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, to decide the question.

Such Tribunal shall, after giving all the parties concerned a reasonable opportunity of being heard, decide the question and its decision shall be final and binding on the concerned employer and the workers.

Time-limit for Completing Disciplinary Proceedings and Liability to Pay Subsistence Allowance. (Section 38)

This section 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 against him, such investigation or inquiry, or where there is an investigation followed by an inquiry, both the investigation and inquiry shall be completed ordinarily within a period of ninety days from the date of suspension. {Sub-section (1)}

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 in sub-section (1), the employer in relation to an industrial establishment or undertaking shall pay to such worker employed in such industrial establishment or undertaking subsistence allowance at the rates specified in sub-section (3) for the period during which such worker is placed under suspension pending investigation or inquiry into complaints or charges of misconduct against such worker. {Sub-section (2)}

Rates of Subsistence Allowance: The amount of subsistence allowance payable under sub-section (2) shall be—

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

(b) at the rate of seventy-five per cent. of such wages for the remaining period of suspension, if the delay in the completion of disciplinary proceedings against such worker is not directly attributable to the conduct of such worker. {Sub-section (3)}

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 of the provisions of this Chapter.

NOTICE OF CHANGE

Notice of Change (Section 40)

This section mandates employers to give prior notice of change of service conditions to the workers and protects them from sudden or unilateral changes, except in specific circumstances.

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

- (i) without giving to the workers likely to be affected by such change a notice in such manner as may be prescribed of the nature of the change proposed to be effected; or
- (ii) within twenty-one days of giving such notice:

Exception: It is provided that no notice shall be required for effecting any such change—

- (a) where the change is effected in pursuance of any settlement or award;
- (b) where the workers likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any

other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply;

- (c) in case of emergent situation which requires change of shift or shift working, otherwise than in accordance with standing orders, in consultation with the Grievance Redressal Committee;
- (d) if such change is effected in accordance with the orders of the appropriate Government or in pursuance of any settlement or award.

Conditions of Service for Change of Which Notice is to be Given:

1. Wages, including the period and mode of payment.
2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workers under any law for the time being in force.
3. Compensatory and other allowances.
4. Hours of work and rest intervals.
5. Leave with wages and holidays.
6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders.
7. Classification by grades.
8. Withdrawal of any customary concession or privilege or change in usage.
9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders.
10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workers.
11. Any increase or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not occasioned by circumstances over which the employer has no control.

Power of Appropriate Government to Exempt (Section 41)

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

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

Voluntary Reference of Disputes to Arbitration. (Section 42)

This section provides a special arbitration mechanism for resolving industrial disputes under the Code.

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

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 who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Code.

Form and Signature: An arbitration agreement shall be in such form and shall be signed by the parties thereto 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; and when any such notification is issued, the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators:

It is provided that—

- (i) where such industrial dispute is the industrial dispute other than the termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the workers shall be represented before the arbitrator, —
 - (a) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or
 - (b) where there is no negotiating union or negotiating council, by the Trade Union; or
 - (c) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;
- (ii) where such industrial dispute relates to termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the concerned workers shall be represented in person or through a representative authorised by him.

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

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

{Sub-section (7)}

Non applicability of the Arbitration and Conciliation Act, 1996: Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section. **{Sub-section (8)}**

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

Conciliation Officer (Section 43)

This section lays down the framework for appointing conciliation officers, who play a crucial role in mediating and promoting the settlement of industrial disputes.

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 for specified industries in a specified area or for one or more specified industries and
- He may be appointed either permanently or for a limited period.

Industrial Tribunal (Section 44)

This section provides for constitution of the Industrial Tribunals as adjudicatory bodies for industrial disputes.

Constitution of Tribunals:

The appropriate Government may, by notification, constitute one or more Industrial Tribunals for

- (i) the adjudication of industrial disputes and
- (ii) for performing such other functions as may be assigned to them under this Code and

the Tribunal so constituted by the Central Government shall also exercise the jurisdiction, powers and authority conferred on the Tribunal, as defined in clause (m) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 by or under that Act.

Composition of the Tribunal: Every Industrial Tribunal shall consist of two members to be appointed by the appropriate Government out of whom

- one shall be a Judicial Member and
- the other, an Administrative Member.

Benches: A bench of the Tribunal shall consist of

- a Judicial Member and an Administrative Member or
- single Judicial Member or
- single Administrative Member.

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

Ineligibility for appointment as an administrative member of the Tribunal: It is provided that a person who has held a post below the rank of Joint Secretary to the Government of India or an equivalent rank in the Central Government or a State Government, shall not be eligible to be appointed as an Administrative Member of the Tribunal.

Service Conditions of State Government Tribunal members: The term of office of the Judicial Member and the Administrative Member of a Tribunal constituted by the State Government, their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be prescribed by the State Government.

