

Decoding the New Labour Codes



New Labour Codes in India



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PREFACE

The Indian Government has been working on a complete overhauling of the archaic labour regulations with the objective of bringing them in sync with the 21st century business landscape and promoting investments. The new set of regulations consolidates 44 labour laws under 4 categories of Codes namely, Wage Code ; Social Security Code ; Occupational Safety, Health & Working Conditions Code; and Industrial Relations Code. These reforms can improve the ease of doing business in India and in particular, attracting foreign investment in India. The manufacturing sector in India is currently heavily regulated with outdated and onerous laws and the reforms can go a long way in transforming India in to a global manufacturing hub.

The Parliament has already passed **all the four Codes** and it has also received the President's assent. The government is aiming to implement all the four Codes in one go from the next Financial Year and complete the final stretch of labour sector reforms.

The labour and employee regulations have far reaching implications for every business organization. Firstly, these are crucial for a congenial and harmonious relationship between employers and employees. You cannot have high productivity and innovation in an environment saddled with rifts and disputes. Secondly, the labour and employee costs constitute between 10% to 50% of the total costs for most business organizations and the new laws will have impact on the cost structure. Finally, the new regulations will require review and revision of all employment contracts, compensation structure, registrations and compliances. Suitable changes will need to be made in the governance structure and IT systems. This will require a "project management" approach and a transition roadmap.

The Code on Wages, 2019, applying to all the employees in organized as well as unorganized sector, aims to regulate wage and bonus payments in all employments and also aims at providing equal remuneration to employees performing work of a similar nature in every industry, trade, business, or manufacture.

The Code on Occupational Safety, Health and Working Conditions, 2020 seeks to regulate health and safety conditions of workers in establishments with 10 or more workers, and in all mines and docks. It subsumes and replaces 13 labour laws relating to safety, health and working conditions. These laws include: Factories Act, 1948; Mines Act, 1952; Dock Workers Act, 1986; Contract Labour Act, 1970; and Inter-State Migrant Workmen Act, 1979.

The Code on Social Security, 2020 consolidates nine laws related to social security, including the Employees' Provident Fund Act, 1952, the Maternity Benefit Act, 1961, and the Unorganized Workers' Social Security Act, 2008.

The Code on Industrial Relations, 2020 seeks to consolidate three labour laws namely, The Industrial Disputes Act, 1947; The Trade Unions Act, 1926 and The Industrial Employment (Standing Orders) Act, 1946. The Code aims to improve the business environment in the country largely by reducing the labour compliance burden of industries. The Code proposes to make it easier for an employer to engage and disengage workers based on requirement. This will make the process of hiring and firing smoother depending on elasticity of demand in the shop floor.

The Ministry has also framed the draft Rules under each of these Codes and have invited suggestions/comments from the public on the same. Since labour laws is placed under the concurrent list of the constitution of India, the States can choose to frame their own Rules to govern the labour in their respective States.

While the intention of the Government and the objectives that it seeks to achieve with the overhauling of the existing labour laws into 4 Codes is commendable; businesses need to attempt a progressive and a proactive approach that would guarantee that they are very much ready and prepared to benefit by the new Codes. Labour laws comprises complex enactments and consequently it is anything but difficult to understand the Codes both in letter and spirit, thereby making businesses vulnerable to lose focus and sense of direction in the maze of the authoritative/legislative changes.

Come April 2021, Salary slips, PF and Gratuity components, take-home pay and even balance sheets of India Inc will be impacted, thanks to the Code on Wages, 2019. The definition of Wages under this Code caps allowances at 50% of the total compensation, which effectively means that basic pay will have to be 50% or more of the total compensation, from April.

As a result of this:

- a. Most companies will have to change their pay structures because the non-allowable component is usually less, sometimes lower than 50%;
- b. PF Contribution of both employer as well as of employee, will go up;
- c. Take home salary of many executives will go down, as contribution to PF increases;
- d. For companies, cost increases since PF contribution and Gratuity pay-out increases;

And many more such things.

It is with this intention that we have come out with this very simple, lucid and jargon-free publication, to assist businesses/organizations understand the key changes introduced under the new Codes and re-align their HR practices and policies to be abundantly compliant under the new Labour regime.

Happy reading!

February 2021

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The Code on Wages, 2019

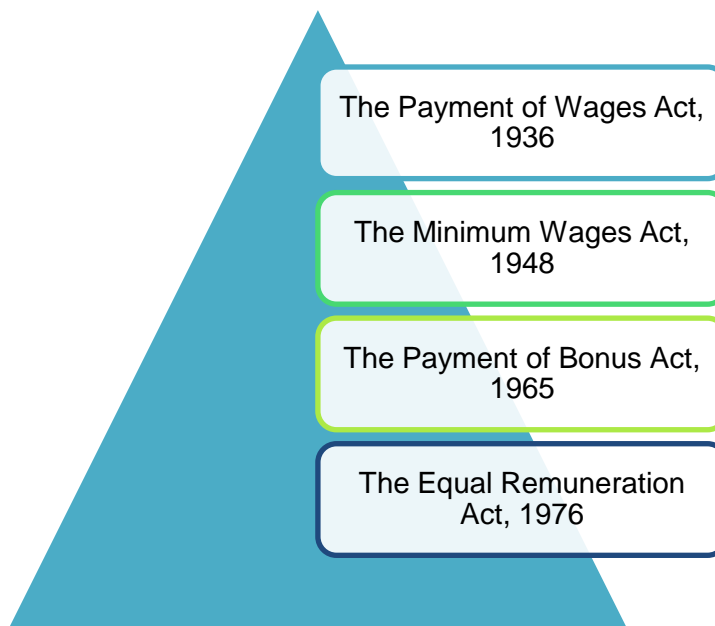
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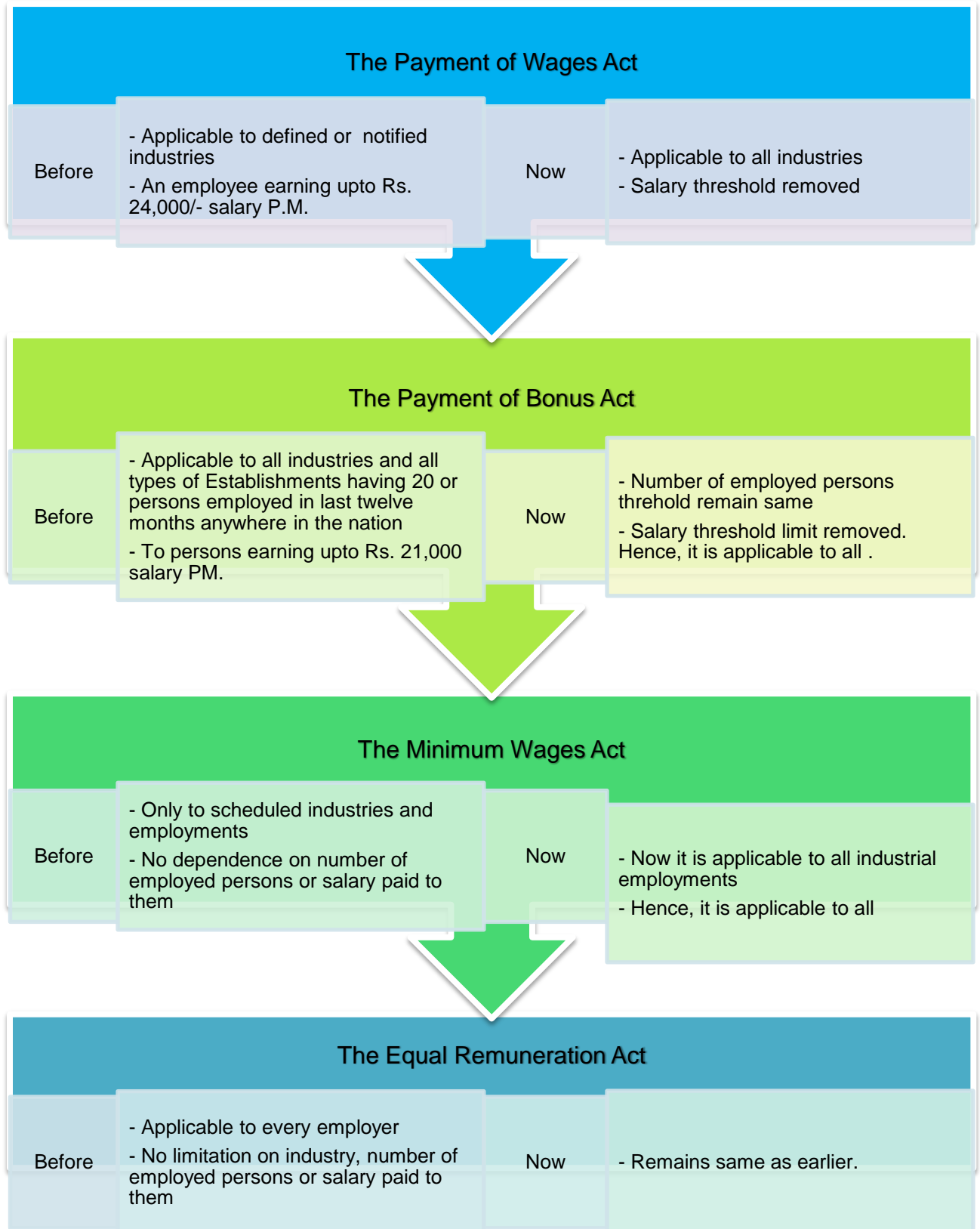
CHAPTER 1: PRELIMINARY

1.1 Introduction

- It extends to the whole of India.
- It seeks to regulate wage and bonus payments in all employments where any industry, trade, business, or manufacture is carried out.
- It aims to universalize the provisions of minimum Wages and timely payment of Wages to all employees irrespective of the sector and wage ceiling.
- There were 12 definitions of Wages in various labour laws, leading to litigation, besides difficulty in its implementation. Under the Code, the definition has been simplified and is expected to reduce litigation and also reduce compliance cost for employers.
- The Code subsumes the following 4 laws:

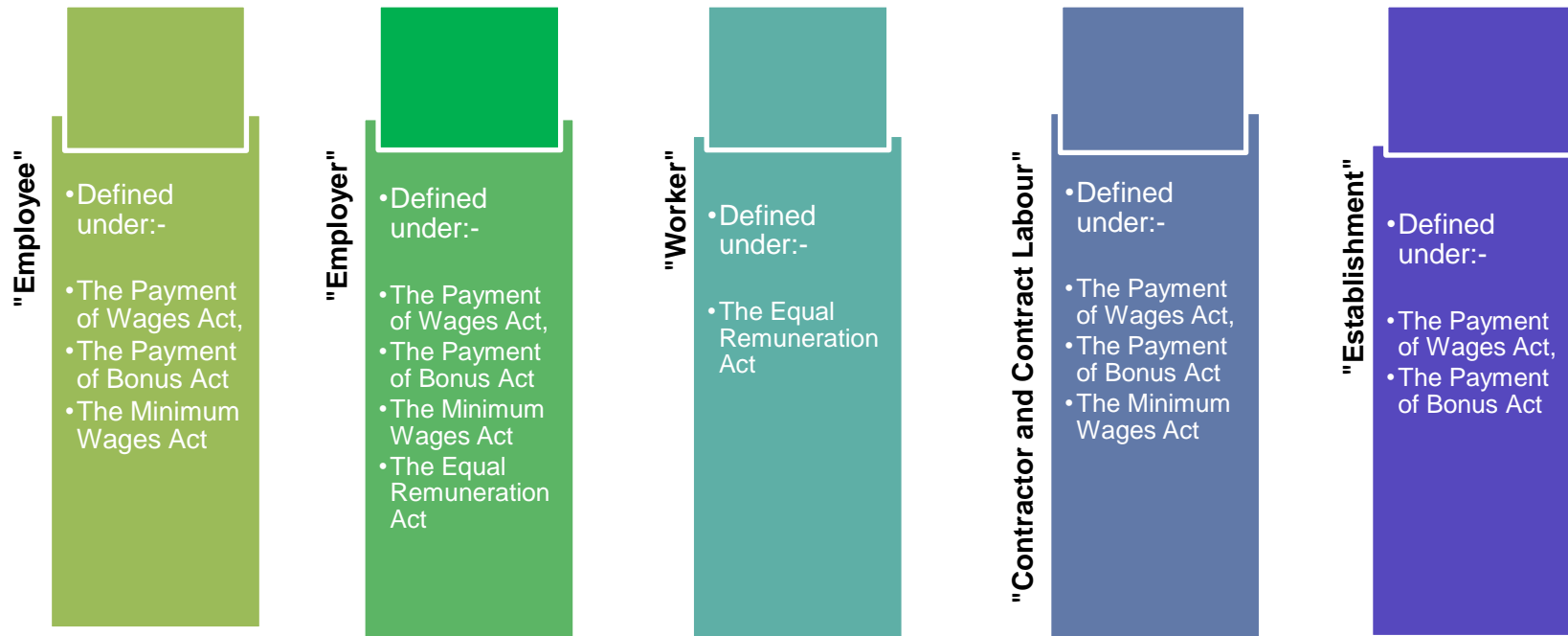


1.2 Applicability And Coverage (For organized and unorganized sector)



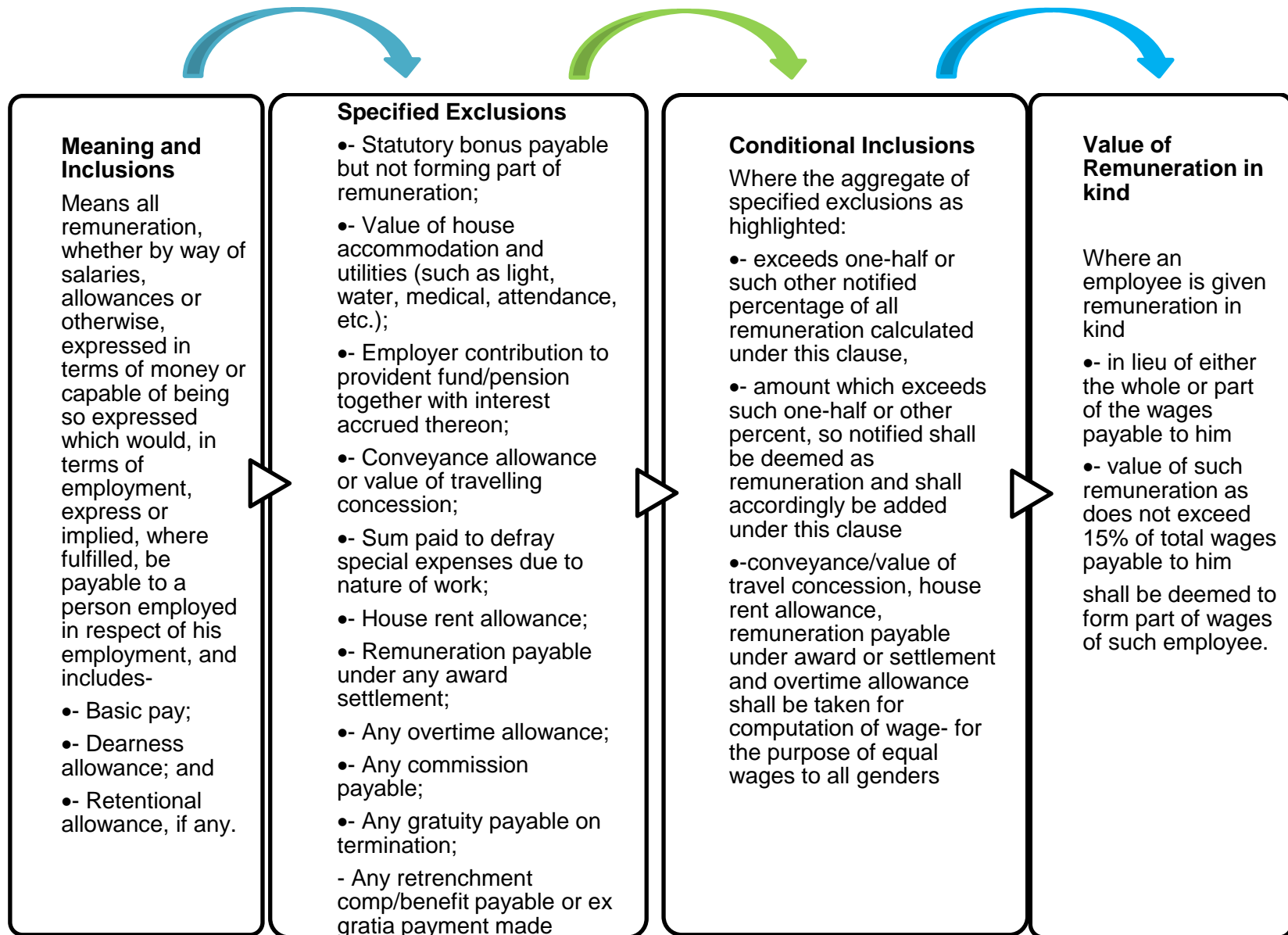
1.3 Important Definitions And Its Comparative Analysis:

Employee	Employer	Worker	Contract Labour	Contractor	Establishment
<p>Means anyone employed on wages to do skilled, semi-skilled, unskilled, operational, technical, clerical, managerial, supervisory, administrative work for reward whether terms of employment express or implied and include person declared as employee by appropriate government</p>	<p>Means any person who employs employees whether directly and indirectly by any person, in establishment including central or state government establishment.</p>	<p>Means any person employed in industry to do any manual, skilled, unskilled, technical, operational, clerical work for reward, whether terms of employment express or implied and include</p> <ul style="list-style-type: none"> - Working journalist -sales employee 	<p>Means a worker deemed to be employed in connection with establishment by or through contractor with or without knowledge of principal employer.</p>	<p>Means a person who undertakes to produce a given result for the establishment other than mere supply of goods and articles of manufacture or supply contract labour for any work including sub-contract.</p>	<p>Means any place where any industry, trade, business, manufacture or occupation is carried on and includes government establishment.</p>
<ul style="list-style-type: none"> - Definition excludes apprentice - Salary threshold removed for supervisory work - It includes managerial and administrative work - Those in managerial and administrative work do not fall under worker definition 	<ul style="list-style-type: none"> -In relation to the factory, the occupier or manager of the factory - other than factory, who has ultimate control over affairs of the establishment - contractor - legal representative of deceased employer 	<ul style="list-style-type: none"> - Definition excludes apprentice - It excludes worker acting as manager or in administrative capacity - Worker acting in supervisory capacity drawing Rs. 15,000/- or more as monthly salary 	<ul style="list-style-type: none"> - Excludes regular worker employed by contractor which is governed by mutually accepted standards of conditions of employment -Get periodical increment in the pay, social security coverage & other welfare benefits 	<ul style="list-style-type: none"> - Includes sub-contractor also - Mere supply of finished good produced by manufacturer by agency or any other does not fall under contractor definition. 	<ul style="list-style-type: none"> -Definition covers all industrial establishments, trade and occupation and businesses situated in any location. -Definition covers private or public/govt. establishments.