Protection of Service Conditions: The salary and allowances and the terms and conditions of service of the Judicial Member or Administrative Member referred to in sub-section (2) and appointed by a State Government shall not be varied to his disadvantage after his appointment.

Composition of benches for deciding various cases: The procedure of the Tribunal (including distribution of cases in the benches of the Tribunal) shall be such as may be prescribed.

It is provided that a bench consisting of a Judicial Member and an Administrative Member shall entertain and decide the cases only relating to—

- (a) the application and interpretation of standing order;
- (b) discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen dismissed;
- (c) illegality or otherwise of a strike or lockout;
- (d) retrenchment of workmen and closure of establishment; and
- (e) Trade Union disputes,

The remaining cases shall be entertained and decided by the bench of the Tribunal consisting either a Judicial Member or an Administrative Member of the Tribunal.

Who shall preside the Tribunal: The Judicial Member shall preside over the Tribunal where the bench of the Tribunal consists of one Judicial Member and one Administrative Member.

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

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

Finality of constitution of Tribunal (Section 45)

The section provides that only on the ground mainly of the existence of any vacancy in, or defect in the constitution of such Tribunal:

- No notification of the appropriate Government appointing any person as a Judicial Member or an Administrative Member of a Tribunal shall be called in question in any manner; and
- no act or proceeding before the Tribunal shall be called in question in any manner

National Industrial Tribunal (Section 46)

The section provides for constitution of the National Industrial Tribunals (NITs), which are special adjudicatory bodies constituted by the Central Government to deal with industrial disputes of national importance or those affecting industrial establishments across multiple States

Constitution of the National Industrial Tribunals: The Central Government may, by notification, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government,

- involve questions of national importance or
- are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

Composition of a National Industrial Tribunal: A National Industrial Tribunal shall consist of two members to be appointed by the Central Government out of whom

- one shall be a Judicial Member and
- the other, an Administrative Member.

Qualification for Judicial member: A person shall not be qualified for appointment as the Judicial Member of a National Industrial Tribunal unless he is, or has been, a Judge of a High Court.

Qualification for Administrative member: A person shall not be qualified for appointment as Administrative Member of a National Industrial Tribunal unless, he is or has been

- Secretary to the Government of India or
- holding an equivalent rank in the Central Government or State Government, having adequate experience of handling the labour related matters.

President of the Tribunal: The Judicial Member shall preside over a National Industrial Tribunal.

Service Conditions: The procedure of selection of Judicial Member and Administrative Member of the National Industrial Tribunal, their salaries, allowances and other terms and conditions of service shall be such as may be prescribed.

Appointment of supporting officers and staff: The Central Government may provide such number of officers and other staff as it thinks fit in consultation with the Judicial Member of the National Industrial Tribunal which may be required for the due discharge of the functioning of the National Industrial Tribunal.

Decision of Tribunal or National Industrial Tribunal (Section 47)

This section lays down the **procedure for decision-making** in Industrial Tribunals and National Industrial Tribunals.

Consensus Rule: The decision of a Tribunal or a National Industrial Tribunal, as the case may be, shall be by consensus of the members.

Difference of Opinion: If the members of a Tribunal or a National Industrial Tribunal differ in opinion on any point, they shall

- state the point or points on which they differ, and
- make a reference to the appropriate Government.

Resolution of Differences:

- On receiving the reference, the appropriate Government shall appoint a Judicial Member from another Tribunal or National Industrial Tribunal.
- 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)

This section outlines the procedural flexibility, investigative powers, and legal status of arbitrators, conciliation officers, Tribunals, and National Industrial Tribunals.

Procedural Flexibility: Subject to the provisions of this Code and the rules that may be made in this behalf, an arbitrator, conciliation officer, Tribunal or National Industrial Tribunal shall follow such procedure as the arbitrator, conciliation officer, Tribunal or National Industrial Tribunal may deem fit. {

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

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

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects
- (c) issuing commissions for the examination of witnesses;
- (d) in respect of such other matters as may be prescribed, and every inquiry or investigation by Tribunal or National Industrial Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

Additional Powers of Conciliation Officer: A conciliation officer may

- enforce the attendance of any person for the purpose of examination of such person or
- call for and inspect any document which he has ground for considering
 - (i) to be relevant to the industrial dispute or
 - (ii) to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Code, and

for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.

Appointment of assessors or experts: The appropriate Government may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessors or experts to advise a Tribunal or National Industrial Tribunal, as the case may be, in respect of any proceeding before either of the said Tribunals.

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

Costs of Proceedings: Subject to any rules made under this Code, the costs of, and incidental to, any proceeding before a Tribunal or National Industrial Tribunal shall be in the discretion of such Tribunal or National Industrial Tribunal.