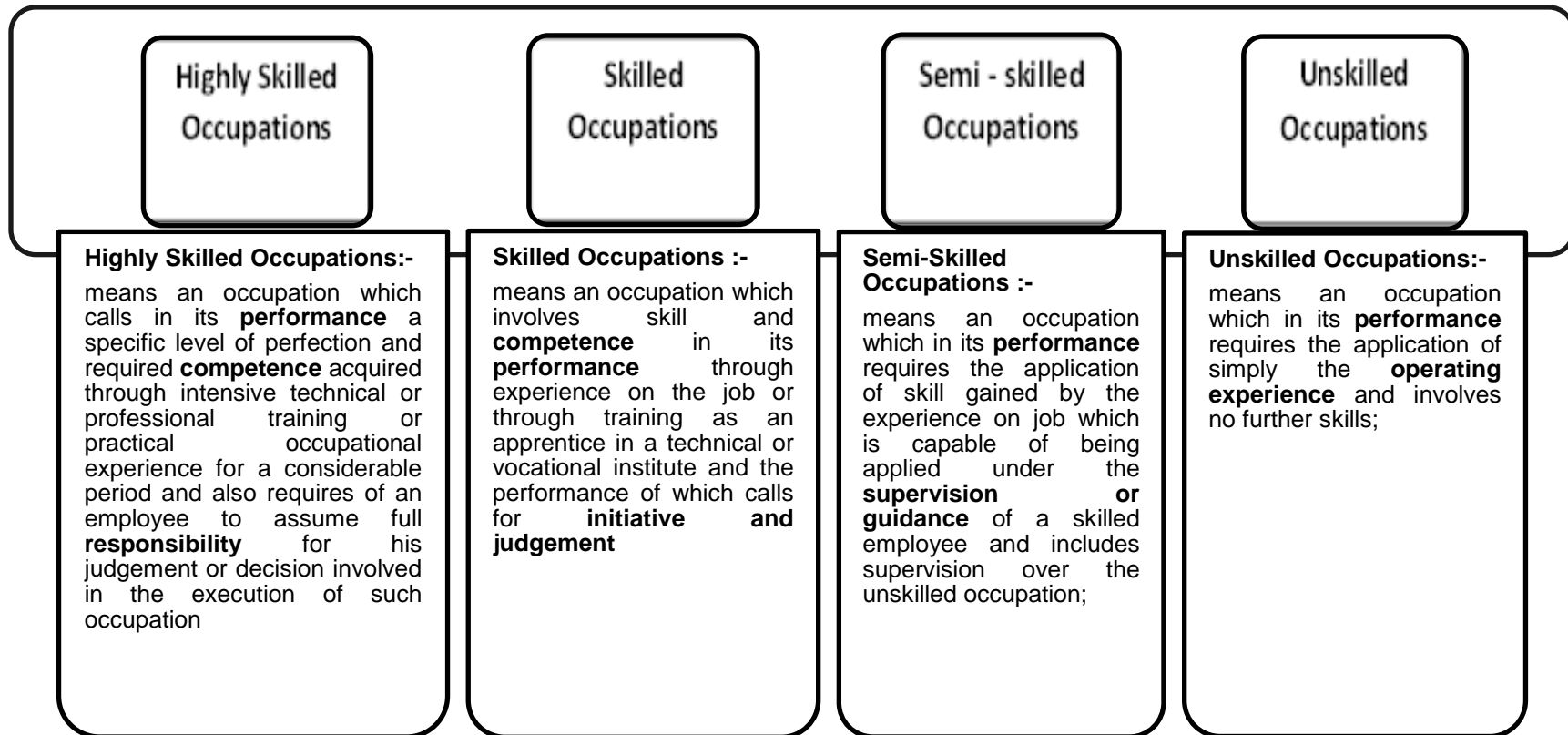


Uniform Definitions provided under "The Wage Code"

1.3.1 Definition of “Wages”



1.3.2 Important Definitions Under section 2 of Chapter -1 Under the Code of Wages (Central) Rules, 2020



Metropolitan City	Non-Metropolitan City	Rural Area
<p>Metropolitan City :- means a city having a population of 40 lakhs or more comprised in one or more districts</p>	<p>Non-metropolitan City :- means a city having a population of more than 10 lakhs but less than 40 lakhs, comprised in one or more districts</p>	<p>Rural Area :- means the area which is not covered under the metropolitan or non-metropolitan city;</p>

3.1.1 Inclusions and exclusions in “Wages” definitions and its comparative analysis: -

The Payment of Wages 1936		The Minimum Wages Act, 1948		The Payment of Bonus Act, 1965	
Included	Excluded	Included	Excluded	Included	Excluded
<p>- Basic Wages</p> <p>-Dearness allowances</p> <p>- Allowances</p> <p>-Overtime/ Holiday/ leave</p> <p>-Additional remuneration i.e. bonuses or by any other name</p> <p>- Termination sums under any contract</p> <p>- Remuneration or award or settlement</p> <p>- Any sum related to any scheme framed, for time being in force</p>	<p>- Bonus under profit scheme or under agreement or award or settlement</p> <p>- House accommodation or supply of water or service etc.</p> <p>- Provident and pension fund and its interest</p> <p>- Travelling allowances or concession</p> <p>- Employee Special expense defrayment</p> <p>- Gratuity</p>	<p>- Basic Wages</p> <p>-Dearness allowances</p> <p>-House Rent Allowance (HRA)</p> <p>- Any remuneration as per contract terms</p>	<p>- House accommodation or supply of water or service etc.</p> <p>- Amenity or any service excluded by appropriate government</p> <p>- Travelling allowances or concession</p> <p>- Employee Special expense defrayment</p> <p>- Gratuity</p>	<p>- Basic Wages</p> <p>-Dearness allowances</p> <p>-Food allowance (free/chargeable)</p>	<p>- Any other allowances for time being in force</p> <p>- Any bonus (Including incentive, production and attendance bonus)</p> <p>- House accommodation or supply of water or service etc.</p> <p>- Contribution paid by employer towards provident and pension fund and interest accrued</p> <p>- Travelling allowances or concession</p> <p>- Employee Special expense defrayment</p> <p>- Any retrenchment compensation and retirement benefits i.e. gratuity or any ex gratia payment</p> <p>- Any commission</p>

1.4 Prohibition On Gender Discrimination:

- Consistent with the ERA (Equal Remuneration Act), sub-section (1) of Section 3 of the Code on Wages prohibits discrimination amongst employees on the ground of gender in matters of recruitment and matters relating to payment of Wages by the same employer, in respect of the 'same work or work of a similar nature done by any employee'.

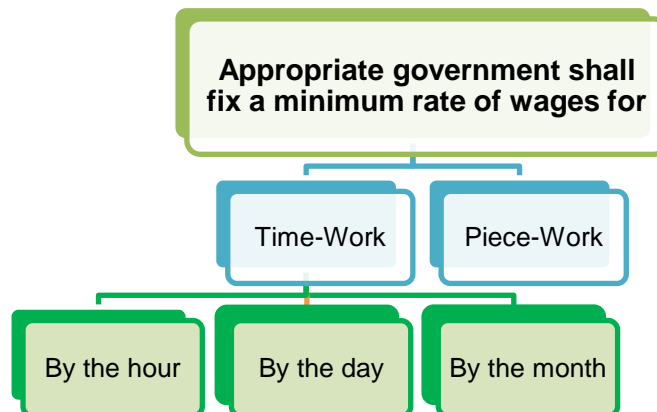


- '**Same work or work of a similar nature**' has been defined to mean work in respect of which the skill, effort, experience and responsibility required are the same, when performed under similar working conditions by employees and the difference if any, between the skill, effort, experience and responsibility required for employees of any gender, are not of practical importance in relation to the terms and conditions of employment.

CHAPTER 2 : MINIMUM WAGES

2.1 Introduction to Minimum Wages:

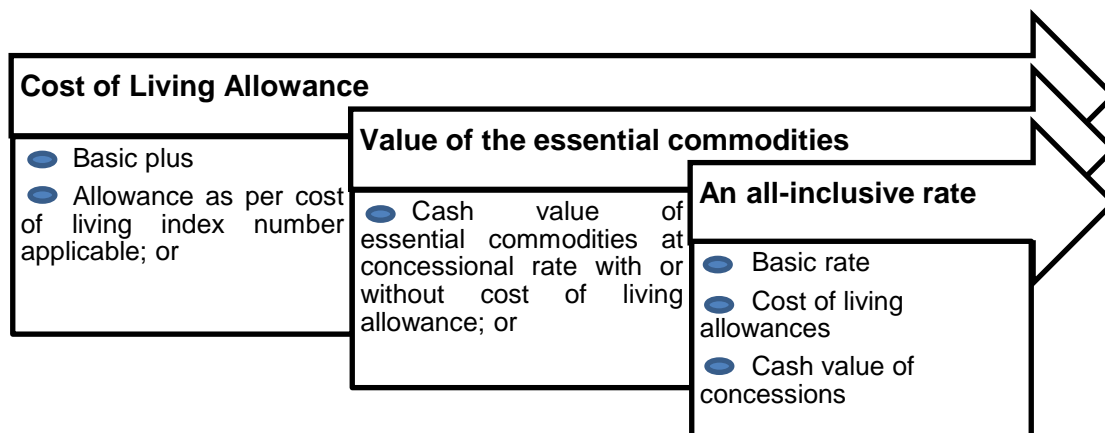
- The Central Government has been tasked with fixing a floor wage a new concept being introduced by the Code on Wages, after taking into account the minimum living standards of workers and depending on the different geographical areas. National Floor Level Minimum Wage (NFLMW) is the minimum wage below which no state government can fix the minimum wage, recommended floor wage at 375 INR/Day against the existing 178 INR/Day. Technical committee now set up for doing this.
- On the basis of the floor wage rate and consistent with the MWA (Minimum Wages Act, 1948), the appropriate government (Central or State) shall fix the minimum rate of Wages payable to employees.
- In the event that the existing minimum Wages fixed by the Central or State Governments are higher than the floor wage, they cannot reduce the minimum Wages.
- The minimum rate of Wages shall be reviewed and revised at intervals not exceeding 5 years.



- For the purpose of fixation of minimum rate of Wages, the appropriate Government;
 - (a) shall primarily take into account the skill of workers required for working under the categories of unskilled, skilled, semi-skilled and highly-skilled or geographical area or both; and
 - (b) may, in addition to such minimum rate of Wages for certain category of workers, take into account the arduousness of work like temperature or humidity normally difficult to bear, hazardous occupations or processes or underground work as may be prescribed by that Government; and
 - (c) The norms of such fixation of minimum rate of Wages shall be such as may be prescribed.

2.2 Components of Minimum Wages:

- Any minimum rate of Wages fixed or revised by the appropriate government may consist of:



2.3 Payment of Wages Under Certain Circumstances:

	Applicable to	Under the Payment of Minimum Wage Act, 1948	Under "Wage Code"
Wages of Employee who works for less than normal working day	If any employee (whose minimum Wages has been fixed under the code) works less than the normal working hours	<ul style="list-style-type: none"> ● Employee shall be entitled to receive Wages in respect of work done on that day as if he had worked for full normal working day, ● However, an employee shall not be entitled to receive Wages for full normal working day, <ul style="list-style-type: none"> - if he fails to work due to his unwillingness and not by the employer's inability to provide him work and - in such other cases and circumstances, as may be prescribed 	To be continued as provided under the "The Payment Minimum Wage Act, 1948"
Wages for 2 or more classes of work	Each of work have different minimum rate of Wages applicable	<ul style="list-style-type: none"> ● Employer shall pay in respect of time occupied by employee in each such class of work, Wages not less than minimum rate in force in respect of each class. 	To be continued as provided under the "The Payment Minimum Wage Act, 1948"
Minimum time rate Wages for piece work	In case of person employed at piece rate and minimum piece rate not fixed	<ul style="list-style-type: none"> ● Employer shall pay to such person Wages at not less than the minimum time rate 	To be continued as provided under the "The Payment Minimum Wage Act, 1948"

2.4 Fixing Hours of Work For Normal Working Days:

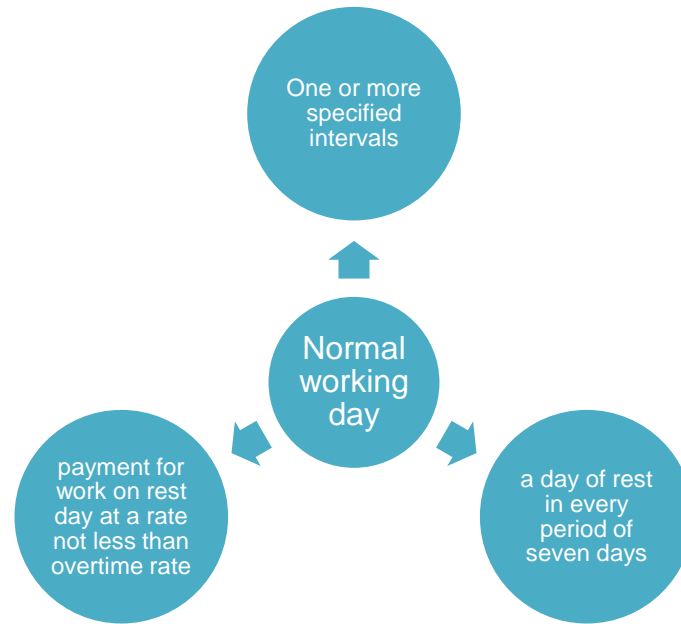
- The appropriate Government may fix the hours of work for normal working day, applicable to all employees unless stated otherwise.
- **In pursuance of section 13 relevant provision drafted under the rule 6 of the Code on Wages (Central) Rules, 2020:**

Normal working	8 hours
1 or more intervals in a day	Not exceeding 1 hour
Spread over limit	12 hours (include intervals of the rest)
Weekly day of rest	Ordinarily be "Sunday" but employer may fix any other day
Weekly-off (In case of Night shift)	24 consecutive hours from shift ends (In case of shift extending beyond midnight & hours after midnight count in previous day)
Work on day of rest	Wages paid at overtime rate and provide weekly-off on substituted day before next weekly-off
In case of agricultural employment	Above limit shall be subject to modification from time to time as determined by the central government.

The normal working day shall be comprised of 8 hours of work and 1 or more intervals of rest which shall not exceed 1 hour.

- The provisions of this Section shall, in relation to the following classes of employees apply, only to such extent and subject to such conditions as may be prescribed, namely: —
 - (a) Employees engaged in any emergency which could not have been foreseen or prevented;
 - (b) Employees engaged in work of the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;
 - (c) Employees whose employment is essentially intermittent;
 - (d) Employees engaged in any work which for technical reasons has to be completed before the duty is over; and

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



Where an employee whose minimum rate of Wages under this code works on any day in excess of the number of hours constituting a normal working day, employer shall pay employee for every hour or for part of the hour so worked in excess, at the overtime rate which shall not be less than twice the normal rate of Wages.

CHAPTER 3 : PAYMENT OF WAGES

3.1 Mode of Payment of Wages

Existing	Under Wage Code
<ul style="list-style-type: none"> Current coin or currency notes or payment through Cheque or bank account Provided that appropriate government may specify industrial or other establishment to pay employees through Cheque or bank account 	<ul style="list-style-type: none"> Current coin or currency notes or payment through Cheque or bank account Electronic and digital mode (New) Provided that appropriate government may specify industrial or other establishment to pay employees through Cheque or bank account
<p><i>Payment of Bonus under Wage Code</i></p> <p><i>Bonus is to be paid only electronically into the bank account</i></p>	

- Employer has the power to fix the wage period for employees either as daily or weekly or fortnightly or monthly but no wage period in respect of any employee shall be more than a month.

3.2 Time Limit For Payment Of Wages:

The employer shall pay or cause to be paid Wages to the employees engaged, on the following basis:

Wage Period	Time limit under existing legislation	Time Limit under Wage code
Daily Basis	Not clarified	At the end of the shift
Weekly Basis		On the last working day of the week before holiday
Fortnightly Basis		Before the end of the 2 nd day after the end of

		the fortnight
Monthly Basis	Less than or equal 1000 employees – 7 th of every month	Uniform date – 7 th of every month
	More than 1000 employees – 7 th of every month	
Removal, Dismissal, Retrenchment	Not clarified	Within 2 working days from the event
Resignation or unemployment due to closure of the Establishment	Not clarified	Within 2 working days from such event

3.3 Deductions and fines which may be made from Wages:

- (a) Any payment made by an employee to the employer or his agent shall be deemed to be a deduction from his Wages;
- (b) Any loss of Wages to an employee, for a good and sufficient cause, resulting from—
 - (i) The withholding of increment or promotion, including the stoppage of an increment; or
 - (ii) The reduction to a lower post or time-scale; or
 - (iii) Suspension shall not be deemed to be a deduction from Wages in a case where the provisions made by the employer for such purposes are satisfying the requirements specified in the notification issued by the appropriate Government in this behalf.



The following are the deductions authorized by this Code, from the Wages of employees:

Do's	Don'ts
<ul style="list-style-type: none"> • Fines imposed on Employee 	<ul style="list-style-type: none"> • The total amount of deductions of any wage period from the Wages of an employee shall not exceed 50% of such Wages
<ul style="list-style-type: none"> • Deduction of Income tax or any other statutory levy levied by Central or State Government 	<ul style="list-style-type: none"> • If total amount exceeds 50%, of the Wages, the excess may be recoverable

<ul style="list-style-type: none"> • Deduction for recovery of loan of any nature and interest due in respect thereof 	<ul style="list-style-type: none"> • No fine shall be imposed on any employee for acts and omissions on his part by employer without the prior approval of the appropriate Government
<ul style="list-style-type: none"> • Deduction for subscription to and for repayment of advances from any social security fund or scheme constituted by law (i.e. pension, provident fund, health care schemes or fund to be known as any other name) 	<ul style="list-style-type: none"> • No fine shall be imposed on any employee until an opportunity of showing cause against the fine is given
<ul style="list-style-type: none"> • Deduction for payment to Co-operative Society 	<ul style="list-style-type: none"> • The total amount of fine which may be imposed in any one wage-period on any employee shall not exceed an amount equal to 3% of the Wages payable to him in respect of that wage-period
<ul style="list-style-type: none"> • Deduction made with the written authorization of the employee for payment of fees and contribution payable by him for the membership of any Trade Union registered under Trade Union Act, 1926 	<ul style="list-style-type: none"> • No fine shall be imposed on any employee who is under the age of 15 years
<ul style="list-style-type: none"> • Deduction for recovery of loans for house building and other purposes and interest due in respect thereof 	<ul style="list-style-type: none"> • No fine imposed on any employee shall be recovered from him by installments or after the expiry of 90 days from the day on which it was imposed
<ul style="list-style-type: none"> • Due to absence from duty <ul style="list-style-type: none"> - Only on account of absence of an employee from the place or places where by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work - an employee shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work 	<ul style="list-style-type: none"> • The amount of deduction shall in no case bear to the Wages payable of the wage-period for which the deduction is made in a larger proportion than absent period bears to the total period. • Provided that if ten or more employed persons acting in concert absent themselves without due notice and without reasonable cause, such deduction from any such person may include such amount not exceeding his Wages for eight days as may by any such terms be due to the employer in lieu of due notice
<ul style="list-style-type: none"> • Deduction for damage or loss of goods expressly entrusted to employee for custody due to his neglect or default 	<ul style="list-style-type: none"> • Damage or loss shall not exceed the amount of the damage or loss caused to the employer by negligence or default of the employee • As pursuance of rule 18 of the Code of Wages (Central) Rule, 2020, employer desiring to make deduction, explain to employees personally, give opportunity for explanation and

	intimate him 15 days before such deduction.
<ul style="list-style-type: none"> • Deduction for house accommodation supplied by employer • Deduction for such amenities and services supplied by the employer or appropriate government which shall not exceed an amount equivalent to the value of such amenities and services 	<ul style="list-style-type: none"> • A deduction shall not be made from the Wages of an employee, unless the house-accommodation amenity or service has been accepted by him as a term of employment and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied
<ul style="list-style-type: none"> • Deduction for recovery of advances • Recovery of advance of money given to an employee before the employment began shall be made from the first payment of Wages to him in respect of a complete wage-period 	<ul style="list-style-type: none"> • No recovery of advance shall be made of such advances given for travelling expenses;
<ul style="list-style-type: none"> • Deduction for recovery with written authorization of contribution to the Prime Minister's National Relief Fund and such other fund as central government shall notify. 	<ul style="list-style-type: none"> • Recovery of advance of money given to an employee after the employment began shall be subject to such conditions as may be prescribed
<ul style="list-style-type: none"> • Deduction for recovery of losses sustained by the Railway Administration 	<ul style="list-style-type: none"> • Recovery of advances of Wages to an employee not already earned shall be subject to such conditions as may be prescribed
<ul style="list-style-type: none"> • All fines and all realizations thereof shall be recorded in a register 	

CHAPTER 4 : PAYMENT OF BONUS

4.1 Applicability and Non- Applicability of Bonus:

Provision of this chapter shall apply to	Provisions of this Chapter shall not apply to
<p>As far as the applicability is concerned, the provisions of bonus shall apply to such establishments in which 20 or more persons are employed or were employed during an accounting year.</p>	Employees of LIC of India
	Seamen under Merchant Shipping Act, 1958
	Employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948
	Employees employed by establishment under the authority of any department of the Central Government or a State Government or a local authority
	<p>Employees employed by:</p> <ul style="list-style-type: none"> • Indian Red Cross Society or any other similar institutions. • Universities and other educational institutions • Institutions including hospitals, chamber of commerce and social welfare institutions established not for purpose of profit.
	Employees of RBI
	<p>Employees employed by public sector financial institution other than a banking company, with regard to –</p> <ul style="list-style-type: none"> • Its capital structure; • Its objectives and the nature of its activities; • The nature and extent of financial assistance or any concession given to it by the Government and • Any other relevant factor.
	Employees employed by Inland water transport establishments
	Employees employed by any other establishment which Central Government may by notification exempt.

4.2 Eligibility of Bonus:

Eligibility point	Provisions	Remarks
To whom payable	To every employee	
Wage limit	Drawing Wages not exceeding such amount per mensem (Limit not provided under code)	Rs. 21,000 Basic +D. A as per The Payment of Bonus Act, 1965
Minimum number of days	Employee has put in at least 30 days work in an accounting year	
Calculation of annual minimum bonus	<ul style="list-style-type: none"> • An annual minimum bonus calculated at 8.33% of the Wages earned by the employee or • Rs. 100/- <i>whichever is higher</i> <p><i>For the purpose of calculation of bonus where the recovery of advances of Wages to an employee not already earned shall be subject to such conditions as may be prescribed of the employee exceeds such amount per mensem, as determined by the Appropriate Government, then the bonus payable to such employee shall be calculated as if his wage were such amount, so determined by the appropriate Government or the minimum wage fixed by the appropriate Government, whichever is higher.</i></p>	Statutory bonus shall be paid to every employee irrespective of whether the employer has any allocable surplus during the previous accounting year.
Excess Bonus payable	If the allocable surplus exceeds minimum bonus payable in any accounting year, then the employer shall pay such amount of bonus which shall be in proportion to the Wages earned by the employee in the accounting year.	Any bonus in excess of the bonus on the basis of production and productivity determined by an agreement or settlement shall not be exceeding maximum 20% of such Wages.
Responsibility of payment of bonus to contract worker	If contractor fails to pay minimum bonus and such failure given in writing by worker or registered trade union in which employee is member, such minimum bonus is payable by the company or firm or association.	