That Tribunal or National Industrial Tribunal, as the case may be, shall have full powers to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid. Such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.

Deemed Civil Court: Every Tribunal or National Industrial Tribunal shall be deemed to be civil court for the purposes of sections 345, 346, and 348 of the Code of Criminal Procedure, 1973.

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

Conciliation and Adjudication of Dispute (Section 53)

This section lays down the procedure, time limits, and outcomes of conciliation proceedings conducted by conciliation officers. It ensures disputes are investigated promptly, settlements are documented, and unresolved matters can move to adjudication before a Tribunal.

Initiation of Conciliation: Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer shall hold conciliation proceedings in such manner as may be prescribed.

It is provided that the conciliation officer shall not hold any such proceedings relating to the industrial dispute after two years from the date on which such industrial dispute arose.

Role of Conciliation Officer: The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

Conciliation report and Memorandum of settlement: If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send

- a report thereof to the appropriate Government or an officer authorised in this behalf by the appropriate Government.
- Such report shall be accompanied with a memorandum of the settlement signed by the parties to the dispute.

Report: If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send to

- the concerned parties and
- the appropriate Government

a full report, in the electronic or other form as may be prescribed, setting forth the steps taken by him for

- (i) ascertaining the facts and circumstances relating to the dispute and
- (ii) bringing about a settlement thereof.

The report shall be sent together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

Time Limits for Reports: The conciliation officer shall send the report to the concerned parties and the appropriate Government within forty-five days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

It is provided that where a conciliation officer receives notice under section 62, he shall send the report to the concerned parties and to the appropriate Government within fourteen days of the commencement of the conciliation proceedings.

It is provided further that subject to the approval of the conciliation officer; the time may be extended by such period as may be agreed upon in writing by the concerned parties to the dispute.

Application to Tribunal: Any concerned party may make application in the prescribed form to the Tribunal

- in the matters not settled by the conciliation officer under this section
- within ninety days from the date on which the report is received to the concerned party and the Tribunal shall decide such application in the prescribed manner.

STRIKES AND LOCK-OUTS

Prohibition of Strikes and Lock-Outs (Section 62)

This section lays strict conditions and prohibitions on strikes by workers and lock-outs by employers in industrial establishments and ensures industrial peace.

No person employed in an industrial establishment shall go on strike, in breach of contract—

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

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

- (a) without giving them notice of lock-out as hereinafter provided, within sixty days before locking-out; or
- (b) within fourteen days of giving such notice; or
- (c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or
- (d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or
- (e) during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and sixty days, after the conclusion of such proceedings; or
- (f) during the pendency of arbitration proceedings before an arbitrator and sixty days after the conclusion of such proceedings, where a notification has been issued under sub-section (5) of section 42; or
- (g) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

Notice or intimation of strike or lockout: The employer shall send to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of services—

- The notice of strike or lock-out under this section
- intimation of such lock-out or strike where there is already in existence a strike or, as the case may be, lock-out,

Such notice or intimation shall be sent on the day on which it is declared.

Delivery of notice of strike: The notice of strike shall be given by such number of persons to such person or persons and in prescribed manner.

Delivery of notice of lock out: The notice of lock-out shall be given in such manner as may be prescribed.

Time period of reporting: If on any day an employer

- receives from any person employed by him any such notices or
- gives to any person employed by him any such notices,

he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe and to the conciliation officer, the number of such notices received or given on that day.

Illegal Strikes and Lock-Outs (Section 63)

This section defines when strikes and lock-outs are considered illegal under the Code along with exceptions

- Illegal Strikes/Lock-outs:* A strike or lock-out shall be illegal, if it is commenced or declared in contravention of section 62; or
- continued in contravention of an order made under section 42(7).

Continuance of Existing Strikes/Lock-outs:

- If a strike or lock-out was not at its commencement in contravention of the provisions of the Code or the continuance thereof was not prohibited under section 42(7) and
- Such a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the filing of the application relating to such industrial dispute in the Tribunal or of the reference of such industrial dispute to an arbitrator or a National Industrial Tribunal,

The continuance of such strike or lock-out shall not be deemed to be illegal.

Consequential Strikes/Lock-outs: A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

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

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

LAY-OFF, RETRENCHMENT AND CLOSURE

Application of Sections 67 to 69 (Section 65)

This section defines the **scope and exclusions** for the application of provisions relating to lay-off, retrenchment, and closure (Sections 67–69).

Exemptions from Sections 67–69: Sections 67 to 69 (both inclusive) shall not apply to industrial establishments

- to which Chapter X applies (in which not less than three hundred workers, or such higher number of

workers as may be notified by the appropriate Government, were employed on an average per working day in the preceding twelve months.; or

- in which less than fifty workers on an average per working day have been employed in the preceding calendar month; or
- 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 therein only intermittently, the decision of the appropriate Government thereon shall be final.