Accounting Years in which employer sells the goods manufactured or renders services	Applicability of Section 36 (Set on and set off of allocable surplus)	Bonus Payable by employer
First 5 accounting years following the accounting year	Not Applicable	Only for such accounting year in which the employer derives profit from such establishment
Sixth accounting year following the accounting year	Applicable (Set on and set off in respect of fifth and sixth accounting year)	Statutory Bonus shall be payable irrespective of whether the Company is making any profit or loss
Seventh accounting year following the accounting year	Applicable (Set on and set off in respect of fifth, sixth and seventh accounting year)	Statutory Bonus shall be payable in this regard
From eighth accounting year following the accounting year	Applicable (As applicable to other establishments)	Statutory Bonus shall be payable in this regard

4.3 Proportionate Reduction In Bonus In Certain Cases :

- Where an employee has not worked for all the working days in an accounting year, the minimum bonus under sub-section (1) of section 26, if such bonus is higher than 8.33% of the salary or wage of the days such employee has worked in that accounting year, shall be proportionately reduced.

4.4 Computation of Number of Working Days :

Under the following circumstances, an employee shall be deemed to have worked in an establishment in any accounting year	• He has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;
	• He has been on leave with salary or Wages
	• He has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
	• The employee has been on maternity leave with salary or Wages, during

the accounting year.

4.5 Disqualifications for Bonus:

➤ An employee will not be entitled to receive bonus if he is dismissed from his services for:

- Fraud; or
- Riotous or violent behavior while on the premises of the establishment; or
- Theft, misappropriation or sabotage of any property of the establishment; or
- Conviction of sexual harassment

4.6 Establishments To Include Departments, Undertakings And Branches:

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

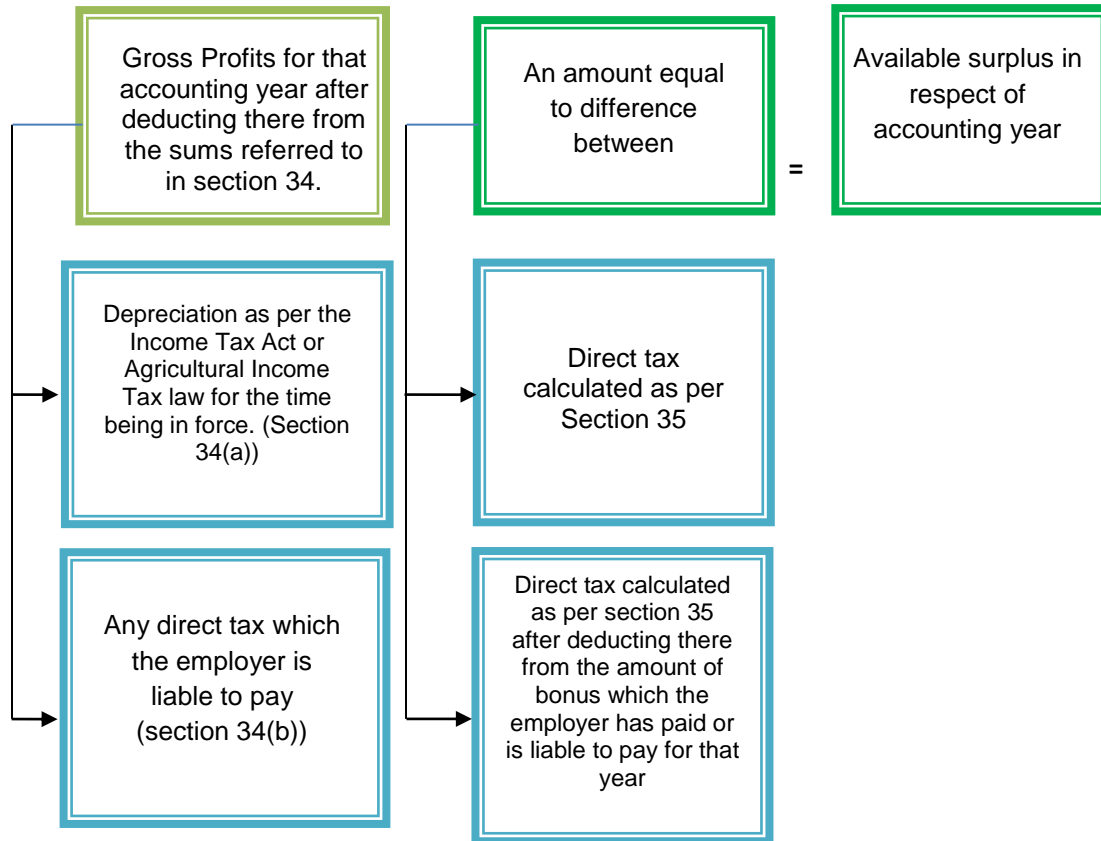
“Provided that where for any accounting year a separate balance sheet and profit and loss account are prepared and maintained in respect of any such department or undertaking or branch, then, such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus, under this Code, for that year”

4.7 Payment of Bonus Out Of Allocable Surplus :

Type of Establishment	Amount of Bonus	Computation of Gross Profit (Section 32)	Resolution of dispute
Banking Company	60%	As may be prescribed by the	Complaint shall be

Any other establishment	67%	Central Government	entertained by notified authority having jurisdiction
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4.8 Computation of Available Surplus:



4.9 Set On And Set Off Of Allocable Surplus :

ACCOUNTING YEAR	ACTION
Where, allocable surplus > amount of maximum bonus payable	Excess subject to 20% of the total salary or Wages be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilized for the purpose of payment of bonus.
Where, allocable surplus < amount of minimum bonus payable, and there is no amount or sufficient amount carried forward and set on	Such minimum amount or deficiency be carried forward for being set off in the succeeding year and so on up to and inclusive of fourth accounting year

4.10 Adjustment of Customary or Interim Bonus against Bonus Payable :

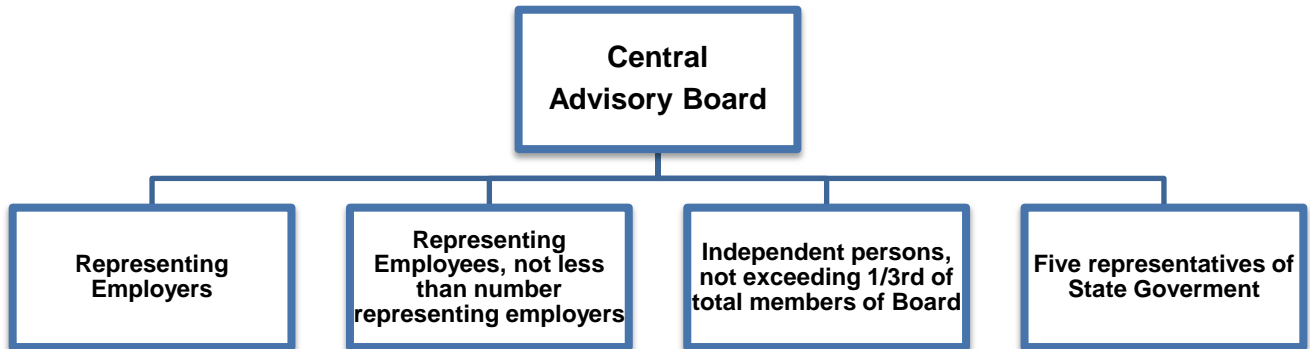
Where in any accounting year, an employer has paid any puja bonus or customary bonus or any other part of bonus to the employee before such bonus becomes payable, then the employer will be entitled to deduct such part of the bonus from the amount of bonus payable to him to the employee under this Code in respect of that accounting year and the employee shall be entitled to receive only the balance.

4.11 Payment of Bonus :

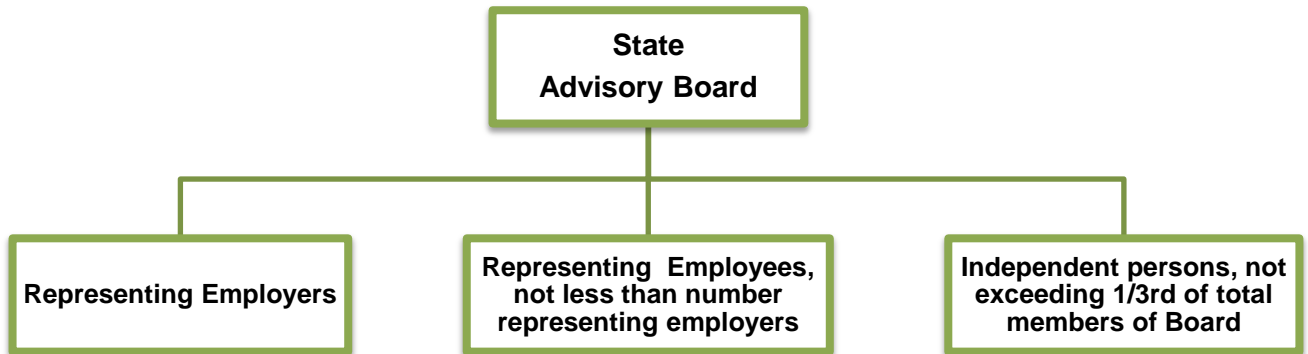
Mode of Payment	Time Limit	Dispute regarding payment of bonus
<ul style="list-style-type: none">• Bonus under this code shall be paid by crediting it in the bank account of the employee	<ul style="list-style-type: none">• Within 8 months from the end of the accounting year• if, in any case the employer asks for any extension for such period, then the total period should not exceed 2 years	<ul style="list-style-type: none">• Bonus shall be paid within 1 month from the date when the award becomes enforceable or the settlement comes into operation• If the dispute is for payment of higher rate of bonus, then the employer shall pay bonus at the rate of 8.33% of the Wages earned by the employee within 8 months from closing of accounting year.

CHAPTER 5 : BOARD

5.1 Central/State Advisory Board



- Such persons appointed shall need to be nominated by Central Government.
- 1/3rd of the central board must consist of women members.
- Central Government shall appoint a chairperson from the Independent persons.



- 1/3rd of the state board must consist of women members.
- State Government shall appoint a chairperson from the Independent persons.

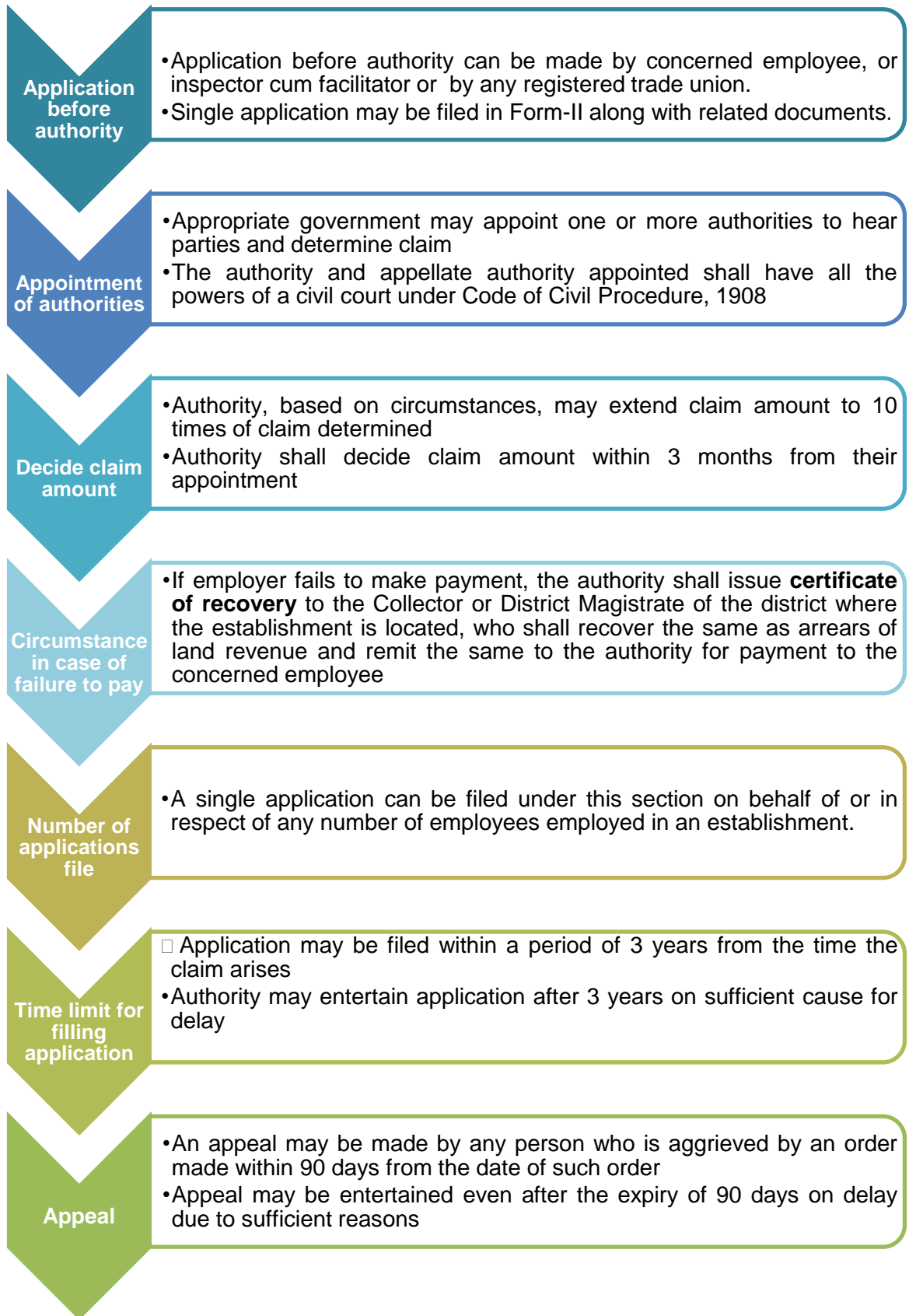
CHAPTER 6 : PAYMENT OF DUES, CLAIMS AND AUDIT

6.1 Payment of Dues, Claims and Audit

- Every employer is liable to pay all the amounts required to be paid under this code to every employee employed by him and in case of any failure of such payment, the employer shall be held responsible.
- If due to employee's death or on account of his whereabouts not being known, such amount shall be paid either to the person nominated by him or in case of no nomination, to such authority who shall deal with the amounts so deposited in the manner as may be prescribed and in such case, once the amount is paid to such nominated person or authority, the employer shall be discharged of his liability to pay those amounts.
- In pursuance of rule 46 of the Code on Wages (Central) Rules, 2020, the amount shall be deposited by employer to Deputy Chief Labour Commissioner (Central) having jurisdiction, who shall disburse the amount within 2 months of deposited. Any undisbursed amount shall be invested central or state government security or in fixed deposited in scheduled bank. If undisbursed amount is unclaimed for 7 years, the same shall be dealt with manner as directed by central government.

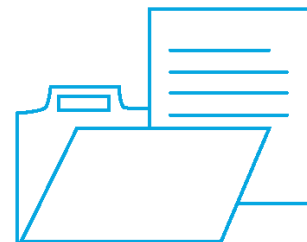


6.2 Claims, Procedure thereof and appeal:



6.3 Records, Returns and Notices:

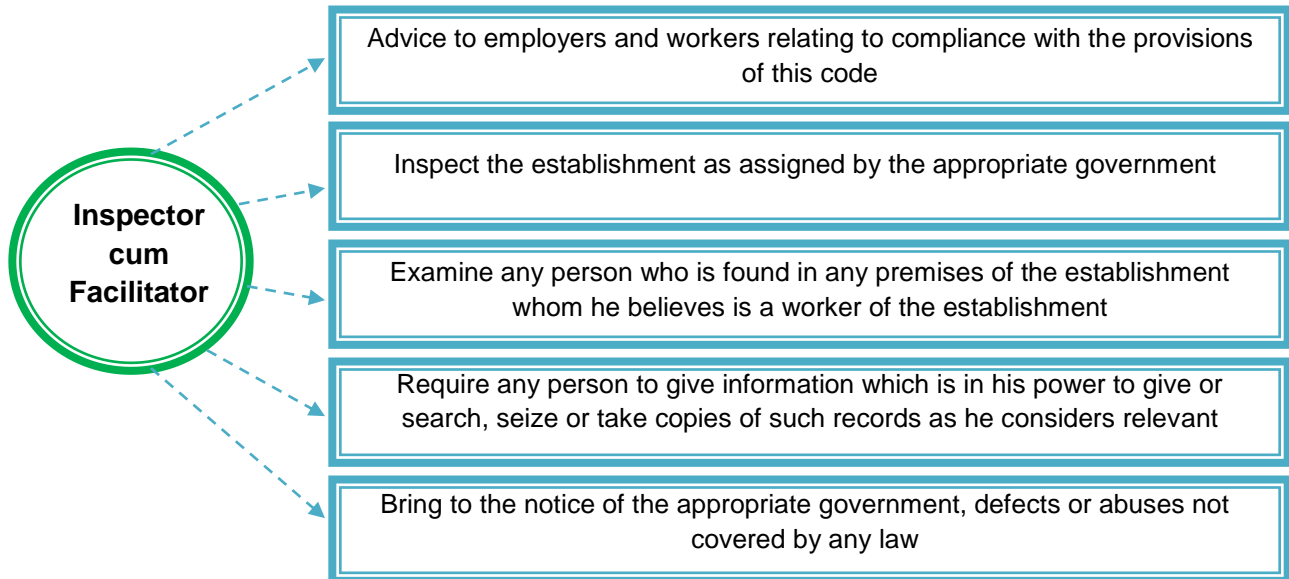
- Every employer to which this Code applies shall maintain a register in Form-I and Form IV containing all the details of its employees.
- A notice shall be displayed by the employer at the prominent place of the establishment displaying abstract of the said code, category-wise wage rates of employees, wage-period, day or date or time of payment of Wages and the name and address of Inspector-cum-Facilitator having jurisdiction.
- Wage slips shall need to be issued to the employees by every employer in Form V whether electronically or otherwise.
- Such provisions shall not apply to the employer whose employees are not more than 5 for domestic and agriculture purpose.



CHAPTER 7 : INSPECTOR / FACILITATOR

7.1 Appointment of Inspector-Cum-Facilitator and Their Powers:

Appropriate Government has the power to appoint Inspector-cum-Facilitator who shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.



CHAPTER 8 : OFFENCES AND PENALTIES

8.1 Offences and Penalties:

- No court shall take cognizance of any offence punishable under this Code solely on a complaint made by or under the authority of the appropriate Government or an authorized officer. No court inferior to that of Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this code.

- For holding enquiry, appropriate Government may appoint any officer as prescribed and such officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case, to give evidence or to produce any document relevant to the subject matter.

The following table illustrates the various offences and their corresponding penalties, as specified under this Code:

OFFENCES	NUMBER OF CONTRAVENTIONS	IMPRISONMENT	FINES
Payment of amount less than the amount due to employee	First Time	No imprisonment	Fine up to Rs. 50,000
	More than once within a period of five years	Imprisonment up to 3 months or	Fine up to Rs. 1,00,000 or both
Contravenes any other provisions	First time	No imprisonment	Fine up to Rs. 20,000
	More than once within a period of five years	Imprisonment up to one month or	Fine up to Rs. 40,000 or both
Non-maintenance or improper maintenance of records in the establishment		No imprisonment	Fine up to Rs. 10,000
Fails to comply with the order made by the officer		No imprisonment	Sum equivalent to 20% of the maximum fine provided for the offence in addition to such fine

CHAPTER 9 : CONCLUSION

9.1 Conclusion:

- The Code on Wages, 2019 is likely to be seen as one of the important policy decisions of the Indian government during this term. It has the potential to impact almost 500 million workers across the country.
- It has been a long-standing agenda of the government to codify and consolidate labour laws in order to promote ease of doing business in India.
- With almost 45 federal level laws and close to 100 state level laws dealing with labour and employment aspects, it was the need of the hour to consolidate, amalgamate, simplify, rationalize and codify these laws.



CODE ON OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS, 2020

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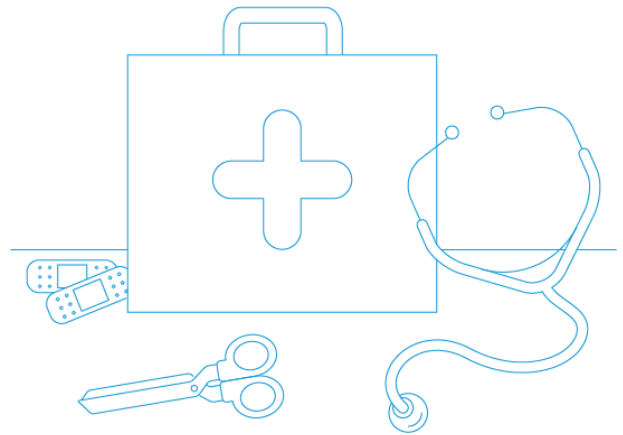
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CHAPTER 1 : INTRODUCTION

1.1 Code repeals and consolidates 13 labour laws relating to safety, health and working conditions

The Code repeals and consolidates 13 labour laws relating to safety, health and working conditions. These include:

- The Factories Act 1948;
- The Mines Act, 1952;
- The Dock Workers(Safety, Health and Welfare) Act, 1986;
- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
- The Plantations Labour (Regulation and Abolition) Act ,1970
- The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- The Working Journalist and other News Paper Employees (Conditions of Service and Misc Provision) Act, 1955
- The Working Journalist (Fixation of rates of Wages) Act, 1958
- The Motor Transport Workers Act, 1961
- Sales Promotion Employees (Condition of Service) Act, 1976
- The Beedi and Cigar workers (Conditions of Employment) Act, 1966
- The Cine Workers and Cinema Theatre Workers Act, 1981



CHAPTER 2 : SALIENT FEATURES

- 2.1 This code has simplified the legislation, resulting in pruning of 622 sections to 143 sections.
- 2.2 The code has created centralized database and proposed one registration for an establishment instead of multiple registrations under different acts. This will promote ease of doing business. At present, separate registration is required to be obtained under 6 Acts.
- 2.3 The Code enables employer to provide free of cost annual health check-ups for employees above prescribed age for prescribed tests and for prescribed establishments.
- 2.4 The Code has formalized the the employer- employee relationship, preventing the exploitation of the worker by making it mandatory to issue appointment letter to every employee of the establishment with the minimum information .
- 2.5 The multiple committees under five labour Acts have been replaced with one National Occupational Safety and Health Advisory Board.
- 2.6 The proposed Code has envisaged uniform threshold for welfare provisions for all establishment as far as practicably feasible.
- 2.7 The Code has also promoted gender equality by permitting women to work beyond 7 PM and before 6 AM subject to the safety, holidays, working hours or any other condition as prescribed by appropriate government in respect of prescribed establishments. However, this is only after taking their consent for night work.
- 2.8 The provision of one license and one return in place of multiple licenses and returns in existing 13 labour laws subsumed in this Code to save time, resources and efforts of establishments.

CHAPTER 3 : APPLICABILITY AND DEFINITIONS

3.1 Applicability and Coverage

It is applicable to whole of India.

(i) The Code is applicable to:

a. every place carrying on any industry, trade, business, other manufacturing or occupation or motor transport undertaking, newspaper establishment, audio-video production, building and construction work or plantation or factory (for licensing purposes) in which 10 or more workers are employed;



b. mine or port or vicinity of port where dock work is carried out.

c. Threshold criteria will not be applicable for establishments where notified hazardous or life-threatening activity is being carried on.

(ii) Chapter on Factories Act:

a. premises with 20 or more workers + manufacturing process + with aid of power (currently 10 workers)

b. premises with 40 or more workers + manufacturing process + without aid of power (currently 20 workers).

(iii) Chapter on CLRA Act:

a. Every establishment with 50 or more contract labour; or

b. Every manpower supply contractor with 50 or more contract labour.

(iv) Chapter on ISMW Act:

Every contractor with 10 or more inter-state migrant workmen (currently 5 migrant workmen).

(v) Sales Promotion Employees –

Applicability extended beyond pharma and notified industry to any sales promotion employees except those:

a. employed in supervisory capacity and drawing Wages of INR 18,000 or more;

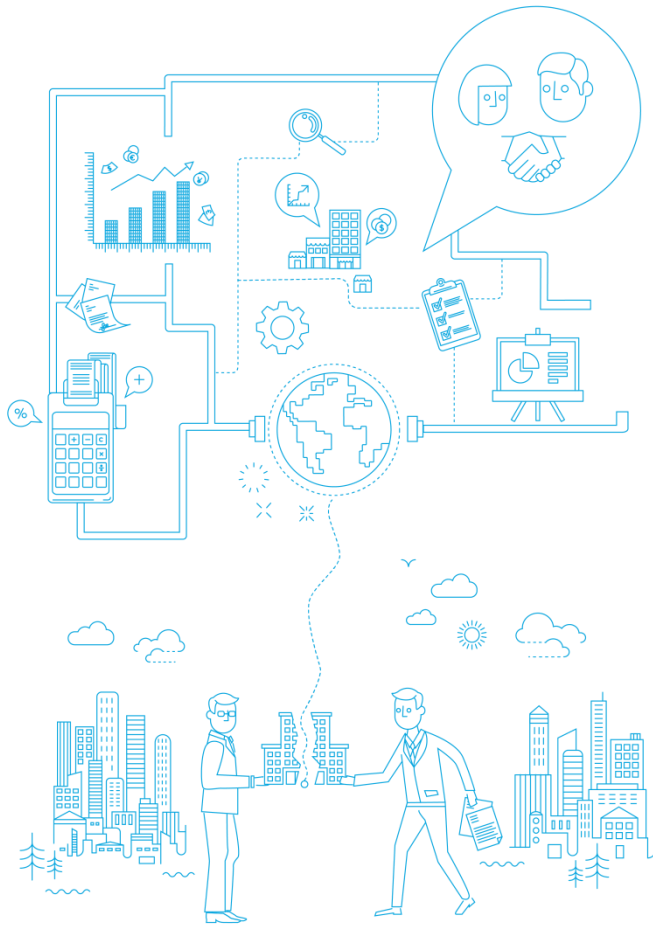
b. engaged in managerial or administrative capacity.

It does not apply to apprentices.

3.2 Definitions

3.2.1 “Contract labour” – Section 2(m)

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



3.2.2 “contractor” – Section 2(n)

in relation to an establishment, means a person, who—

- i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or
- ii) supplies contract labour for any work of the establishment as mere human resource and includes a sub-contractor;

3.2.3 “Employee” – Section 2(s)

Means,—

- i) in respect of an establishment, a person (other than an apprentice engaged under the Apprentices Act, 1961) employed on Wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative,

technical or clerical work for hire or reward, whether the terms of employment be express or implied; and

- ii) a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:
 - a) Provided that notwithstanding anything contained in this clause, in case of a mine a person is said to be "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for Wages or not—in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of dispatch and of gathering sand and transport thereof to the mine);
 - b) in operations or services relating to the development of the mine including construction of plant therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;
 - c) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;
 - d) in operations, within the premises of the mine, of loading for dispatch of minerals;
 - e) in any office of mine;
 - f) in any welfare, health, sanitary or conservancy services required to be provided under this Code relating to mine, or watch and ward, within the premises of the mine excluding residential area; or
 - g) In any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations.

3.2.4 “Employer” - Section 2(t)

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

- i. in relation to an establishment which is a factory, the occupier of the factory;
- ii. in relation to mine, the owner of the mine or agent or manager referred to in section 64;
- iii. in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director; and

- iv. contractor; and
- v. Legal representative of a deceased employer.

3.2.5 “Establishment” - Section 2(v)

- i. A place where any industry, trade, business, Manufacturing or occupation is carried on in which ten or more workers are employed; or
- ii. A factory, motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or
- iii. A mine or dock work.

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

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

3.2.6 “factory” - Section 2(w)

Means any premises including the precincts thereof—

- i. whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on; or
- ii. whereon forty or more workers are working, or were working on any day



of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

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

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

3.2.7 “Industry” - Section 2(zd)

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—

- a) any activity of the Government relating to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defense research, atomic energy and space; and
- b) Any domestic service.

3.2.8 “Manufacturing process” - Section 2(zi)

Means any process for—

- i. making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or
- ii. pumping oil, water, sewage or any other substance; or
- iii. generating, transforming or transmitting power; or
- iv. composing, printing, printing by letter press, lithography, offset, photogravure screen printing, 3 or 4 Dimensional printing, prototyping, flexography or other types of printing process or book binding; or
- v. constructing, reconstructing, repairing, refitting, finishing, or breaking up ships or vessels; or



- vi. preserving or storing any article in cold storage; or
- vii. Such other processes as the Central Government may notify.

3.2.9 “Occupier” of a factory – Section 2(zs)

The person who has ultimate control over the affairs of the factory:

Provided that—

- i. in the case of a firm or other association of individuals, any one of the individual partners or members thereof;
- ii. in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013
- iii. in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

Shall be deemed to be the occupier:

- Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier.

3.2.10 “principal employer” – Section 2(zz)

Where the contract labour is employed or engaged, means—

- i. in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, may specify in this behalf;
- ii. in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;
- iii. in a mine, the owner or agent of the mine;
- iv. in relation to any other establishment, any person responsible for the supervision and control of the establishment;

3.2.11 “worker” – Section 2(zzl)

means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment

be express or implied, and includes working journalists and sales promotion employees, but does not include any such person—

- i. who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957;
or
- ii. who is employed in the police service or as an officer or other employee of a prison; or
- iii. who is employed mainly in a managerial or administrative capacity; or

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

CHAPTER 4 - REGISTRATION

4.1 Registration of certain Establishments

- Every employer of any establishment-
- which comes into existence after the commencement of this Code and from the date of such applicability of this Code
- An establishment to which this Code applies - within a period of 60 days from the date of such applicability of this Code
- make an application electronically accompanied by such fees to the registering officer
- Approve or reject an application. If approved, then register the establishment and issue a certificate of registration to the employer
- if the registering officer fails to register an application so made or entertained within the prescribed period, then, such establishment shall be deemed to have been registered
- If after registration, any changes in the ownership and management or in particulars of establishment that take place shall be intimated by the employer to the registering authority within a period of 30 days of such change.

4.1.1 Revoke registration on ground of misrepresentation:

- violates any provision of this Code applicable to such establishment; or
- has misrepresented or misrepresents any fact relating to registration to the registering officer

4.1.2 The closure of establishment:

Within a period of 30 days of closing of establishment, employer shall intimate the registering authority:

- inform the closing of such establishment; and
- certify payment of all dues to the workers employed in such establishment, The registering officer shall cancel the registration certificate within 60 days from the receipt of the such information; if he fails to cancel the registration certificate within 60 days, then it shall be deemed to have been cancelled immediately after expiration of 60 days.

4.1.3 Registration of Existing Establishment:

Where any establishment to which this Code applies, has already been registered under any labour law (whether central or any other), it shall be deemed to have been registered under the provision of this code, subject to the condition that the registration holder provides the

details of registration to the concerned registering officer within such time and in such form as may be prescribed

4.1.4 Appeal

Any person who is aggrieved by the order (under Section 3) of the authority has the power to appeal to the authority notified by the Appropriate Government within a period of 30 days. **Appeal can be entertained after expiration of such period on sufficient cause.**



4.1.5 Notice by employer of commencement and cessation of operation

An employer of an establishment (being factory or mine or relating to contract labour or building or construction work) shall not use such establishment to commence the operation of any industry, trade, business, manufacture or occupation thereon without sending notice of such purpose to the authority notified by appropriate Government and shall also intimate the cessation of such operation in the prescribed manner to the said authority, in respect of which Appropriate Government shall provide the receipt.

CHAPTER 5 - DUTIES OF EMPLOYER AND EMPLOYEES

5.1 Duties of The Employer

S No.	DUTIES
1	To ensure that workplace is free from hazards
2	To comply with the Occupational Safety and Health standards
3	To provide such annual health examination or test free of cost to such employees of such age or such class of employees or establishments or such class of establishments, as may be prescribed by the appropriate Government
4	To provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees
5	To ensure the disposal of hazardous and toxic waste including disposal of e-waste
6	To issue a letter of appointment to every employee on his appointment in the establishment
7	To ensure that no charge is levied on any employee, in respect of anything done or provided for maintenance of safety and health at workplace including conduct of medical examination and investigation for the purpose of detecting occupational diseases
8	To ensure and be responsible for the safety and health of persons who are in the work premises with or without the knowledge of such employer, as the case may be.
9	<p>Other than the duties specified above, the employer in particularly in respect of factory, mines, dock, building, and other construction shall ensure that –</p> <ul style="list-style-type: none">• the provision and maintenance of plant and systems of work in the workplace that are safe and without risk to health• the arrangements in the workplace for ensuring safety and absence of risk to health in connection with the use, handling, storage and transport of articles and substances• the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work• the maintenance of all places of work in the workplace in a condition that is safe and without risk to health and the provision and maintenance of such means of access to,

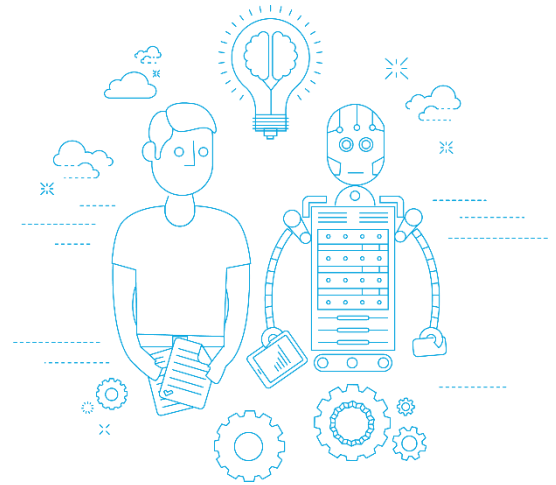
	<p>and egress from, such places as are safe and without such risk</p> <ul style="list-style-type: none"> the provision, maintenance or monitoring of such working environment in the workplace for the employees that is safe, without risk to health as regards facilities and arrangements for their welfare at work
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5.2 Duties Of Manufacturers, Designer, Importers Or Suppliers

S No.	DUTIES
1	<p>Every person who designs, manufactures, imports or supplies any article for use in any establishment shall ensure that:</p> <ul style="list-style-type: none"> The article so designed and constructed is safe and has not caused any harm to the health of the employees and carry out such tests which are necessary for assurance of their safety.
2	<p>Take out such steps which are considered necessary so that adequate information will become available:</p> <ul style="list-style-type: none"> in connection with the use of the article in any establishment; about the use for which such article is designed and tested; and About any conditions necessary to ensure that when the article is put to use, shall be safe and will not cause any harm to the health of workers.
3	<p>If the article is manufactured or designed outside India, then it is duty of the importers to see:</p> <ul style="list-style-type: none"> the articles are of the same standards as the standards that are accepted in India or, the articles are of such standards which are above the standards accepted in India if that article does not have any standard in India, then articles should conform to the standards prevailing in that country from where it is imported.
4	<p>Every person who designs or manufactures any article should carry out proper investigations to minimize the risk and to take proper measures.</p>
5	<p>Every person who installs any article in an establishment shall take proper measures to ensure the safety of the employees and to minimize the risk associated with it when it is put to use.</p>

5.3 Duties Of Architects, Project Engineers And Designers

Every professional working on any design or construction work of any structure shall ensure at the planning stage that due consideration is given to the safety measures and not to include anything in design which can lead to dangerous structures and also to take proper measures for the maintenance and upkeep of structures where maintenance and upkeep involves special hazards.



5.4 Notice of accidents

Where at any place in the establishment, any accident occurs which causes death or any such bodily injury which prevents employee or worker from working for a period of forty-eight hours or more immediately following the accident, then such notice shall be sent to following authorities within a said period of time:

Establishment	Authority
Mine	Employer or owner or agent or manager
Factory or relates to Dock Work	Employer or manager
Plantation, Building, other construction work or any other establishment	Employer

In case of death in establishment,

- Employer shall make inform government authority
- enquiry within a period of 2 months of the receipt of notice
- If there is no such authority then Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry.

5.5 Notice of certain dangerous occurrences

Employer has to send notice within specified time if any dangerous occurrence of such nature, (whether causing any bodily injury or disability, or not)

5.6 Notice of certain diseases

- Employer has to send notice within specified time if any worker in an establishment contracts any disease specified in the **Third Schedule**.

- **If any qualified medical practitioner attends to a person, then, he shall without delay send a report in writing to the office of the Chief Inspector-cum-Facilitator in such form and manner and within such time as may be prescribed by the appropriate Government.**

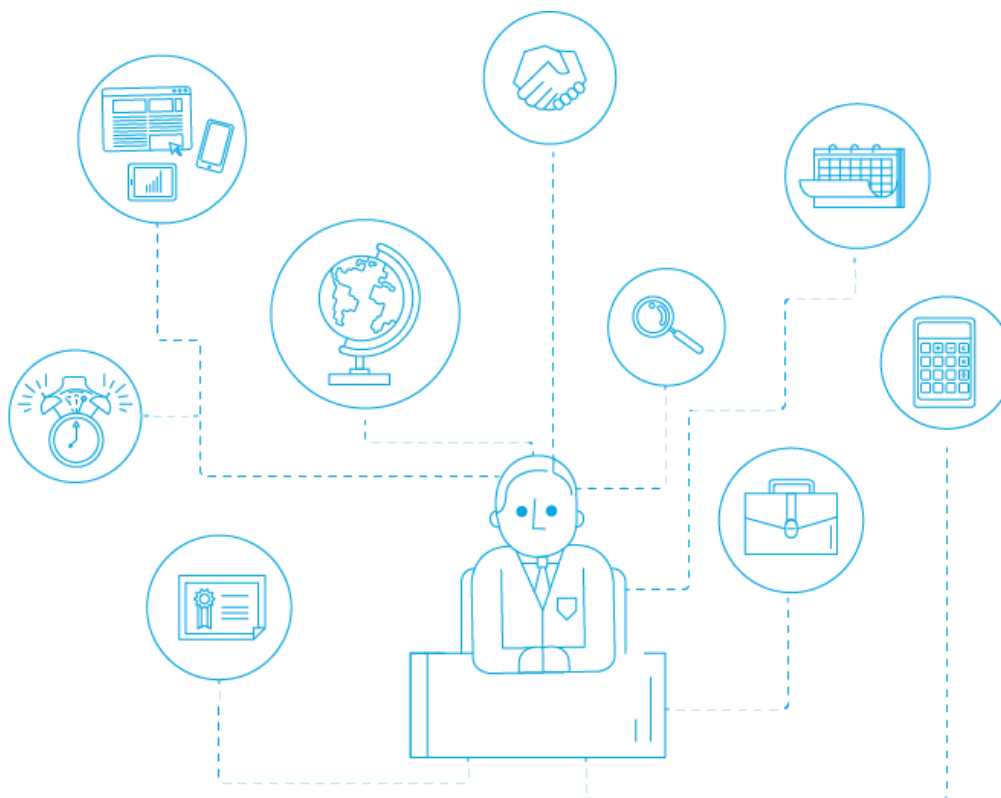
- **If any qualified medical practitioner fails to comply with the above provisions he shall be punishable with penalty which may extend to 10,000/- rupees.**

5.7 Duties and rights of employees

S No.	DUTIES
1	To take care of his health and safety and of other persons who can be affected by his act or omissions.
2	To adhere to the standards specified.
3	To cooperate with employer in meeting statutory obligations.
4	To report any condition or circumstance which seems unsafe or hazardous to the specified authority.
5.	Not to wilfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers
6	Not to willfully indulge in any such act which can endanger him or any other person.

5.8 Rights of employees

S No.	Rights
1.	To obtain information regarding safety and health at work from employer or through a member of safety committee if any, and if not satisfied, than the same must be referred to the Inspector-cum-Facilitator.
2.	To inform the employer or a member of a safety committee or to the inspector cum facilitator if the employees have reasonable fear of serious bodily injury or death.
3.	To take immediate remedial action for the danger occurred and send the report of the action taken against the danger to the inspector cum facilitator.
4.	If the employer is not satisfied regarding the danger occurred then the same would be referred to the inspector-cum-facilitator and then his decision would be treated final regarding the existence of danger.



Rights and Duties of the Employees

CHAPTER 6 - OCCUPATIONAL SAFETY AND HEALTH

6.1 Occupational Safety and Health Standards

- Standards regarding occupational safety and health to be declared by Central Government with respect to workplaces like factories, mines, dock work, building and any other construction work and other establishment.
- Such standards shall relate to :
 - physical, chemical, biological, and any other hazards due to which the employees may not suffer from any material impairment caused by hazards even if the employees are exposed to such hazards on a regular basis.
 - the norms —
 - Appraising the hazards to which they are exposed.
 - Relating to relevant symptoms, proper conditions and precautions for their safe use against the exposure.
 - For monitoring the amount of exposure against the hazards
 - For proper medical treatment to be provided by the employer.
 - For proper methods to be used for hazards evaluation such as safety audit, hazard and operability study, fault free analysis, event free analysis and such other requirements.
 - Medical examination is required to be provided to the employees whether in course of employment and the same must also be extended even after his cessation from the employment if the disease is detected as an occupational disease.
 - Such Occupational and Health aspects relating to work places which the Central Government considers necessary on the report of authority designated by such government.
 - And such other matters as may be specified in **Second Schedule**.
- Notwithstanding anything, Central Government may amend the Second Schedule on the basis of recommendation of the National Board after notifying its intention to do so, for not less than 45 days.