Explanation: In this section and in sections 67, 68 and 69, industrial establishment shall mean a—

- (i) factory as defined in clause (m) of section 2 of the Factories Act, 1948; or
- (ii) mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; or
- (iii) plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951.

Definition of Continuous Service (Section 66)

This section defines continuous service for workers, clarifying what counts as uninterrupted service and when workers are deemed to be in continuous service even if they fall short of the full period.

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

Deemed Continuous Service: Where a worker is not in continuous service for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

- (a) for a period of one year, if the worker during a period of twelve months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—
 - (i) one hundred and ninety days in the case of a worker employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;
- (b) for a period of six months, if the worker during a period of six months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—
 - (i) ninety-five days in the case of worker employed below ground in a mine; and
 - (ii) one hundred and twenty days, in any other case.

Counting Actual Work Days: The number of days on which a worker has actually worked under an employer shall include the days on which—

- (i) he has been laid-off under an agreement or as permitted by or under this Code or any other law applicable to the industrial establishment for the time being in force; or
- (ii) he has been on leave on full wages earned in the previous years; or
- (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; or
- (iv) in the case of a female, she has been on maternity leave, so however, that the total period of such maternity leave does not exceed the period as specified in the Maternity Benefit Act, 1961.

Rights of Workers Laid Off for Compensation (Section 67)

This section provides the rights of workers to compensation during lay-off and the conditions under which employers may limit or offset such payments.

Eligibility for Compensation: A worker (other than a badli worker or a casual worker) shall be paid by the employer for all days during which he is so laid-off if-

- his name is borne on the muster rolls of an industrial establishment and
- who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently,

he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off.

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

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

It may be noted that “*badli worker*” means a worker who is employed in an industrial establishment in the place of another worker whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such, if he has completed one year of continuous service in the establishment.

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

The section provides that notwithstanding that worker in any industrial establishment have been laid-off, it shall be the duty of every employer

- to maintain a muster roll, and
- to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

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

This section specifies the **exceptions to compensation during lay-off**, ensuring that workers are not entitled to payment if they fail to cooperate with reasonable alternatives or if the lay-off arises from collective worker action in another part of the establishment

No Compensation Payable: Compensation shall not be paid to a worker who has been laid-off—

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

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

Conditions Precedent to Retrenchment of Workers (Section 70)

Worker shall not employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the worker has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice;
- (b) the worker has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in such manner as may be prescribed is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification.

Procedure for Retrenchment (Section 71)

The section provides that where any worker in an industrial establishment who is a citizen of India, is to be retrenched and he belongs to a particular category of workers in that establishment, then, in the absence of any agreement between the employer and the worker in this behalf, the employer shall ordinarily retrench the worker who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other worker.

Reemployment of Retrenched Worker (Section 72)

The section states that where any worker is retrenched and the employer proposes to take into his employment any person within one year of such retrenchment, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment and such retrenched workers who offer themselves for re-employment shall have preference over other persons.

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

The section makes provisions for compensation to workers in case of transfer of establishment.

Where the ownership or management of an establishment is transferred, whether by agreement or by operation of law, from the employer in relation to that establishment to a new employer, every worker who has been in continuous service for not less than one year in that establishment immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 70 as if the worker had been retrenched:

It may be noted that this section shall not apply to a worker in any case where there has been a change of employers by reason of the transfer, if—

- (a) the service of the worker has not been interrupted by such transfer;
- (b) the terms and conditions of service applicable to the worker after such transfer are not in any way less favourable to the worker than those applicable to them immediately before the transfer; and
- (c) the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

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.

It may be noted that this section shall not apply to—

- i. an industrial establishment in which less than fifty workers are employed or were employed on any day in the preceding twelve months;
- ii. an industrial establishment set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

Exceptions: The appropriate Government may, if it is satisfied that owing to such exceptional circumstances as

- accident in the undertaking or
- death of the employer or
- an extraordinary situation such as natural calamities or the like,

it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period, as may be specified in the order.

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

This section governs the rights of workers to compensation when an undertaking is closed down.

General Rule of Compensation: Where an establishment is closed down for any reason whatsoever, every worker who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 70, as if the worker had been retrenched.

It is provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the worker under clause (b) of section 70, shall not exceed his average pay for three months.