The State Government may, with the prior approval of the Central Government, by notification amend the standards made under sub-sections of section 18.

6.2 Safety Committee And Safety Officers (Section 22)

- Constitute a safety committee consisting of representatives of both employers and employees engaged in establishment where the number of representatives of workers on the Committee shall not be less than number of representatives of the employer.

- In an establishment relating to:
 - *factory wherein 500 workers or more; or*
 - *factory carrying on hazardous process 250 workers or more; or*
 - *building or other construction work 250 workers or more; or*
 - *mine wherein 100 workers or more, are ordinarily employed*

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

CHAPTER 7 - HEALTH AND WORKING CONDITIONS

7.1 Responsibility of employer for maintaining health and working conditions

- The employers shall be responsible to maintain in his establishment such health and working conditions for the employees as prescribed by Government.
- Other than the above general power, the Central Government may prescribe the following matters:

Sr. no.	Responsibility of employer for maintaining health and working conditions
1.	cleanliness and hygiene
2.	ventilation, temperature and humidity
3.	environment free from dust, noxious gas, fumes and other impurities
4.	adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work room
5.	potable drinking water
6.	adequate standards to prevent overcrowding and to provide sufficient space to employees or persons, as the case may be, employed therein
7.	adequate lighting
8.	sufficient arrangement for latrine and urinal accommodation to male, female and transgender employees, separately for maintaining hygiene therein
9.	effective arrangements for treatment of wastes and effluents; and
10.	any other arrangement which the Central Government considers appropriate

CHAPTER 8 - WELFARE PROVISIONS

8.1 The Employer shall be responsible for providing employees the following welfare facilities:

S.NO.	Facilities
1	Adequate and suitable facilities for washing to workers for male and female separately
2	Bathing places and locker rooms for male, female and transgender employees separately
3	Place of keeping clothing not worn during working hours and for the drying of wet clothing
4	Sitting arrangements for all workers obliged to work in a standing position
5	Adequate standard of canteen or workers thereof in an establishment employing one hundred or more workers including contract labour ordinarily employed
6	In case of mines, medical examination of the workers employed or to be employed in the mines, before their employment and at a specific intervals
7	Adequate first-aid boxes or cupboards with contents readily accessible during all working hours
8	Any other welfare measures which the Central Government considers, under the set of circumstances, as required for decent life of the workers
9	Ambulance room in every factory, mine and other construction work wherein more than five hundred workers are ordinarily employed
10	Medical facilities at the operating centers and halting stations, uniforms, raincoats and other like amenities for protection from rain or cold for motor transport workers
11	Adequate, suitable and separate shelters or rest-rooms for male, female and transgender workers and lunch-room in every factory and mine wherein more than fifty workers are ordinarily employed and in motor transport undertaking wherein worker is required to halt at night
12	The appointment of welfare officer in every factory, mine or plantation wherein two hundred and fifty or more workers are ordinarily employed and the qualification, conditions of service

	and duties of such welfare officer.
13	To provide temporary living accommodation, free of charges and within the work site or as near to it as may be possible by the employer to all building workers employed by him.
14	Payment by the principal employer, the expenses incurred on providing the accommodation to the contractor, where the building and other construction work is done through the contractor
15	To provide crech facility having suitable room for the use of children under 6 years age in the Establishments wherein more than 50 workers are ordinarily employed

CHAPTER 9 - HOURS OF WORK AND ANNUAL LEAVE WITH WAGES

9.1 Details

- No worker shall be required or allowed to work in any establishment for more than
 - 8 hours in a day and
 - The period of work shall be so fixed as not to exceed 8 hours with such intervals and spreadover

- **In case of mines,**
 - the workers employed below the ground shall not be allowed to work more than the hours notified by the central government,

 - the work below the ground shall be carried by the system of shifts so arranged and such hours of shift shall not be more than such hours as may be notified by central Government.

 - **No person employed shall be allowed in a mine except during the period of work shown in the register maintained.**

- **In case of motor transport worker, shall include,**
 - the time spent in work done during the running time of the transport vehicle;
 - the time spent in subsidiary work; and
 - Periods of mere attendance at terminals of less than 15 minutes.

- **In case of working journalist,**
 - the hours of work subject to maximum of 144 hours for 4 consecutive weeks and ,
 - a period of 24 hours of rest during any period of 7 consecutive days as may be prescribed by Central Government.

- **In case of sales promotion employee,**
 - In addition to the holidays, casual leaves or other kinds of leave as may be prescribed by the Central Government, the employee shall be granted leave if requested for:
 - ✓ earned leave on full Wages for not less than 1/11th of the period spent on duty;

- ✓ leave on medical certificate on 1/2 of the Wages for not less than 1/18th of the period of service
- Central Government may prescribe limit
 - ✓ maximum limit of accumulated earned leaves
 - ✓ limit up to which the earned leave may be availed of at a time by employee shall,—
 - ✓ when he voluntarily relinquishes his post or retires from service; or
 - ✓ when his services are terminated for any reason whatsoever (not being punishment), be entitled to cash compensation, subject to such conditions and restrictions as may be prescribed by the Central Government in respect of the earned leave earned by him and not availed of;
- Dies, his heirs shall be entitled to cash compensation of the earned leaves not availed by him.

9.2 Weekly and Compensatory Holidays

- No worker shall be allowed to work for more than 6 days in a week in any establishment.
- If in any case in any motor transport undertaking, an employee is required to work on the day of rest subject to the condition that the worker does not work for more than 10 days consecutively without a holiday for a whole day intervening.
- If a worker is deprived of any of the weekly holidays, the worker shall be allowed, within the month in which the holidays were due or within the two months immediately following that month, compensatory holidays of equal number to the holidays, so deprived.

9.3 Extra Wages For Overtime

- If a worker works in any establishment for more than the specified hours of work in any day or week, worker shall be entitled to get Wages at the rate of twice the rate of Wages
- Overtime work shall be calculated on a daily basis or weekly basis whichever is more favorable to such worker.
- Overtime work shall be subject to consent of worker.
- Appropriate government may prescribe the total number of hours of overtime.

9.4 Night Shifts

- Where a worker works in an establishment on a shift which extends beyond midnight, a holiday for the whole day will mean the period of consecutive 24 hours beginning when his shift ends.
- Hours which the employee has worked after midnight shall be counted in the previous day.

9.5 Prohibition of Overlapping Shifts

- Work shall be arranged in any establishment in such a way that one relay of workers shall not get engaged in the same work at the same time.
- Appropriate government has the power to exempt any class of establishments from such provision.

9.6 Restriction on double employment in factory and mine

- Worker shall not allowed to work in a mine or factory if he has already been working in any other such similar establishment within the preceding twelve hours

9.7 Notice of Periods of Work

- There shall be displayed and correctly maintained in every establishment, a notice of periods of work, showing clearly for every day, the periods during which workers may be required to work in accordance with the provisions of this Code.
- If any change is required to be made in any establishment which will bring impact on the notice referred above, then such change shall need to be intimated to the Inspector cum Facilitator before the change is made.
- No such change shall be made until one week has elapsed since the last change.

9.8 Annual Leave with Wages

- Conditions for entitlement of leave with Wages:
 - i. Worker must have worked 180 or more days in such calendar year.
 - ii. worker shall be entitled for leave:
 - ✓ For 1 day for every 20 days of his work
 - ✓ In case of adolescent worker and employed below ground mine- 1 day for every 15 days of his work
 - ✓ **A period of Layoff**

- ✓ maternity leave or
- ✓ annual leave availed

by such person in such calendar year shall be counted but shall not earn leave for the period so counted.

- If any holiday is falling between the leave availed by such person or any prefixed or suffixed holiday shall be excluded from the period of leave availed by worker.
- In case if services of any worker commences other than on the first day of January, then such employee shall be entitled to 1 day for every 20 days of his work if he has worked for $\frac{1}{4}$ of the total number of days in the remainder of the calendar year.

If any worker is discharged or dismissed from service or quits employment or is superannuated or dies while in service, during the course of the calendar year,

his heir or nominee shall be entitled to wages in lieu of the quantum of leave

Such payment shall be made even if such worker has not worked for the required period making such worker eligible to avail such leave --

- where such worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting; and
- where such worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death;

9.9 Leave Carry forward to the succeeding year and leave encashment

- If such worker does not take the whole of the leave allowed to him in any one calendar year then, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year so that—
 - the total number of days of leave that may be carried forward to a succeeding year shall not exceed 30 days; and
 - If worker, who has applied for leave with Wages but has not been given such leave shall be entitled to carry forward the leave refused without any limit.
- At the end of the year if the total number of leaves exceeds thirty days then the worker has the right to demand for encashment of the exceeded leaves.

CHAPTER 10 - MAINTENANCE OF REGISTERS, RECORDS AND RETURNS

- An employer in an establishment shall maintain register electronically or in any other form, containing:
 - work performed by them;
 - number of hours of work constituting normal working hours in a day;
 - day of rest allowed in every period of seven days;
 - wage paid and receipts given therefore;
 - leave, leave Wages, overtime work, attendance and dangerous occurrences; and
 - Employment of adolescent.

- The employer shall display notices at the workplace as prescribed by the appropriate government.

- The employer shall issue wage slip to the workers in electronic or in any other form.

- As prescribed by the Appropriate Government, the employer shall file such return to the Inspector-cum-Facilitator.

CHAPTER 11 - SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN

11.1 Employment of women in night

Women workers can be employed before 6 a.m. and beyond 7 p.m. with their consent and such conditions relating to safety, holidays and working hours or any other condition.

11.2 Prohibition of employment of women in dangerous operation

If appropriate government thinks that employment of women is inappropriate in some establishment, then such government has the power to prohibit such employment of women.

CHAPTER 12 - CONTRACT LABOUR AND INTER-STATE MIGRANT WORKMEN

APPLICABILITY - Section 45	
Every establishment in which 50 or more contract labour are employed or were employed on any day of the preceding 12 months through contract	Every manpower supply contractor who has employed on any day of the preceding twelve months 50 or more contract labour
<p>This Part shall not apply to the establishment in which work only of an intermittent or casual nature is performed</p> <p>An establishment shall not be deemed to be of an intermittent nature—</p> <ul style="list-style-type: none">o if it was performed for more than 120 days in the preceding 12 months; oro if it is of seasonal character and is performed for more than 60 days in a year	

12.1 Licensing of Contractors

- No contractor to whom the provisions of this part applies shall:
 - supply or engage contract labour in any establishment; or
 - Undertake or execute the work through contract labour, except under the license issued to him by the licensing officer after fulfilling with such criteria or qualifications as may be prescribed.

- If contractor does not fulfill the criteria, then licensing officer may issue him a “work specific license” electronically renewable within such period as may be prescribed by the central Government.

- A license may contain such conditions including, in particular, conditions as to hours of work, fixation of Wages and other essential amenities

- Such license shall be obtained from the appropriate Government and if for such establishment the appropriate Government is:

Appropriate Government	Authority
Central Government	licensing officer appointed by that Government
State Government	licensing officer appointed by that Government

- If the contractor supplies or engages contract labour or undertakes or executes the work in more than one establishment situated in different States then he shall obtain license from:

Appropriate Government	Authority
Central Government	He may obtain the licence from the authority referred to in sub-section (1) of section 119 designated by the Central Government for such purpose
State Government	

12.2 Procedure for issue and renewal of licence

- Application shall be made electronically for obtaining license and shall contain
 - the number of contract labour;
 - nature of work and
 - such other particulars as may prescribed
- Investigation by government authority,
- License issued shall be valid for a period of 5 years
 - If contractor wants to increase the number of contract labour, then he shall apply for renewal.

12.3 Information regarding work order to be given to the appropriate government

- The appropriate Government may be intimated about the work by the contractor which he receives from an establishment or execute the said work through contract labourers
- If the contractor fails to give the intimation than the licensing officer may cancel or suspend the license after giving the holder an opportunity of show cause.

12.4 Revocation, suspension and amendment of license

- If license is obtained by misrepresentation or suppression or fail to comply with conditions as specified, then after giving the contractor an opportunity of showing cause, revoked.

12.5 Appeal

- If the person is aggrieved by the order made under section 47 or 48 or 51, then within 30 days from the date on which the order is communicated to him, make an appeal to the appellate authority
- However, the appellate authority may entertain the appeal even after the expiry of 30 days, if sufficient cause has been provided for same.
- After giving an opportunity of being heard the appellate authority may dispose of the appeal within 30 days.

12.6 Liability of principal employer for welfare facilities

- Below welfare facilities shall be provided by the principal employer of the establishment to the contract labour who are employed in such establishment
 - canteens,
 - rest rooms,
 - drinking water and
 - first aid

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

If the contract labourer employed through the contractor who is required to obtain license but has not obtained, then such employment shall be deemed to be in contravention of the provision of this Code.

12.8 Responsibility for Payment of Wages

S no.	Responsibility
1.	It is the responsibility of the contractor to provide Wages to the contract labourer before the expiry of such period as may be prescribed by the appropriate government.
2.	The contractor has the responsibility to make disbursement of Wages through bank transfer or electronic mode and inform the same to the principal employer.
3.	It would be responsibility of the principal employer to pay the Wages if the contractor fails to make the same or makes short payment, to the concerned contract laborer and he would be eligible to recover the same from the contractor.

4.	When a contractor does not make the payment of Wages to the contract laborer then it is the responsibility of the appropriate government to pass orders for making payment of Wages from the amount so deposited by such contractor as security deposit during the tenure of issuing of license.
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12.9 Experience certificate

Every concerned contractor or principal employer of the establishment concerned shall issue experience certificate to the contract labour annually, or as and when demanded by the contract labour giving details of the work performed by such contract labour.

12.10 Prohibition of Employment of Contract Labour

- Employment of contract labour in core activities of any establishment is prohibited:
- Provided that the principal employer may engage contract labour through a contractor for any core activity, if—

Sr. NO.	PROHIBITION OF EMPLOYMENT
1.	the normal functioning of the establishment is such that the activity is ordinarily done through contractor; or
2.	the activities are such that they do not require full time workers for the major portion of the working hours in a day or for longer periods, as the case may be
3.	any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.

12.11 Facilities to inter-state migrant workmen

ISMW shall apply to every establishment in which 10 or more inter-State migrant workmen are employed or were employed on any day of the preceding twelve months.

S NO.	FACILITIES
1.	To ensure suitable conditions of work to such worker having regard to the fact that he is required to work in a State different from his own State
2.	In case of fatal accident or serious bodily injury to any worker, it is required to report to the specified authorities of both the states and also the next of kin of the workers;
3.	To extend all benefits to such worker which are available to a worker of that establishment including benefits under the Employees' State Insurance Act, 1948 or the

Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any other law for the time being in force and the facility of medical check-up as available to a worker under clause (c) of sub-section (1) of section 6

12.12 Journey Allowance

- The Employer shall pay a lumpsum amount of fare for to and fro journey to his native place from place of employment.

- The employer shall provide above benefit after taking into account :
 - Minimum Services for entitlement
 - Periodicity
 - Class of travel and
 - And such other matter

- As may be prescribed by the appropriate government.

12.13 Benefit of public distribution system allowance

The Appropriate government may make a scheme to provide

- Option for availing benefits of public distribution system either in his native state or the destination state where he is employed.
- The benefits to worker working for building and other construction work out of building and cess fund

12.14 Other benefits

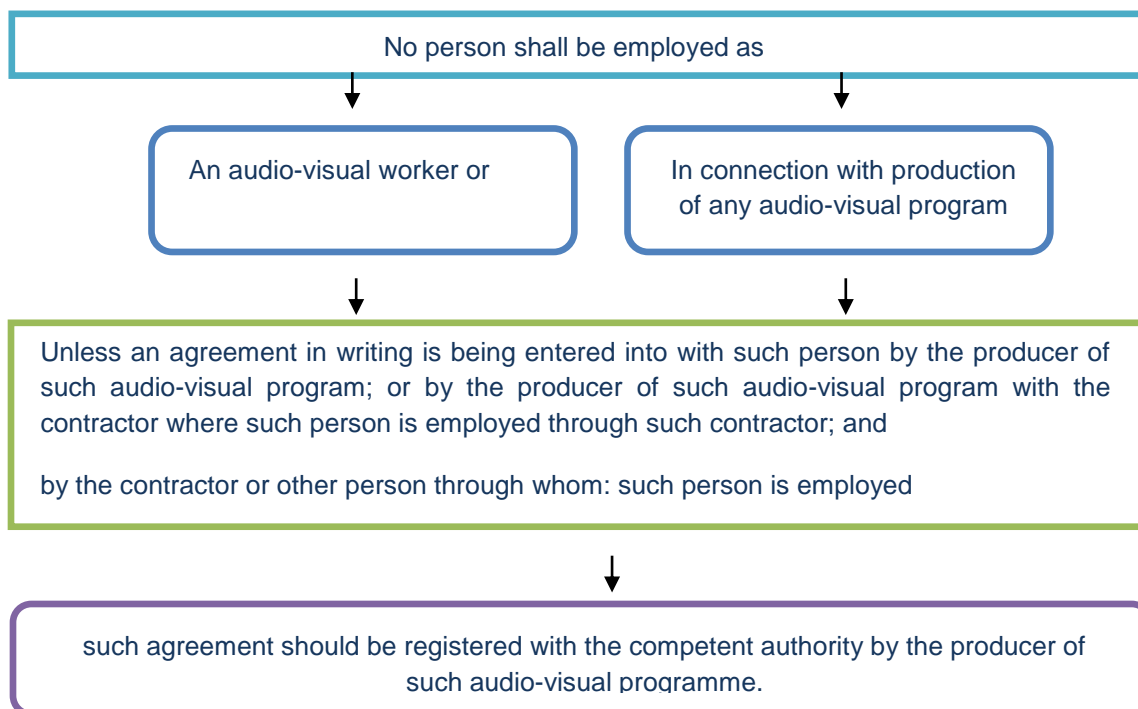
The appropriate government may provide facility of toll free helpline and study in such manner as may be prescribed by that government.

12.15 Past liability

- No suit or proceeding shall lie in any court or authority for recovery of debt after completion of employment
- No dues shall remain unsettled on a part of contractor or the principal employer.
- In case unsettled, it shall deemed to have been extinguished on a completion of period of employment.

12.16 Audio-Visual Workers

- **Prohibition of employment of audiovisual worker without agreement**



The agreement shall include —

- i. nature of assignment;
- ii. Wages and other benefits (including provident fund, if any);
- iii. health and working condition;
- iv. safety;
- v. hours of work;
- vi. welfare facilities,
- vii. dispute resolution process or mechanism, the constitution and other details of which shall be prescribed by the appropriate Government

12.17 BUILDING AND OTHER CONSTRUCTION WORKERS

- **Prohibition of employment of certain persons in certain building or other construction work**
 - If the employer has a reason to believe that the person is deaf or has a tendency to giddiness, he shall not be allowed to work in operations such as building or other construction work as it involves risk to the person also and even to the other persons employed.

12.18 Factories

• Approval and licensing of factories

- Appropriate government has power to make rules with respect to factory or class or description of factories for:
 - Submission of plans inclusive of specifications, nature and certification
 - the previous permission for the site on which the factory is to be situated and for the construction or extension thereof; and
 - Fee to be paid with respect to registration of licensing or renewal.

- If an application is made with all the specifications as prescribed then the same is required to be sent to the state government or chief inspector cum facilitator in the electronic mode and if no communication of order has been made by the authorities within 3 months of making of the said application then the permission would be deemed to be granted.

- When the permission to grant license is refused by the state government or chief inspector cum facilitator in the electronic mode then the same can be appealed to the Central Government within 30 days.

• Liability of owner of premises in certain circumstances

When any premises or separate building are leased to different occupiers for use of separate factories, then it is jointly and severally the liability of the owner and occupiers of the premises, to provide common facilities and service such as occupational health, rest rooms, crèches, safety and fire prevention and protection and other common facilities as may be prescribed by the appropriate government.

• Power to apply Code to certain premises

- If appropriate government may by notification in the Official Gazette declare that all or any of the provisions of this part shall apply to any place where the manufacturing process is being carried on with or without the aid of power and irrespective of the number of workers ,then such

- A place shall be deemed as a factory and the owner will be deemed as occupier and the persons working would be considered as workers.

- **Dangerous operations**

- The appropriate Government may make provisions relating to any factory or class or description of factories which exposes any of the persons employed in it to a serious risk of bodily injury, poisoning or disease, for :

Sr. NO.	PARTICULARS
1.	Specifying the manufacturing process or operations and declare that it is dangerous.
2.	prohibiting or restricting the employment of pregnant women
3.	periodical fitness examination of worker or employee at the cost of occupier
4.	welfare amenities, sanitary facilities, protective equipment and clothing and any other requirement necessary for dangerous operations

- **Compulsory disclosure of information by occupier**

- The occupier of every factory shall disclose all the information regarding the danger which includes health hazards and danger relating to transportation, storage and handling other matters as may be prescribed to the workers, the chief -inspector-cum-facilitator and the local authority within whose jurisdiction the factory is situated and the general public also.
- The Occupier shall also inform about the factory involving hazardous process and shall lay down the detailed policy regarding the health and safety of the workers and such policy if required to be intimated to Chief-inspector-cum-facilitator and the local authority and if any changes is being made in the said policy then such changes must also be informed within such time interval.
- The information furnished shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.
- An on-site emergency plan and detailed disaster control measure and safety measures required to be taken in the event of an accident must be informed to the workers and the public living in the vicinity of the factory by the occupier with the approval of Chief-inspector-cum-facilitator.
- Every occupier must inform the hazardous process carried on under the factory within thirty days from the commencement of such process to the Chief-inspector-cum-facilitator.