Explanation: An industrial establishment which is closed down by reason merely of—

- (i) financial difficulties (including financial losses); or
- (ii) accumulation of un-disposed stocks; or
- (iii) the expiry of the period of the lease or license granted to it; or
- (iv) in case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which operations are carried on, shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

Special Rule for Mining Closures: Where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals in the area in which such operations are carried on, no worker referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 70, if—

- a) the employer provides the worker, at the place located within a radius of twenty kilometres from such

undertaking engaged in mining operation is closed down, with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

- b) the service of the worker has not been interrupted by such alternative employment; and
- c) the employer is, under the terms of such alternative employment or otherwise, legally liable to pay to the worker, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment.

Special Rule for Construction Undertakings:

- No worker employed therein shall be entitled to any compensation under clause (b) of section 70, where any undertaking set up for the construction of buildings, bridges, roads, canals, dams or other construction work is closed down on account of the completion of the work within two years from the date on which the undertaking had been set up
- If the construction work is not so completed within two years, he shall be entitled to notice and compensation under that section for every completed year of continuous service or any part thereof in excess of six months.

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

Application (Section 77)

This section defines the scope of applicability of Section 77 to 88 to lay-off, retrenchment, and closure in larger establishments.

Applicability Threshold: The provisions of Section 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 higher number of workers for this purpose.

However, this applicability threshold is not applicable to an industrial establishment of a seasonal character or in which work is performed only intermittently.

Government's Final Authority: If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

Definition of Industrial Establishment:

- (i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948;
- (ii) a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; or
- (iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951.

Prohibition of Lay-Off (Section 78)

This section governs the procedure and conditions for lay-off in industrial establishments with more than 300 workers.

Prior Permission Requirement: No worker (*other than a badli worker or a casual worker*) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except with the prior permission of the appropriate Government, obtained on an application made in this behalf except when such lay-off is due to

- shortage of power,
- natural calamity, and
- the case of a mine, such lay-off is due to fire, flood, excess of inflammable gas or explosion. {Sub-section (1)}

Application for Permission: An application for permission under sub-section (1) shall be made by the employer electronically or otherwise in the prescribed manner. The application shall state clearly the reasons for the intended lay-off. A copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed. {Sub-section (2)}

Special Rule for Mines: Where the workers (other than badli workers or casual workers) of industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, apply, in such manner as may be prescribed, to the appropriate Government for permission to continue the lay-off. The application shall be made within a period of thirty days from the date of commencement of such lay-off. {Sub-section (3)}

Government's Decision: Where an application for permission under sub-section (1) or sub-section (3) has been made, the Appropriate Government shall

- make such enquiry as it thinks fit and
- give a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such lay-off.

Thereafter, the Appropriate Government may, by order and for reasons to be recorded in writing, grant or refuse to grant such permission. The appropriate Government shall, while making such order, have regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workers and all other relevant factors. A copy of such order shall be communicated to the employer and the workers. {Sub-section (4)}

Deemed Permission:

Where an application for permission under sub-section (1) or sub-section (3) has been made and the Appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made,

- the permission applied for shall be deemed to have been granted as applied for on the expiration of the said period of sixty days and
- the application shall be deemed to have been disposed of accordingly by the appropriate Government. {Sub-section (5)}

Order of the appropriate Government to be final and binding: An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (7),

- be final and binding on all the parties concerned and
- remain in force for one year from the date of such order. {Sub-section (6)}

Review of order or reference to Tribunal: The appropriate Government may

- review its order granting or refusing to grant permission under sub-section (4) within the prescribed time from the date on which such order is made or
- refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication.

The appropriate Government may do so either on its own motion or on the application made by the employer or any worker. It is provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference. {Sub-section (7)}

Illegal Lay-off: Lay-off shall be deemed to be illegal from the date on which the workers had been laid-off-

- Where no application for permission under sub-section (1) is made, or
- where no application for permission under sub-section (3) is made within the period specified therein, or
- where the permission for any lay-off has been refused.

The workers shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off. {Sub-section (8)}

Exemption in exceptional circumstances: Notwithstanding anything contained in the foregoing provisions of this section, if the appropriate Government is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, it may, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order. {Sub-section (9)}

Application of Section 67: The provisions of section 67 (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section. {Sub-section (10)}

Explanation (Alternative Employment): For the purposes of this section, a worker shall not be deemed to be laid-off by an employer if such employer offers any alternative employment

- in the same establishment from which he has been laid-off or
- in any other establishment belonging to the same employer,
 - situated in the same town or village, or
 - situated within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the worker having regard to the facts and circumstances of his case.

Conditions for alternative employment to fall in exception:

- The alternative employment, in the opinion of the employer does not call for any special skill or previous experience and can be done by the worker.
- The wages which would normally have been paid to the worker are offered for the alternative appointment also. {Sub-section (11)}

Conditions Precedent to Retrenchment of Workers (Section 79)

This section governs retrenchment in establishments with ≥ 300 workers.

Conditions Precedent to Retrenchment: These provisions of retrenchment are applicable to workers employed in any industrial establishment with ≥ 300 workers and who has been in continuous service for not less than one year under an employer. Such worker shall not be retrenched by that employer until—

- (a) the worker has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice; and
- (b) the prior permission of the appropriate Government has been obtained on an application made in this behalf. {Sub-section (1)}

Application for permission of retrenchment: An application for permission under sub-section (1) shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended

retrenchment. A copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed. {Sub-section (2)}

Reasoned order by the Appropriate Government: Where an application for permission under sub-section (1) has been made, the Appropriate Government may, by order and for reasons to be recorded in writing, grant or refuse to grant such permission. Such an order shall be made by the appropriate Government only after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such retrenchment. The Government shall have regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workers and all other relevant factors. A copy of such order shall be communicated to the employer and the workers. {Sub-section (3)}

Deemed permission: Where an application for permission has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days and the application shall be deemed to have been disposed of accordingly by the appropriate Government. {Sub-section (4)}

Enforcement and duration of the order of Appropriate Government: An order of the Appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order. {Sub-section (5)}

Review or reference of order: The Appropriate Government may, either on its own motion or on the application made by the employer or any worker,

- review its order granting or refusing to grant permission under sub-section (3) within the prescribed time from the date on which such order is made or
- refer the matter or, as the case may be, cause it to be referred to a Tribunal for adjudication.

It is provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference. {Sub-section (6)}

Illegal Retrenchment: The retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the worker-

- where no application for permission under sub-section (1) is made, or
- where the permission for any retrenchment has been refused

The worker shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him. {Sub-section (7)}

Exemption to establishment: Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order. {Sub-section (8)}

Rights of worker retrenched: Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every worker who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive compensation at the time of retrenchment.

Quantum of retrenchment compensation: Such retrenchment compensation shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof, in excess of six months. {Sub-section (9)}

Procedure for Closing Down an Industrial Establishment (Section 80)

This section regulates closure of undertakings in industrial establishments with ≥ 300 workers.

Prior Permission Requirement: An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, electronically or otherwise, apply in such manner as may be prescribed, for prior permission. Such an application shall be made at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government. The application shall clearly state the reasons for the intended closure of the undertaking. A copy of such application shall also be served simultaneously on the representatives of the workers in such manner as may be prescribed.

Exception: It is provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work. {Sub-section (1)}

Reasoned order by the appropriate Government: Where an application for permission has been made under sub-section (1), the Appropriate Government may, by order and for reasons to be recorded in writing, grant or refuse to grant such permission.

The Appropriate Government shall make such order only

- after making such enquiry as it thinks fit and
- after giving a reasonable opportunity of being heard to the employer, the workers and the persons interested in such closure
- after having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors.

A copy of such order shall be communicated to the employer and the workers. {Sub-section (2)}

Deemed Permission: Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted. It is deemed to be granted as on the expiration of the said period of sixty days. The application shall be deemed to have been disposed of accordingly by the appropriate Government. {Sub-section (3)}

Duration and finality of the order of the appropriate Government: An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties. Such an order shall remain in force for one year from the date of such order. {Sub-section (4)}

Review or reference of the order to Tribunal: The Appropriate Government may-

- review its order granting or refusing to grant permission under sub-section (2) within the prescribed time from the date on which such order is made or
- refer the matter to a Tribunal for adjudication.

Such a move may be made by the appropriate Government either on its own motion or on the application made by the employer or any worker.

It is provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference. {Sub-section (5)}

Illegal closure: The closure of the undertaking shall be deemed to be illegal from the date of closure

- where no application for permission under sub-section (1) is made within the period specified therein, or
- where the permission for closure has been refused.

The workers shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down. {Sub-section (6)}

Exemption to establishment owing to exceptional circumstances: Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order. {Sub-section (7)}

Right of compensation: Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every worker who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation. Such compensation shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof in excess of six months. {Sub-section (8)}

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

It shall be the duty of every employer to maintain a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Certain provisions of Chapter IX to apply to industrial establishment to which this Chapter applies. (Section 82)

The provisions of sections 66, 71, 72, 73 and section 76 also applicable to an industrial establishment with ≥ 300 workers.

WORKER RE-SKILLING FUND

Worker Reskilling Fund (Section 83)

This section introduces the Worker Reskilling Fund, a statutory mechanism to support workers who are retrenched.

Establishment of Fund: The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund.

Sources of the Fund: The fund shall consist of—

- (a) the contribution of the employer of an industrial establishment an amount equal to fifteen days wages last drawn by the worker immediately before the retrenchment, or such other number of days as may be notified by the Central Government, for every retrenched worker in case of retrenchment only;
- (b) the contribution from such other sources as may be prescribed by the appropriate Government.