- If the occupier contravenes with the provision of (5) then the license granted under the Code may be cancelled.
- The occupier of the factory with the previous approval of Chief-inspector-cum-facilitator should lay down the measures for handling, usage, transportation and storage of hazardous substance inside the factory as well as disposition of the same outside the factory premises and it must be publicized in the manner as may be prescribed by State Government.
- **Specific responsibility of occupier in relation to hazardous processes**
 - Every occupier shall maintain accurate and up-to-date health and medical records of the workers who are exposed to toxic and other harmful substances and such records shall be accessible to the workers.
 - However, a person must be appointed who shall supervise within the factory and provide a suitable working place and protect the workers in the manner as may be specified by the State Government. If there is any question regarding the appointment of such person then the decision of Chief-inspector-cum-facilitator shall be final.
 - They should provide for medical examination of every worker—
 - i. before such worker is assigned to a job involving the handling of, or working with, a hazardous substance; and
 - ii. While continuing in such job, and after he has ceased to work in such job, at intervals not exceeding 12 months, in such manner as may be prescribed by the State Government.
- **Permissible limits of exposure of chemicals and toxic substances**

The maximum permissible limits of exposure of chemical and toxic substances in manufacturing process in any factory shall be of the value as may be prescribed by the State Government.
- **Right of workers to warn about imminent danger**
 - When the workers directly or through their representatives in the safety committee has reason to believe that the hazardous process would cause imminent danger to their lives, then the same is required to be brought to the notice of the occupier, agent, Manager and such other person and simultaneously bring the same to the notice of inspector-cum-facilitator.

- The occupier, agent, manager and such other person shall take immediate action against the imminent danger and the report of the action taken must be sent to the nearest inspector-cum-facilitator.

- When the occupier, agent, manager and other person is not satisfied about the existence of imminent danger then the same must be informed to the nearest inspector-cum-facilitator and his decision shall be final with respect to existence of such imminent danger.

CHAPTER 13 - PLANTATION

13.1 Facilities for workers in plantation

- The state government may prescribe rules requiring every employer to make provisions in his plantation for –
 - House accommodation including drinking water, kitchen and toilet to every worker (include his family)
 - Crech facility in case of 50 or more workers employed or were employed on any day of the preceding 12 months.
 - Education Facility for children between ages of 6 to 12, in case of workers exceeding 25 in number.
 - Recreational facilities

- An employer shall also be responsible to provide and maintain welfare facility from his own resources or through schemes of central or state government or municipality or Panchayat of that locality.

13.2 Safety measures

- To provide for the safety of a worker in connection with the use, handling, storage and transport of insecticides, pesticides and chemicals and toxic substances. However, the employer shall appoint a person to supervise the same.

- Special safeguards for employment of women or adolescents in using or handling hazardous chemicals

- Every employee employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides, chemicals and toxic substances and such other matters as may be prescribed by the State Government.

- Periodical medical examination of workers who are exposed to insecticides, pesticides, chemicals and toxic substances as prescribed by state government. The Employer shall be required to maintain health record for the same.

- The employer shall provide washing, bathing and cloak room facility, protective clothing and equipment to every worker engaged in handling insecticides, pesticides, chemicals and toxic substances.
- Every employer shall display a list of permissible concentrations of insecticides, pesticides, chemicals and toxic substances in the breathing zone of the workers
- Every employer shall exhibit such precautionary notices indicating the hazards.

CHAPTER 14 - OFFENCES AND PENALTIES

14.1 Offences and Penalties:

- The offences and their corresponding penalties as specified under this Code are as illustrated in the table below:

Sr. No.	OFFENCES	PENALTIES FOR COMMITTING OFFENCE FOR THE FIRST TIME	PENALTIES FOR CONTINUAL OFFENCE AFTER THE CONVICTION
1.	General offences	Not be less than 2 lakhs but which may extend up to 3 lakh rupees	Further fine which may extend to 2000 rupees for each day till the contravention is so continued.
2.	Punishment for causing obstruction to Chief-Inspector cum-Facilitator or Inspector cum-Facilitator	Punishable with imprisonment for a term which may extend to 3 months, or with fine which may extend to 1 Lakh rupees, or with both	Punishable with imprisonment for a term which may extend to 6 months, or with fine which shall not be less than 1 lakh rupees but which may extend to 2 lakh rupees, or with both.
3.	Penalty for non-maintenance of register, records and non-filing of returns	Not be less than rupees 50,000 but which may extend to 1 lakh rupees.	
4.	Punishment for committing offences against order prohibiting, restricting or regulating the employment of workers including women, audio-visual worker and contract labour and employee below eighteen years of age in case of mines	Not be less than rupees 50,000 but which may extend to 1 lakh rupees.	
5.	Punishment for falsification of records	Punishable with imprisonment for a term which may extend to 3 months, or with fine which may extend to 1 Lakh rupees, or with both	
6.	Omits to make or furnish in the prescribed form or	Not be less than rupees 1,00,000 but which may	

	manner or at, or within, the prescribed time any plan, section, return, notice, register, record or report required	extend to 2,00,000 rupees.	
7.	Punishment for disclosure of information	Punishable with imprisonment for a term which may extend to 3 months, or with fine which may extend to 1 Lakh rupees, or with both	
8.	Punishment for wrongfully disclosing results of analysis.	Punishable with imprisonment for a term which may extend to 3 months, or with fine which may extend to 50,000 rupees, or with both	
9.	Penalty for contravention of the provisions of duties relating to hazardous processes	Punishable with imprisonment for a term which may extend to 2 years and with fine which may extend to 5 lakh rupees	<ul style="list-style-type: none"> • With additional fine which may extend to 25,000 rupees for every day during which contravention continues. • Continues beyond a period of one year after the date of conviction, punishable with imprisonment for a term which may extend to 3 years or with a fine of 20 lakh rupees, or with both.
10.	Penalty for contravention of provisions of duties relating to safety provisions resulting in an accident	<p>In case of Death</p> <ul style="list-style-type: none"> • imprisonment for a term which may extend to 2 years or with a fine which shall not be less than 5 lakh rupees or with both <ul style="list-style-type: none"> • The court may direct that a portion of the fine, which shall not be less than 50% thereof, shall be given as compensation to the victim or to the legal heirs of the victim, in the case of his death <p>In case of serious bodily injury to any person</p>	Punishable with double the punishment provided under that sub-section for first conviction.

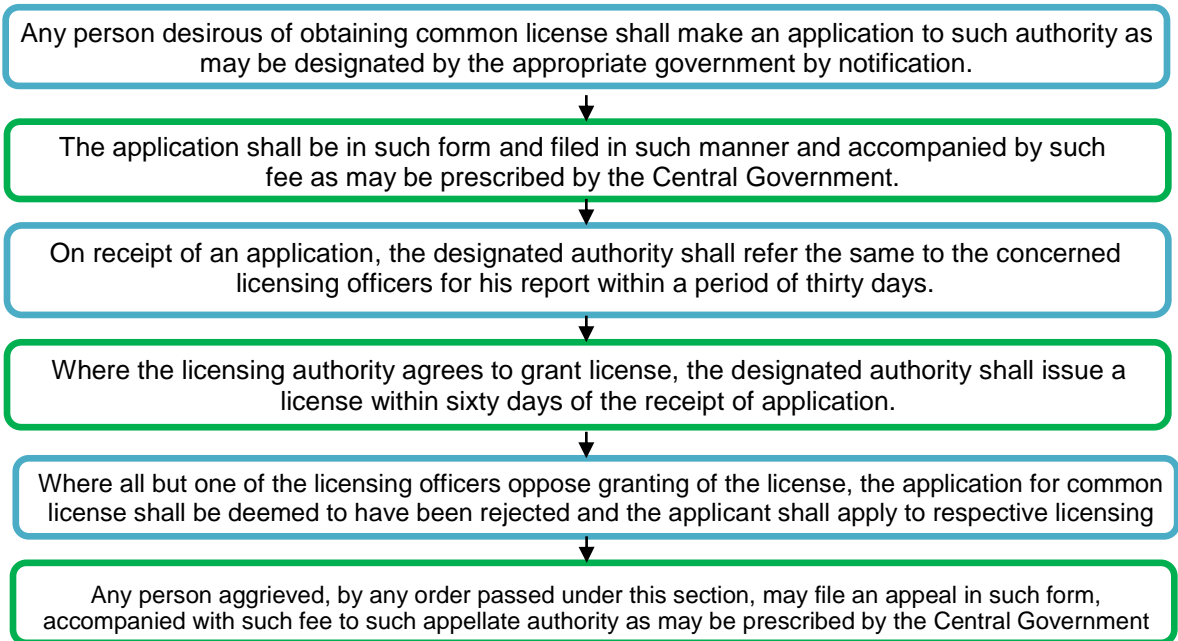
		imprisonment for a term which may extend to 1 year or with a fine which shall not be less than 2,00,000 rupees but not exceeding 4,00,000 rupees or both:	
11.	Special provision for contravention of order under section 38	Punishable with imprisonment for a term which may extend to 2 years and with fine which may extend to 5 lakh rupees Provided that no court shall impose fine less than 2 lakh rupees without recording in the judgement reason for imposing lower fine.	
12.	Failure to appoint manager in mine	Punishable with imprisonment for a term which may extend to 2 years and with fine which may extend to 5 lakh rupees	
13.	Offences by employees	Punishable with fine which may extend to 10,000 rupees	
14.	Prosecution of owner, agent, or manager of mine	No prosecution against owner, agent or manager except at the instance of - Chief Inspector-cum-facilitator or - The District Magistrate or - Inspector-cum-Facilitator in this behalf by general or specifying order in writing.	

CHAPTER 15 - SOCIAL SECURITY FUND

- The Appropriate government shall establish a fund to be known as “social security fund” for the welfare of the unorganized workers, which consists of the amounts received from composition of offences under section 111 and 114.
- The fund may also have other sources as may be prescribed by the appropriate government.
- The fund shall be administered and expended for the welfare of the unorganized workers.

CHAPTER 16 - MISCELLANEOUS

16.1 Common License for Contractor, Factories and To Industrial Premises and Person



16.2 Jurisdiction of Civil Courts Barred

No civil court shall have jurisdiction in respect of any matter to which any provision of this Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Code.

16.3 Power to Remove Difficulties

- If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Code, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of 2 years from the date on which this Code comes into force.

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

16.4 Repeal and savings

Following Acts shall stand repealed with effect from such date as may be notified in this behalf

Sr. no.	Following Acts shall stand repealed with effect from such date as may be notified
1.	The Factories Act, 1948;
2.	The Mines Act, 1952;
3.	The Dock Workers (Safety, Health and Welfare) Act, 1986
4.	The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
5.	The Plantations Labour Act, 1951;
6.	The Contract Labour (Regulation and Abolition) Act, 1970
7.	The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
8.	The Working Journalist and other News Paper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955;
9.	The Working Journalist (Fixation of rates of Wages) Act, 1958
10.	The Motor Transport Workers Act, 1961;
11.	The Sales Promotion Employees (Conditions of Service) Act, 1976;
12.	The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;
13.	The Cine Workers and Cinema Theatre Workers Act, 1981.

CHAPTER 17- CONCLUSION

- 17.1 Besides factories and other specific Establishments discussed in the Code, the Code has incremental compliance requirements for commercial establishments (having 10 or more employees) which are presently governed under local shops and establishment legislations, as the Code does not replace such laws. Therefore, entities operating commercial establishments other than factories will particularly need to take cognizance of the health and occupational safety related requirements specified in the Code.
- 17.2 The Code specifically reserves authority of the Central and State Government to frame rules on areas within their respective domain, as given under the Code. Therefore, while some of the aforesaid incremental compliances for commercial establishments have been outlined above, others will be introduced through rules and health & safety standards to be notified separately by the Government.
- 17.3 The Code allows consolidation of activities commonly carried out prior to and during the operation of factories, such as building, construction or expansion of factories, etc., which is expected to help manufacturing companies as they can obtain a common registration and comply with the safety and welfare requirements of the Code, as opposed to duplicity of provisions under the Current Laws.
- 17.4 More stringent obligations are imposed on principal employers for sourcing contract labour from unregistered contractors, hence, adequate due diligence/ checks should be implemented in such arrangements.
- 17.5 Companies are encouraged to ensure that appropriate due diligence measures are imbibed in their manufacturing or service operations, as existence of such measures can help employers avail exemption from statutory liability.

THE CODE ON SOCIAL SECURITY, 2020

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CHAPTER 1 – PRELIMINARY

1.1 Introduction

- The Code proposes to simplify, amalgamate, rationalize and replace the following central labour legislations:
 - The Employees' Compensation Act, 1923;
 - The Employees' State Insurance Act, 1948;
 - The Employees' Provident Fund and Miscellaneous Provisions Act, 1952;
 - The Maternity Benefit Act, 1961;
 - The Payment of Gratuity Act, 1972;
 - The Cine Workers Welfare Fund Act, 1981;
 - The Building and Other Construction Workers Act, 1996; and
 - The Unorganized Workers' Social Security Act, 2008.

- The Code proposes schemes related to life and disability cover, health and maternity benefits and old-age protection for “gig workers and platform workers” as well as the unorganized sector.

1.2 Applicability

- It extends to the whole of India.

Chapter No.	Chapter Heading	Applicability
III	Employee's Provident Fund	Every establishment in which 20 or more employees are employed.
IV	Employee's State Insurance Corporation	Every establishment in which 10 or more employees are employed other than a seasonal factory It shall also be applicable to an establishment, which carries on such hazardous or life threatening occupation as notified by the Central Government, in which even a single employee is employed.
V	Gratuity	Every factory, mine, oilfield, plantation, port and railway company; and every shop or establishment in which 10 or more employees are employed, or were employed, on any day of the

		preceding 12 months; and such shops or establishments as may be notified by the appropriate Government from time to time.
VI	Maternity Benefit	Every establishment being a factory, mine or plantation including any such establishment belonging to Government; and to every shop or establishment in which 10 or more employees are employed, or were employed, on any day of the preceding 12 months; and such other shops or establishments notified by the appropriate Government.
VII	Employee's Compensation	Subject to the provisions of the Second Schedule, it applies to the employers and employees to whom chapter IV, i.e. ESIC, does not apply.
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Every establishment which falls under the purview of Building and other Construction Workers Act.
IX	Social Security for Unorganized Workers	Unorganized sector, unorganized workers, gig worker, platform worker.
XIII	Employment Information and Monitoring	Career centers, vacancies and employers.

1.3 Definitions

- **"COMPLETED YEAR OF SERVICE"** means continuous service for 12 months;
- **"CONFINEMENT"** means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;
- **"DEPENDANT"** means any of the following relatives of deceased employee, namely:—
 - (a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother;

- (b) if wholly dependent on the earnings of the employee at the time of his death, a son or a daughter who has attained the age of eighteen years and who is infirm; except for the purposes of Chapter IV wherein the word "eighteen" occurring in this sub-clause shall be deemed to have been substituted by the word "twenty-five";
- (c) if wholly or in part dependent on the earnings of the employee at the time of his death,—
 - (i) a widower;
 - (ii) a parent other than a widowed mother;
 - (iii) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;
 - (v) a minor brother or an unmarried sister or a widowed sister if a minor;
 - (vi) a widowed daughter-in-law;
 - (vii) a minor child of a pre-deceased son;
 - (viii) a minor child of a pre-deceased daughter where no parent of the child is alive, or;
 - (ix) a grandparent if no parent of the employee is alive.

Explanation — For the purposes of sub-clause (b) and items (vii) and (viii) of sub-clause (c), references to a son, daughter or child include an adopted son, daughter or child respectively.

- **"EMPLOYMENT INJURY"** means a personal injury to an employee, caused by accident or an occupational disease, as the case may be, arising out of, and in the course of his employment, being an insurable employment only for the purposes of Chapter IV, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;
- **"ESTABLISHMENT"** means—
 - (a) A place where any industry, trade, business, manufacture or occupation is carried on; or
 - (b) A factory, motor transport undertaking, newspaper establishment, audiovisual production, building and other construction work or plantation;
 - (c) A mine, port or vicinity of port where dock work is carried out.
- **"FAMILY "** means all or any of the following relatives of an employee or an unorganized worker, as the case may be, namely:—
 - (a) A Spouse

- (b) A minor legitimate or adopted child dependent upon the employee or an unorganized worker, as the case may be;
 - (c) A child who is wholly dependent on the earnings of the employee or an unorganized worker, as the case may be, and who is—
 - (i) Receiving education, till he attains the age of twenty-one years; and
 - (ii) An unmarried daughter;
 - (d) A child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganized worker, as the case may be, so long as the infirmity continues;
 - (e) Dependent parents (including father-in-law and mother-in-law of a woman employee), who's income from all sources does not exceed such income as may be prescribed by the Central Government;
 - (f) In case the employee or an unorganized worker, as the case may be, is unmarried and his parents are not alive, a minor brother or sister wholly dependent upon the earnings of the insured person;
- **"FIXED TERM EMPLOYMENT"** means the engagement of an employee on the basis of a written contract of employment for a fixed period:
Provided that—
- (a) his hours of work, Wages, allowances and other benefits shall not be less than that of a permanent employee doing the same work or work of a similar nature; and
 - (b) he shall be eligible for all benefits under law for the time being in force, available to a permanent employee proportionately according to the period of service rendered by him even if his period of employment does not extend to the required qualifying period of employment;
- **"GIG WORKER"** means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship;

- **"MANUFACTURING PROCESS"** means any process for—
 - (i) making, altering, repairing, ornamenting, finishing, , oiling, washing, cleaning, breaking up, demolishing, refining, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or
 - (ii) Pumping oil, water, sewage or any other substance; or
 - (iii) Generating, transforming or transmitting power; or
 - (iv) composing, offset, printing, printing by letter press, lithography, photogravure screen printing, three or four dimensional printing, prototyping, flexography or other types of printing process or book binding; or
 - (v) Constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or
 - (vi) Preserving or storing any article in cold storage; or
 - (vii) Such other processes as the Central Government may notify;

- **"SEASONAL FACTORY"** means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of ground-nuts, the manufacture of indigo, lac, sugar (including gur) or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period **not exceeding 7 months** in a year in a manufacturing process as the Central Government may, by notification.

- **"SHOP"**, in respect of a State, means a shop as defined in any law for the time being in force dealing with the shop and for the time being in force in that State.

- **"SUPERANNUATION"**, in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service, as the age on the attainment of which the employee shall vacate the employment; provided that for the purpose of EPF, the age of superannuation shall be 58 years.

- **"UNORGANISED SECTOR"** means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of **such workers is less than 10**;

- **"WAGES"** means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms

of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

- (a) Basic pay;
- (b) Dearness allowance; and
- (c) Retaining allowance, if any,

But does not include—

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

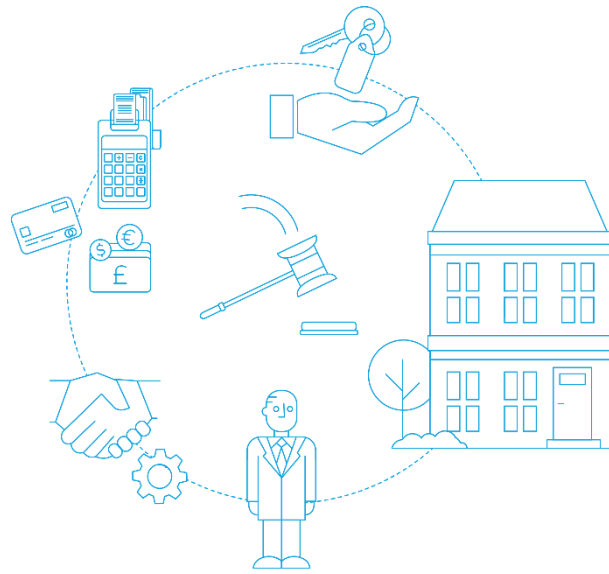
Provided that for calculating the Wages under this clause, if payments made by the employer to the employee under sub-clauses (a) to (i) exceeds one half, or such other percent as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds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

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

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

1.4 Registration of Establishment (Section 3)

- Every establishment to which this Code applies shall be registered within such time and in such manner as may be prescribed by the Central Government.
- Establishment is not required to get registered if it has already obtained registration under any other act for the time being in force.