Utilisation of the Fund: The fund shall be utilised by crediting fifteen days wages last drawn by the worker to his account who is retrenched, within forty-five days of such retrenchment, in such manner as may be prescribed.

UNFAIR LABOUR PRACTICES

Prohibition of Unfair Labour Practice (Section 84)

No employer or worker or a Trade Union shall commit any unfair labour practice specified in the Second Schedule. This prohibition is applicable irrespective of the fact whether they are registered under Industrial Relation Code, or not,

Unfair Labour Practices***I. On the Part of Employers and Trade Unions of Employers***

- (1) To interfere with, restrain from, or coerce, workers in the exercise of their right to organise, form, join or assist a Trade Union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say,—
 - (a) threatening workers with discharge or dismissal, if they join a Trade Union;
 - (b) threatening a lock-out or closure, if a Trade Union is organised;
 - (c) granting wage increase to workers at crucial periods of Trade Union organisation, with a view to undermining the efforts of the Trade Union organisation.
- (2) To dominate, interfere with or contribute support, financial or otherwise, to any Trade Union, that is to say,—
 - (a) an employer taking an active interest in organising a Trade Union of his workers; and
 - (b) an employer showing partiality or granting favour to one of several Trade Unions attempting to organise his workers or to its members, where such a Trade Union is not a recognised Trade Union.
- (3) To establish employer sponsored Trade Unions of workers.
- (4) To encourage or discourage membership in any Trade Union by discriminating against any worker, that is to say,—
 - (a) discharging or punishing a worker, because he urged other workers to join or organise a Trade Union;
 - (b) discharging or dismissing a worker for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Code);
 - (c) changing seniority rating of workers because of Trade Union activities;
 - (d) refusing to promote workers to higher posts on account of their Trade Union activities;
 - (e) giving unmerited promotions to certain workers with a view to creating discord amongst other workers, or to undermine the strength of their Trade Union;
 - (f) discharging office-bearers or active members of the Trade Union on account of their Trade Union activities.
- (5) To discharge or dismiss workers, —
 - (a) by way of victimisation;
 - (b) not in good faith, but in the colourable exercise of the employer's rights;
 - (c) by falsely implicating a worker in a criminal case on false evidence or on concocted evidence;
 - (d) for patently false reasons;
 - (e) on untrue or trumped-up allegations of absence without leave;
 - (f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

- (g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the worker, thereby leading to a disproportionate punishment.
- (6) To abolish the work of a regular nature being done by workers, and to give such work to contractors as a measure of breaking a strike.
- (7) To transfer a worker mala fide from one place to another, under the guise of following management policy.
- (8) To insist upon individual workers, who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.
- (9) To show favouritism or partiality to one set of workers regardless of merit.
- (10) To employ workers as badli workers, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workers.
- (11) To discharge or discriminate against any worker for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.
- (12) To recruit worker during a strike which is not an illegal strike.
- (13) Failure to implement award, settlement or agreement.
- (14) To indulge in acts of force or violence.
- (15) To refuse to bargain collectively, in good faith with the recognised Trade Unions.
- (16) Proposing or continuing a lock-out deemed to be illegal under this Code.

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

- (1) To advise or actively support or instigate any strike deemed to be illegal under this Code.
- (2) To coerce workers in the exercise of their right to self-organisation or to join a Trade Union or refrain from, joining any Trade Union, that is to say—
 - (a) for a Trade Union or its members to picketing in such a manner that non-striking workers are physically debarred from entering the work places;
 - (b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workers or against managerial staff.
- (3) For a recognised union to refuse to bargain collectively in good faith with the employer.
- (4) To indulge in coercive activities against certification of a bargaining representative.
- (5) To stage, encourage or instigate such forms of coercive actions as wilful, “go-slow”, squatting on the work premises after working hours or “gherao” of any of the members of the managerial or other staff.

Explanation 1.—For the removal of doubts, it is clarified that “go-slow” shall mean an occasion when more than one worker in an establishment conjointly work more slowly and with less effort than usual to try to persuade the employer of the establishment to agree to higher pay or better service condition or such other demand.

Explanation 2.—For the purposes of Explanation 1, the expression “usual” shall mean,—

- (i) where the standard has been specified for a worker for his work either daily, weekly or monthly basis, such work; and

- (ii) where no such standard has been specified such rate of work which is the average of work in the previous three months calculated on daily or weekly or monthly basis, as the case may be.
- (6) To stage demonstrations at the residence of the employers or the managerial staff members.
- (7) To incite or indulge in wilful damage to employer's property connected with the industry.
- (8) To indulge in acts of force or violence or to hold out threats of intimidation against any worker with a view to prevent him from attending work.