CHAPTER 2 - SALIENT FEATURES

- i. To extend the coverage of Employees' State Insurance to all establishments employing ten or more employees and to the employees working in establishments with less than ten employees on voluntary basis and also to plantations on optional basis. It further seeks to empower the Central Government to notify the applicability of the said coverage to establishments which carries on the hazardous or life threatening occupation irrespective of the number of workers employed therein;
- ii. To extend the Employees' Provident Fund, Employees' Pension Scheme and Employees Deposit Linked Insurance Scheme to all industries or establishments employing twenty or more employees and thereby expand the existing coverage;
- iii. To make provision for specifying differential rates of employees' contribution for class of employees for employees' provident fund as the Central Government may notify for a specified period;
- iv. To provide that the money due shall be the charge on the assets of the employer and shall be paid on priority basis in accordance with the Insolvency and Bankruptcy Code, 2016;
- v. To provide that in case of employer's failure to register the employee with Employees' State Insurance Corporation or failure to pay contribution and the Employees' State Insurance Corporation releasing the benefits to the workers, then, such benefits shall be recovered from the employer;
- vi. To empower the Central Government to frame schemes for providing social security, to the gig workers and platform workers who do not fall under traditional employer-employee relation;
- vii. To empower the Central Government, by notification, to constitute a Social Security Fund or funds for provision of social security for the unorganized workers, platform workers or gig workers or any such class of workers;
- viii. To provide for payment of gratuity in case of Fixed Term Employment on a pro-rata basis even if the period of fixed term contract is less than five years;
- ix. To provide for maternity benefit to the woman employee;
- x. To provide for compensation to the employees in case of the accidents while commuting from residence to place of work and vice versa;
- xi. To provide for levying and collecting the cess for the purposes of social security and welfare of building workers;

- xii.** To provide for limitation period of five years for institution of proceedings in respect of assessment and determination of money dues from employer;
- xiii.** To expand the sources of the fund for schemes to include funds from corporate social responsibility or any other source as may be specified in the scheme and also contains enabling provision for constituting the special purpose vehicle for the purpose of implementation of schemes for unorganized workers;
- xiv.** To provide for renaming the designation of Inspector as Inspector-cum-Facilitator and to enhance his power to supply information and give advice to employers and workers concerning the most effective means of complying with the provisions of the proposed Code;
- xv.** To provide for filing of a single return electronically or otherwise by the employer;
- xvi.** To provide that the interests charged on delayed payments under the provisions of the proposed Code be specified in the rules;
- xvii.** To provide penalty for the different types of violations commensurate with the gravity of the violations;
- xviii.** To make Aadhar mandatory for seeding at the time of registration of member or beneficiary or any other person to register or for receiving benefit.

CHAPTER 3 – EMPLOYEES' PROVIDENT FUND

3.1 Schemes

- The Central Government may, by notification frame Schemes:

ACT	SCHEME	BENEFIT
EMPLOYEES' PROVIDENT FUND	Employees' Pension	<ul style="list-style-type: none"> • Superannuation Pension • Retiring Pension • Permanent total disablement pension • Widow or Widower's pension, children pension or orphan pension • Nominee Pension
	Employees' Deposit Linked Insurance	<ul style="list-style-type: none"> • Providing life insurance benefits to the employees • Providing Social Security benefits under this code to self employed workers or any other class of persons.

3.2 Funds

FUNDS	CONTRIBUTION BY EMPLOYER	CONTRIBUTION BY EMPLOYEE
Employees' Provident Fund Scheme	10 % of the Wages for the time being payable to each of the employees, if any employee so desires, be an amount exceeding ten per cent of the Wages, subject to the condition that the employer shall not be under an obligation to pay any contribution.	<p>Equal to the contribution payable by the employer and if any employee so desires, be an amount exceeding 10%.</p> <p>[Provided further that the Central Government, after making such inquiry as it deems fit, may, by notification, specify rates of employees' contributions and the period for which such rates shall apply for any class of employee]</p>
Pension fund	not exceeding 8.33% of the Wages	-
Deposit- Linked Insurance Fund	not being more than 1% of the Wages	-

3.3 Contribution In Respect of Employees and Contractors

- **The amount of contribution and any cost of administering the Fund paid or payable by an employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.**
- A contractor from whom the amounts mentioned above may be recovered in respect of any employee employed by or through him may recover from such employee the employee's contribution under any Scheme by deduction from the Wages payable to such employee.
- No contractor shall be entitled to deduct the employer's contribution or the charges referred above from the Wages payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

3.4 Priority of Payment of Contributions over Other Debts

- **Any amount due for contributions under Employee provident fund shall be the first charge on the assets of the establishment to which it relates and shall be paid in priority to all other debts in accordance with the provisions of section 53 of the Insolvency and Bankruptcy Code, 2016.**

3.5 Chapter Not To Apply To Certain Establishment

- This chapter under this code shall not apply to the following:
 - to any establishment registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State relating to cooperative societies employing less than **50 persons** and **working without the aid of power**; or
 - to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits;
 - To any other establishment set up under any Central or State or any other law for the time being in force and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that law governing such benefits.

To the employees who immediately before the commencement of this code were receiving benefits of PF under any Central or State enactment. If the Central Government is of the opinion that having regard to the financial position of any class of establishment or other circumstances of the case, it is necessary or expedient so to do, it may, by notification and subject to such conditions, as may be specified in the notification, exempt, whether prospectively or retrospectively, that class of establishments from the operation of this Chapter for such period as may be specified in the notification.

3.6 Authorizing Certain Employers to Maintain Provident Fund Accounts

- The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorize the employer by an order in writing, to maintain a provident fund account in relation to the establishment.
- No authorization shall be made if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Code during the 3 years immediately preceding the date of such authorization.
- Where an establishment is authorized to maintain a provident fund account, the employer in relation to such establishment shall maintain such account, submit such return, deposit the contribution in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the scheme.
- Any authorization made under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorization or where he commits any offence under any provision of this Code:
Provided that before cancelling the authorization, the Central Government shall give the employer a reasonable opportunity of being heard.

3.7 Transfer of Accounts

- Where an employee -
 - employed in an establishment to which these Employee Provident Fund provisions apply, relinquishes his employment therefrom and obtains employment in any other establishment to which these provisions apply or not; or

- employed in an establishment to which Employees' Provident Fund provisions under this code does not apply, relinquishes his employment therefrom and obtains employment in an establishment to which these provisions applies, then, his accumulated amount in provident fund account or pension account, as the case may be shall be transferred or dealt with in the manner as may be prescribed by the Central Government.

CHAPTER 4 – EMPLOYEES' STATE INSURANCE CORPORATION

4.1 All employees to be insured

All employees under this Code are required to be insured whether in electronic mode or in any other mode as prescribed by the Central Government.

4.2 Contributions

- The contributions such as employee's and employer's contribution shall be paid at such rates as prescribed by the Central Government.
- The contribution shall be paid according to the wage period (April to Sep and Oct to March) as specified in the regulation.
- The contributions payable in respect of each wage period shall ordinarily fall due on the last day of the wage period, and where an employee is employed for part of the wage period, or is employed under two or more employers during the same wage period, the contributions shall fall due on such days as may be prescribed by the Central Government.

4.3 Provisions as To Payment of Contributions by Employer

- The employer shall pay in respect of every employee, whether directly employed by him or by or through a contractor, both the employer's contribution and the employee's contribution.
- In this behalf, the employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by reduction from his Wages and not otherwise.

Provided that no such deduction shall be made from any Wages other than such as relates to the period or part of the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period.

- The employer or the contractor shall not be entitled to deduct employer's contribution from any Wages payable to an employee or otherwise recover it from him.
- If any sum is deducted by the employer from Wages, then that shall be deemed to have been entrusted to him by the employee.

- The employer shall bear the expenses of remitting the contributions to the Corporation.
- If an employer has paid contribution in respect of an employee employed through a contractor, then the employer would be entitled to recover such amount of contribution so paid, from the contractor either by deductions from any amount payable to him or as a debt payable by the contractor.
- The contractor shall maintain a register of the number of employees employed by or through him and submit the same to the employer.
- The contractor shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from Wages and not otherwise, subject to such conditions as may be specified in the regulations.
- The Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable.
- The contractor shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the employer before the settlement of any amount payable by the employer.

4.4 Benefits

- 4.4.1 The insured person and their representative or the persons mentioned shall be entitled to the following benefits namely:
- Periodical payments would be provided to insured person in case of sickness certified by a duly appointed medical practitioner.
 - Periodical payments to an insured person being a woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit).
 - Periodical payment is required to be made to the person suffering from disablement if the employee is suffering from employment injury and he would only be certified for this kind of payment if specified by any authority.

- If any insured person dies due to employment injury then periodical payment is required to be made to the dependents of such insured person.
- Medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit); and
- Payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person, or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person (to be known as funeral expenses):

Provided that the amount of payment under this clause shall not exceed such amount as may be prescribed by the Central Government and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer or authority authorized by it in this behalf may allow.

4.4.2 The Corporation may, subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

4.4.3 The rate and period of the qualified person who can claim sickness benefit, maternity benefit, disablement benefit and dependant benefit should be such as prescribed by the Central Government.

4.4.4 The Corporation may make regulations for any matter relating or incidental to the accrual and payment of benefits.

4.5 Presumption as To Accident Arising In Course of Employment

- Accident arising in the course of an employee's employment shall be presumed, in the absence of evidence to the contrary, to have arisen out of that employment.
- Accident happening when an employee is appointed by the employer for the purpose of employer's trade or business shall be deemed to arise out of and in the course of his employment. If it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succor or protect persons who are, or are thought to be or possibly to be, injured or imperiled, or to avert or minimize serious damage to property.

- An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.
- An accident happening while an employee is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—
 - the accident would have been deemed so to have arisen had he been under such obligation; and
 - at the time of the accident, the vehicle –
 - ✓ Is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and
 - ✓ Is not being operated in the ordinary course of public transport service.

4.6 Accidents Happening While Acting In Breach of Law

- An accident shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—
 - The accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and
 - The act is done for the purpose of and in connection with the employer's trade or business.

4.7 Occupational Disease

- If an employee employed in any employment specified in Part A of the Third Schedule contracts **any disease specified therein as an occupational disease peculiar** to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the

Corporation may specify by regulations in respect of each such employment, contracts any disease specified in such Part C as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury " arising out of and in the course of employment.

- **No benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.**

4.8 Dependant's Benefit

- If an insured person **dies as a result of an employment injury** sustained as an employee dependant's benefit shall be payable to his dependants at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.
- In case the insured person **dies without leaving behind him the dependants as aforesaid**, the dependant's benefit shall be **paid to the other dependants of the deceased** at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.
- Any decision awarding dependant's benefit may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact or that the decision is no longer in accordance due to any birth or death or due to the marriage, re-marriage, or infirmity of, or attainment of the age of eighteen years by, a claimant.
- The corporation may continue, increase, reduce or discontinue the dependant's benefit.

4.9 Medical Benefit

- An insured person or a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.
- Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.
- The qualification of an insured person and his family, to claim medical benefit and the conditions subject to which such benefit may be given, the scale and period thereof shall be such as may be prescribed by the Central Government in consultation with the Corporation.

- The Corporation may establish medical colleges, dental colleges, nursing colleges and training institutes for its officers and staff with a view to improve the quality of services provided under the Employees' State Insurance Scheme.
- The colleges and training institutions may be run by the Corporation itself or on the request of the Corporation by the Central Government, any State Government, any Public Sector Undertaking of the Central Government or the State Government or any other body notified by the Central Government.

4.10 General Provisions as To Benefits

- No person shall be entitled to commute for a lump sum any disablement benefit admissible.
- No person shall be entitled to sickness benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives Wages or on any day on which he remains on strike.
- A person who is in receipt of sickness benefit or disablement benefit:
 - shall remain under medical treatment at a dispensary, hospital, clinic or other institution, and shall carry out the instructions given by the medical officer or medical attendant in-charge thereof
 - shall not while under treatment do anything which might retard or prejudice his chances of recovery
 - shall not leave the area in which medical treatment is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and
 - shall allow himself to be examined by any duly appointed medical officer or other person authorized by the Corporation.
- An insured person shall not be entitled to receive for the same period –
 - both sickness benefit and maternity benefit; or
 - both sickness benefit and disablement benefit for temporary disablement; or
 - both maternity benefit and disablement benefit for temporary disablement.

- If the person is entitled to receive more than one benefit then he shall choose the benefit which he shall receive.
- If a person dies during any period for which he is entitled to a cash benefit under, the amount of such benefit up to and including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.
- The Corporation may, with the approval of the Central Government establish and maintain in a State, such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families), their families.
- Where any person has received any benefit or payment when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of death, his legal representative shall be liable to repay the same from the assets of the deceased devolved on him.
- The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

4.11 Liability of Owner or Occupier of Factories, For Excessive Sickness Benefit

- Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of:
 - insanitary working conditions in a factory or other establishment or the neglect of the owner or occupier of the factory or other establishment to observe any health regulations enjoined on him by or under any enactment for the time being in force, or
 - Insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactments for the time being in force.
 - upon inquiry it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or other establishment or the owner of

the tenements or lodgings, as the case may be, the said person or persons shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

4.12 Scheme for Other Beneficiaries

The Central Government may, in consultation with the Corporation, and by notification, frame scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilized on payment of user charges, and prescribe the terms and conditions subject to which the scheme may be operated.

4.13 Schemes for Unorganized Workers, Gig Workers and Platform Workers

- The Central Government may, in consultation with the Corporation, and by notification, frame scheme for unorganized workers, gig workers and platform workers and the members of their families for providing benefits admissible by the Corporation.
- The contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions subject to which the scheme may be operated shall be such as may be prescribed in the scheme.

4.14 Exemption of Factories or Other Establishments Belonging To Government or Any Local Authority

The appropriate Government may, after consultation with the Corporation, by notification and subject to such conditions as may be specified in the notification, exempt any factory or other establishment belonging to any local authority, from the operation of if the employees in any such factory or other establishment are otherwise in receipt of benefits substantially similar or superior to the benefits.

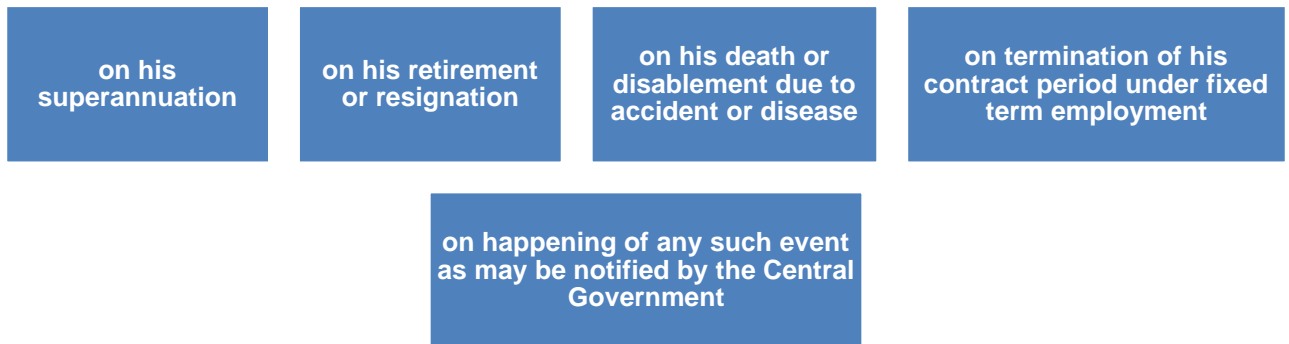
4.15 Contributions Due to Corporation to Have Priority over Other Debts

Notwithstanding anything contained in any other law for the time being in force, any amount due shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of section 53 of the Insolvency and Bankruptcy Code, 2016.

CHAPTER 5 - GRATUITY

5.1 Payment of Gratuity

- Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than 5 years,-
- Working Journalists and other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955: the expression 5 years occurring in this sub section shall be deemed to be 3 years.



- Where the termination of the employment of any employee is due to death or disablement or expiration of fixed term contract or happening of any such event as may be notified by the Central Government, completion of continuous service of five years shall not be necessary.
- In case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the competent authority, until such minor attains majority.

TENURE	GRATUITY PAYABLE
Every completed year of service or part thereof in excess of 6 months	At the rate of 15 days' Wages or such number of days as may be notified by the Central Government
Employee who is employed in a seasonal establishment	At the rate of 7 days' Wages for each season
In the case of a piece-rated employee	Average of the total Wages received by him for a period of three months

Employee employed on fixed term employment or a deceased employee	Employer shall pay gratuity on pro rata basis
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- In the case of a piece-rated employee, daily Wages shall be computed on the average of the total Wages received by him for a period of 3 months immediately preceding the termination of his employment, and, for this purpose, the Wages paid for any overtime work shall not be taken into account.
- The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government.
- For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced Wages, his Wages for the period preceding his disablement shall be taken to be the Wages received by him during that period, and his Wages for the period subsequent to his disablement shall be taken to be the Wages as so reduced.
- The gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;
- The gratuity payable to an employee may be wholly or partially forfeited—
 - If the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or
 - If the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.
- In the case of a monthly rated employee, the 15 days' Wages shall be calculated by dividing the monthly rate of Wages last drawn by him/ 26 and multiplying the quotient by 15.

5.2 Continuous Service

- An employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted because of sickness, accident, leave, absence from duty without leave, lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Code.

- Where an employee (not being the employee employed in a seasonal establishment) is not in continuous service as per above stated clause, then for any period of one year or six months, that person will be deemed to be in continuous service under the employer:
 - For the period of 1 year –
 - ✓ if the employee during the 12 months preceding the reference date has worked for 190 days or more, employed below the ground in a mine or in an establishment which works for less than 6 days in a week; and
 - ✓ In any other case – 240 days.
 - For the period of 6 months –
 - ✓ if the employee during the 6 months preceding the reference date has worked for 95 days or more, employed below the ground in a mine or in an establishment which works for less than 6 days in a week; and
 - ✓ In any other case – 120 days.

Explanation.—For the purposes of this clause, the number of days on which an employee has actually worked under an employer **shall include the days** on which—

- (i) He has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;
 - (ii) He has been on leave with full Wages, earned in the previous year;
 - (iii) He has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
 - (iv) In the case of a female, she has been on maternity leave; however, that the total period of such maternity leave does not exceed twenty-six weeks;
- In case of seasonal establishment, if the employee is not in continuous service as per above stated provision, then for any period of 1 year or 6 months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for **not less than 75% of the number of days** on which the establishment was in operation during such period.

5.3 Nomination

- Each employee, who has completed **1 year of service**, shall make a nomination within such time, in such form and in such manner as prescribed by the appropriate Government.
- An employee may, in his nomination, distribute the amount of gratuity payable to him under this Chapter amongst more than one nominee.

- If an employee has family at the time of nomination, then such nomination shall be made in favor of one or more family members and any nomination made in favor of a person who is not a family member shall be void.
- If at the time of making nomination, employee does not have family, then the nomination can be made in favor of any person or persons but subsequently if employee acquires family, then such nomination will become invalid and employee has to make fresh nomination within such time as may be prescribed by the appropriate Government.
- If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the form prescribed by the appropriate Government, in respect of such interest.

5.4 Determination of amount of gratuity

- A person who is eligible for payment of gratuity under this Chapter or any person authorized, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed by the appropriate Government, for payment of such gratuity.
- As soon as gratuity becomes payable, the employer shall, whether an application has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the competent authority specifying the amount of gratuity so determined.
- The employer shall arrange to pay the amount of gratuity **within 30 days** from the date it becomes payable to the person to whom the gratuity is payable.
- If gratuity is not paid within time, then to the date on which it is paid, simple interest at the rate notified by the Central Government for repayment of deposits from time to time shall be paid.
- No interest shall be paid if delay has occurred due to fault of employee and employer has obtained permission in respect of same from the Competent Authority.
- If there is any dispute regarding the gratuity payable to the employee, then such amount of gratuity as he admits to be due shall be deposited with the Competent Authority.

- If there is a dispute regarding the amount as he admits to be due, the employer or employee or any other person raising the dispute may make an application to the competent authority in the form prescribed by the Central Government for deciding the dispute.
- The competent authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the competent authority shall direct the employer to pay such amount or, such amount as reduced by the amount already deposited by the employer.

5.5 Compulsory Insurance

- With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity from any insurance company regulated by the Authority as defined under Insurance Regulatory and Development Authority of India Act, 1999.
- The appropriate Government may, subject to such conditions as may be prescribed by the Central Government, exempt every employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement, and every employer employing **500 or more persons who establishes an approved gratuity fund**.
- Every employer shall within such time as may be prescribed by the Central Government, get his establishment registered with the competent authority in the manner prescribed by the Central Government.
- The appropriate Government may prescribe rules to give effect to the provisions of this section and the rules so prescribed may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken or as the case may be, the Board of Trustees of the approved gratuity fund.
- Where an employer fails to make any payment by way of premium in respect of the insurance or by way of contribution to an approved gratuity fund, he shall be liable to pay the amount of gratuity due under this Chapter (including interest, if any, for delayed payments) forthwith to the competent authority.