Offences by Companies (Section 88)

This section provides for the liability framework for offences committed by companies under the Code.

General Liability: If the person committing an offence under the Code is a company-

- every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the
- company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Defence: It is provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that

- the offence was committed without his knowledge and
- he exercised all due diligence to prevent the commission of such offence.

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

Explanation: For the purposes of this section, —

- (a) “company” means any body corporate and includes-
 - (i) a firm; or
 - (ii) a limited liability partnership registered under the Limited Liability Partnership Act, 2008; or
 - (iii) other association of individuals; and
- (b) “director” in relation to a firm means a partner in the firm.

Composition of Offences (Section 89)

This section provides a mechanism for compounding offences under the Code, allowing certain offences to be settled by payment of a prescribed sum instead of undergoing full prosecution.

Compounding of Offences:

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under the Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine may be compounded. For compounding, an application has to be made by the accused person, either before or after the institution of any prosecution. The Appropriate Government may, by notification, specify any Gazetted

Officer as a compounding authority. Such an offence may be compounded, in the manner as may be prescribed, for a sum of

- fifty per cent. of the maximum fine provided for such offence punishable with fine only and
- seventy-five per cent. provided for such offence punishable with imprisonment for a term which is not more than one year or with fine,

It may be noted that such amount of composition shall be credited to the Social Security Fund established under section 141 of the Social Security Code, 2020.

Compounding not permissible: An offence committed by a person for the second time or thereafter within a period of three years from the date—

- (a) of commission of a similar offence which was earlier compounded;
- (b) of commission of similar offence for which such person was earlier convicted.

Supervisory control of the Appropriate Government: It is stated that such compounding Officer shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Appropriate Government.

Manner of application: Every application for the compounding of an offence shall be made in such prescribed manner.

Compounding before institution of prosecution: Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

Compounding after institution of prosecution: Where the composition of any offence is made after the institution of any prosecution-

- such composition shall be brought by the compounding officer in writing, to the notice of the adjudicating officer appointed under section 85(1) before whom the prosecution is pending and
- on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

Consequences of failure to comply with compounding order: Any person who fails to comply with an order made by the compounding officer shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

Restrictive provision: Offence punishable under the provisions of the Code shall be compounded in accordance with the provisions of this section.

LESSON ROUNDUP

- The Industrial Relations Code, 2020 consolidates and streamlines three major labour laws into a single modern framework.
- It aims to promote industrial harmony, reduce litigation, and simplify compliance for employers and workers.
- The Code replaces the Trade Unions Act, Industrial Employment (Standing Orders) Act, and Industrial Disputes Act.
- It introduces uniform definitions for employer, employee, industry, wages, and industrial dispute.

- Registration and recognition of trade unions are formalised, including the concept of a “Negotiating Union/Council.”
- The Code strengthens collective bargaining by creating a single representative union in establishments.
- Works committees and grievance redressal mechanisms are mandated to promote bipartite dialogue.
- Certification of Standing Orders becomes mandatory for establishments employing 300 or more workers.
- Strikes and lockouts now require prior notice, ensuring predictability and industrial continuity.
- The Code reforms the dispute-resolution process through conciliation, voluntary arbitration, and industrial tribunals.
- Lay-off, retrenchment, and closure thresholds are increased to 300 workers for prior government approval.
- Compensation provisions for retrenched workers are standardised and legally enforceable.
- A re-skilling fund is introduced to support workers who face retrenchment.
- Employers must deposit 15 days’ wages for each retrenched worker into this fund.
- Inspectors are replaced by “Inspectors-cum-Facilitators” to encourage compliance over penalties.
- Digital tools and web-based procedures are introduced for ease of doing business.
- Penalties are rationalised to ensure graded enforcement for different categories of violations.
- Many offences are compoundable, promoting faster resolution and reducing prosecution.
- The Code provides flexibility for the government to exempt certain establishments in public interest.
- Overall, the Code modernises India’s industrial relations landscape by balancing employer flexibility with worker protection.

TEST YOURSELF

1. Explain the legal framework governing Standing Orders under the Industrial Relations Code, 2020.
2. Discuss the rights, liabilities, and registration requirements of Trade Unions under the Industrial Relations Code, 2020.
3. The Industrial Relations Code brings major reforms in the law relating to lay-off, retrenchment, and closure. Critically examine these provisions, including the revised threshold, compensation norms, and notice requirements
4. Elaborate on the provisions relating to strikes and lockouts under the Industrial Relations Code, 2020.
5. Discuss the dispute-resolution mechanisms provided under the Industrial Relations Code, 2020, with specific reference to conciliation, voluntary arbitration, and the role of Industrial Tribunals. Explain how the Code aims to expedite adjudication of industrial disputes.