CHAPTER 6 - MATERNITY BENEFIT

6.1 Employment of, or work by, women prohibited during certain period

- No employer shall knowingly employ a woman in any establishment during the 6 weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.
- No woman shall work in any establishment during the 6 weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.
- No pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do, **during the period specified**, any work which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus or is likely to cause her miscarriage or otherwise to adversely affect her health.
- The period referred above shall be—
 - (a) The period of **1 month** immediately preceding the period of **6 weeks**, before the date of her expected delivery;
 - (b) Any period during the said period of **6 weeks** for which the pregnant woman does not avail of leave of absence.

6.2 Right to payment of maternity benefits

- Every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the **average daily wage** (Wages payable to her for immediately preceding three calendar months) for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day.
- No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of **not less than 80 days** in the 12 months immediately preceding the date of her expected date of her delivery.

- The maximum period for which any woman shall be entitled to maternity benefit shall be 26 weeks of which not more than 8 weeks shall precede the expected date of her delivery.
- The maximum period entitled to maternity benefit by a woman having two or more surviving children shall be 12 weeks of which not more than 6 weeks shall precede the date of her expected delivery.
- Where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death.
- Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.
- A woman who legally adopts a child **below the age of three months** or a commissioning mother shall be entitled to maternity benefit for a period of **12 weeks** from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.
- In case the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

6.3 Notice of claim for maternity benefit and payment thereof

- Any woman employed in an establishment and entitled to maternity benefit may give notice in writing, to her employer, stating her maternity benefit and any other amount to which she may be entitled, may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.
- In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than **6 weeks** from the date of her expected delivery.
- Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

- The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed by the Central Government that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within **forty-eight hours** of production of such proof as may be prescribed by the Central Government that the woman has been delivered of a child.

6.4 Payment of maternity benefit in case of death of a woman

- If a woman entitled to maternity benefit or any other amount under this Chapter, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given and in case there is no such nominee, to her legal representative.

6.5 Payment of medical bonus

- Every woman entitled to maternity benefit under this Chapter shall also be entitled to receive from her employer a medical bonus of **3500 rupees** or as such amount as may be notified by Central Government, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

6.6 Leave for miscarriage, etc.

- In case of miscarriage, or medical termination of pregnancy, a woman shall, on production of proof, be entitled to leave with Wages at the rate of maternity benefit, for a period of **6 weeks** immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.
- In case of tubectomy operation, a woman shall, on production of proof, be entitled to leave with Wages at the rate of maternity benefit for a period of **2 weeks** immediately following the day of her tubectomy operation.
- Woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy shall, on production of such proof as may be prescribed by the Central Government, be entitled, in addition to the period of absence allowed to leave with Wages at the rate of maternity benefit for a maximum period of **1 month**.

6.7 Nursing breaks

- Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work **two breaks** of

such duration as may be prescribed by the Central Government, for nursing the child until the child attains the **age of 15 months**.

6.8 Crèche facility

- Every establishment having **50 employees or such number** of employees as may be prescribed by Central Government shall have the facility of crèche within such distance as may be prescribed by the Central Government, either separately or along with common facilities.
- The employer shall allow four visits a day to the crèche by the woman, which shall also include the intervals of rest allowed to her.
- Every establishment to which this Chapter applies shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit.

6.9 Dismissal for absence during pregnancy

- When a woman absents herself from work in accordance with the maternity provisions under this code, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.
- The discharge or dismissal of a woman at any time during her pregnancy shall not have the effect of depriving her of the maternity benefit or medical bonus.
- Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed may within **60 days** from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to the competent authority.

6.10 No deduction of Wages in certain cases

- No deduction from the normal and usual daily Wages of a woman entitled to maternity benefit under the provisions of this Chapter shall be made by reason only of—
 - (a) The nature of work assigned to her by virtue of **6 weeks** immediately following the day of her delivery, miscarriage or medical termination of pregnancy or

- (b) Breaks for nursing the child allowed to her; **two breaks** of such duration as may be prescribed by the Central Government, for nursing the child until the child attains the **age of 15 months**.

6.11 Forfeiture of maternity benefit

A woman who works for remuneration during the period she has been permitted by an employer to absent herself for availing the maternity benefits provided under this Chapter shall not be entitled to receive maternity benefit for such period.

6.12 Duties of employer

An abstract of the provisions of this Chapter and the rules relating thereto in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

CHAPTER 7 - EMPLOYEE COMPENSATION

7.1 Reports of fatal accidents and serious bodily injuries

- Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death or serious bodily injury, the person required to give the notice shall, within **7 days of the death or serious bodily injury**, send a report to the competent authority giving the circumstances attending the death or serious bodily injury.

- Explanation - For the purposes of this sub-section, "serious bodily injury" means an injury which involves, or in all probability will involve the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding **20 days**.

- **Nothing in this section shall apply to establishments to which Employees' State Insurance Corporation applies.**

7.2 Employer's liability for compensation

- If personal injury is caused to an employee by accident or an occupational disease listed in the Third Schedule arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Code.

- The employer shall not be so liable in respect of any injury which does not result in the total or partial disablement of the employee for a period exceeding 3 days.

- In respect of such injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to –
 1. The Employee having been at the time thereof under the influence of drink or drugs
 2. The willful disobedience of the employee to an order expressly given, to to a rule expressly framed, for the purpose of securing the safety of employees.
 3. If any employee willful removes any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

- Such accident or contracting of such occupational disease would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employers
- If an employee employed in any employment specified in the Second Schedule contracts any disease specified in the Third Schedule, being an occupational disease peculiar to that employment whilst in the service of an employer in whose service he has been employed for a continuous period of not less than 6 months, then, such disease shall be deemed to be an injury by accident within the meaning of this section and unless the contrary is proved, the accident shall be deemed to have arisen out of and in the course of the employment.
- An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and his employment is established.
- Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any accident or disease if he has instituted in a Civil Court, suit for damages in respect of the accident or disease against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of any accident or injury—
 - (a) If he has instituted a claim to compensation in respect of the accident or injury before a competent authority; or
 - (b) If an agreement has been made between the employee and his employer providing for the payment of compensation in respect of the accident or injury in accordance with the provisions of this Chapter.

7.3 Compensation in case of death of or injury in plantation

If death or injury is caused to any worker or a member of his family as a result of the collapse of a house provided by the employer in a plantation, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to a natural calamity, the employer shall be liable **to pay compensation to a person employed on contract for more than 60 days in a year, who falls under the definition of worker.**

7.4 Compensation in case of death of or injury in plantation

Case	Amount of Compensation
Death resulting from injury	50% of the monthly Wages multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more.
Permanent total disablement resulting from the injury	An amount equal to 60 % of the monthly Wages of the injured employee multiplied by the relevant factor or Central Government notified, whichever is more.
Permanent partial disablement resulting from the injury	Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.
	The percentage of loss of earning capacity in relation to different injuries specified in the Fourth Schedule;
Temporary disablement, whether total or partial, resulting from the injury	A half-monthly payment of the sum equivalent to 25 % of monthly Wages of the employee

- The half-monthly payment referred under provisions of temporary disablement shall be payable on the 16th day-
 - (i) From the date of disablement where such disablement lasts for a period of 28 days or more; or
 - (ii) After the expiry of a waiting period of 3 days from the date of disablement, where such disablement lasts for a period of less than 28 days; and thereafter half-monthly during the disablement or during a period of 5 years, whichever is shorter:

- Further, there shall be deducted from any lump sum or half-monthly payments to which the employee is entitled the amount of any payment or allowance which the employee has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and such payment or allowance which the employee has received from the employer towards his

medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation;

- No half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly Wages of the employee before the accident exceeds half the amount of such Wages which he is earning after the accident.
- If the injury of the employee results in his death, the employer shall, in addition to the compensation deposit with the competent authority a sum of not less than 15000 rupees for payment of the same to the eldest surviving dependent of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependant or was not living with his dependant at the time of his death, to the person who actually incurred such expenditure.

7.5 Compensation to be paid when due and damages for default

- Employer is liable to pay compensation as soon as it falls due.
- In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the competent authority or made to the employee, as the case may be, without prejudice to the right of the employee to make any further claim.
- Where any employer is in default in paying the compensation due **within 1 month** from the date it fell due, the competent authority shall:
 - (a) direct the employer, in addition to the amount of the arrears, pay simple interest thereon at the rate of 12% per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, and
 - (b) if in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding 50% of such amount of arrears by way of damages.

7.6 Method of calculating monthly Wages for purposes of compensation

Period in which Employee has been in service	Amount of Monthly Wages
During a continuous period of not less than twelve months immediately preceding the accident	one-twelfth of the total Wages which have fallen due for payment to him by the employer in the last twelve months of that period
whole of the continuous period of service immediately preceding the accident was less than one month	average monthly amount which, during the twelve months immediately preceding the accident, was being earned by an employee employed on the same work by the same employer, or, if there was no employee so employed, by an employee employed on similar work in the same locality
In other cases	30 times the total Wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period

Note: "a period of service" shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding 14 days.

7.7 Commutation of half monthly payments

Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued **for not less than 6 months**, on the application of either party to the competent authority be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the competent authority, as the case may be.

7.8 Distribution of compensation

- No payment of compensation in respect of the employee whose injury has resulted into death or no payment of compensation to a woman or a person under a legal disability shall be **made**

otherwise than by deposit with the competent authority, and no such payment made directly by an employer shall be deemed to be a payment of compensation.

Provided that, in the case of a deceased employee, an employer may make to any dependent advances on account of compensation of an amount equal to 3 months' Wages of such employee and so much of such amount as does not exceed the compensation payable to that dependent shall be deducted by the competent authority from such compensation and repaid to the employer.

- Any other sum amounting to **not less than 5000 rupees** which is payable as compensation may be deposited with the competent authority on behalf of the person entitled thereto.
- On the deposit of any money as compensation in respect of a deceased employee, the competent authority shall, if he thinks necessary, cause notice to be published or to be served on each dependant calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation.
- If the competent authority is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid.
The competent authority shall, on an application by the employer, furnish a statement showing in detail all disbursements made.
- Where any lump sum deposited with the competent authority is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, where a half monthly payment is payable to any person under a legal disability, the competent authority may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the employee or to any other person, whom the competent authority thinks fit to provide for the welfare of the employee.
- Where, on application made to him in this behalf or otherwise, the competent authority is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the competent authority as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependent is to be invested, applied or

otherwise dealt with, ought to be varied, the competent authority may make such orders for the variation of the former order as he thinks just in the circumstances of the case.

- Where the competent authority varies any order by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered and for such purpose the competent authority shall be deemed to be a public officer.

7.9 Notice and claim

- No claim for compensation shall be entertained by a competent authority unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred **before him within 2 years of the occurrence of the accident or, in case of death, within two years from the date of death.**
- Where the accident is the contracting of a disease, the accident shall be deemed to have occurred on the first of the days during which the employee was continuously absent from work because of the disease.
- In case of partial disablement due to the contracting of any such disease and which does not force the employee to absent himself from work, the period of two years shall be counted from the day the employee gives notice of the disablement to his employer.
- If an employee who, having been employed in an employment for a continuous period, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected.
- The want of or any defect or irregularity, in a notice given shall not be a bar to the entertainment of a claim—
 - if the claim is preferred in respect of the death of an employee resulting from an accident which occurred on the premises of the employer, or at any place where the employee at the time of the accident was working under the control of the employer or of any person employed by him, and the employee died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

- if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed had knowledge of the accident from any other source at or about the time when it occurred.
 - Provided that the competent authority may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.
- Every notice shall give the name and address of the person injured and shall state the cause of the injury and the date on which the accident happened, and shall be served on the employer.
- A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or where possible, electronically or, where a notice-book is maintained, by entry in the notice-book.

7.10 Contracting

- Where any person in the course of or for the purposes of his trade or business contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any employee employed in the execution of the work any benefits, such as gratuity, maternity benefits and compensation, which he would have been liable to pay if that employee had been immediately employed by him.
- Where the principal is liable to pay benefits, he shall be entitled to be indemnified by the contractor, or any other person from whom the employee could have recovered the benefits and where a contractor who is himself a principal is liable to pay benefits or to indemnify a principal he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the employee could have recovered the benefits, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the competent authority.

7.11 Insolvency of employer

- Where any employer has entered into a contract with any insurers in respect of any liability to any employee, then, in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the employee, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the employee than they would have been under the employer.

- If the liability of the insurers to the employee is less than the liability of the employer to the employee, the burden of proof shall lie on the employee for the balance in the insolvency proceedings or liquidation.

- There shall be deemed to be included among the debts which under section 53 of the Insolvency and Bankruptcy Code, 2016 or under section 320 of the Companies Act, 2013 are in the distribution of the assets of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation, the liability accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and the provisions of that Code and Act shall have effect accordingly.

- Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if applications were made for that purpose under section 80, and a certificate of the competent authority as to the amount of such sum shall be conclusive proof thereof.

7.12 Registration of agreements

- Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman, or a person under a legal disability, a memorandum thereof shall be sent by the employer to the competent authority, who shall, on being satisfied as to its genuineness, record the memorandum in a register in such manner as may be prescribed by the appropriate Government.

- Further, no such memorandum shall be recorded before seven days after communication by the competent authority of notice to the parties concerned.
- The competent authority may at any time rectify the register.
- Where it appears to the competent authority that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, the competent authority may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as the competent authority thinks just in the circumstances.

7.13 Form of Application

- No application for the settlement of any matter by competent authority, other than an application by a dependent or joint application by dependents for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.
- An application to a competent authority for claim or settlement may be made electronically or otherwise in such form and in such manner accompanied by such fee, if any, as may be prescribed by the Central Government.
- The time limit for disposal of applications and the costs incidental to the proceedings to be imposed by the competent authority shall be such as may be prescribed by the state govt.

7.14 Powers and procedure of competent authority

The competent authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the competent authority shall be deemed to be a Civil Court.

7.15 Method of recording evidence

The competent authority shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be

authenticated under the hand of the competent authority or in the manner as may be prescribed by the State Government and shall form part of the record.

7.16 Appeal against order of competent authority

- An appeal shall lie to the High Court from the following orders of a competent authority, namely:—
 - an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
 - an order awarding interest or penalty under section 77;
 - an order refusing to allow redemption of a half-monthly payment;
 - an order providing for the distribution of compensation among the dependants of a deceased employee, or disallowing any claim of a person alleging himself to be such dependant;
 - an order allowing or disallowing any claim for the amount of an indemnity; or
 - an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions.

- No appeal shall lie against any order unless a substantial question of law is involved in the appeal, unless the amount in dispute in the appeal is not less than 10,000 rupees or such higher amount as the central govt may by notified.

- The period of limitation for an appeal under this section shall be sixty days.

- The provisions of section 5 of the Limitation Act, 1963, shall be applicable to appeals.

CHAPTER 8 - SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS

8.1 Levy and Collection of Cess

- There shall be levied and collected a cess for the purposes of social security and welfare of building workers at such rate not **exceeding 2% but not less than 1%** of the cost of construction incurred by an employer, as the Central Government may, by notification, from time to time specify.

The cost of construction shall not include:—

- (a) The cost of land; and
 - (b) Any compensation paid or payable to an employee or his kin under workmen compensation.
-
- The cess levied shall be collected from every employer undertaking building or other construction work in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority or such other authority notified by the State Government is required, as may be prescribed by the Central Government.
 - The proceeds of the cess collected shall be deposited by the local authority or such other authority notified by the State Government to the Board or any other authority in such manner as may be prescribed by the Central Government.
 - The cess leviable under this Chapter including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed by the Central Government on the basis of the quantum of the building or other construction work involved.

8.2 Interest Payable on Delay in Payment of Cess

If any employer fails to pay any amount of cess within such time as may be prescribed by the Central Government, such employer shall be liable to pay interest on the amount to be paid at the rate prescribed for the period from the date on which such payment is due till such amount is actually paid.

8.3 Power to exempt from cess

Notwithstanding anything contained in this Chapter, the Central Government may, by notification, exempt any employer or class of employers in a State from the payment of cess payable under this Chapter where such cess is already levied and payable under any corresponding law in force in that State.

8.4 Self-assessment of cess

- The employer shall, within **60 days or such period** as may be notified by the appropriate Government of the completion of his each building and other construction work, pay such cess (adjusting the advance cess already paid) payable under this Chapter on the basis of his self-assessment on the cost of construction worked out on the basis of the documents and in the manner prescribed by the Central Government and after such payment of cess.
- If the officer or the authority to whom or to which the return has been filed, finds any discrepancy in the payment under the self- assessment and under the return, he shall after making or causing to be made such inquiry as he thinks fit and after such inquiry, make the appropriate assessment order.
- An order of assessment shall specify the date within which the cess shall be paid by the employer, if any.

8.5 Penalty for nonpayment of cess within the specified time and Appeals

- If any amount of cess payable by any employer is not paid within the date specified in the order of assessment made, it shall be deemed to be in arrears and the authority prescribed by the Central Government in this behalf may, after making such inquiry as it deems fit, impose on such employer a **penalty not exceeding the amount of cess**.
- **Before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after hearing the said authority is satisfied, then no penalty shall be imposed under this section.**
- Any employer aggrieved by an order of assessment made or by an order imposing penalty may, within such time as may be prescribed by the Central Government; appeal to such appellate authority as may be prescribed by the Central Government.
- Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

8.6 Registration of building workers as beneficiaries

Every building worker who has completed 18 years of age, but has not completed 60 years of age, and who has been engaged in any building or other construction work for not less than 90 days during the preceding 12 months shall be registered by the officer authorized by the Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government.

8.7 Cessation as a beneficiary

- A building worker who has been registered as a beneficiary shall cease to be as such when he attains the age of **60 years** or when he is not engaged in building or other construction work for not less than **90 days** in a year:

- Provided that in computing the period of ninety days, there shall be excluded any period of absence from the building or other construction work due to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

- If a person had been a beneficiary for at least **3 years continuously** immediately before attaining the age of sixty years, then, he shall be eligible to get such benefits as may be prescribed by the Central Government.

CHAPTER 9- SOCIAL SECURITY FOR UNORGANIZED WORKERS, GIG WORKERS AND PLATFORM WORKERS

9.1 Framing of scheme for unorganized workers

The Government shall formulate and notify, from time to time, suitable welfare schemes for unorganized workers on matter relating to:

Central Government	State Government
<ul style="list-style-type: none">• life and disability cover;• health and maternity benefits;• old age protection;• education;• Any other benefit as may be determined by the Central Government.	<ul style="list-style-type: none">• provident fund;• employment injury benefit;• housing;• educational schemes for children;• skill up gradation of workers;• funeral assistance; and• Old age homes.

9.2 Record keeping:

The Government formulating and notifying the scheme shall provide therein the form and manner of keeping the records electronically or otherwise relating to the scheme and the authority by which such records shall be maintained.

9.3 Helpline Facilitation Centre, etc. for unorganized workers, gig workers and platform workers

- The Central Government or the State Government may set-up a toll free call centre or helpline or such facilitation centers as may be considered necessary from time to time to perform the following functions, namely:-
- Disseminate information on available social security schemes for the unorganized workers, gig workers and platform workers;
 - Facilitate filling, processing and forwarding of application forms for registration of unorganized workers, gig workers and platform workers;
 - Assist unorganized worker, gig workers and platform workers to obtain registration; and
 - Facilitate the enrolment of the registered unorganized workers, gig workers and platform workers in social security schemes.

9.4 Registration of unorganized workers, gig Workers and platform Workers

- Every unorganized worker, gig worker and platform worker shall be required to be registered, for the purposes of this Chapter, subject to the fulfillment of the following conditions, namely:-
 - he has completed 16 years of age or such age as may be prescribed by the Central Government;
 - he has submitted a self-declaration electronically or otherwise in such form, in such manner and to such authority containing such information as may be prescribed by the Central Government.
 - Every eligible unorganized worker, gig worker or platform worker shall make an application for registration in such form along with documents including Aadhar Number and worker shall be assigned a distinguishable number to his application.
 - The System of electronic registration maintained by the govt shall also provide for self registration by the workers.
 - A registered worker shall be eligible to avail the benefits of the concerned schemes.

9.5 Schemes for gig workers and platform workers

- The Central Government may formulate and notify, from time to time, suitable social security schemes for gig workers and platform worker on matters relating to—
 - Life and disability cover;
 - Accident Insurance
 - Health and maternity benefits;
 - Old age protection; and
 - Any other benefit as may be determined by the Central Government.
- Every scheme formulated and notified under sub-section (1) may provide for—
 - The manner of administration of the scheme;
 - The agency or agencies for implementing the scheme;
 - The role of aggregators in the scheme;
 - The sources of funding of the scheme; and
 - Any other matter as the Central Government may consider necessary for the efficient administration of the scheme.

CHAPTER 10 - AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY

10.1 Maintenance of records, registers, returns etc

- An employer of an establishment shall-
 - maintain records and registers in the form, **electronically or otherwise**, containing such particulars and details with regard to persons employed, muster roll, Wages and such other particulars and details, in such manner, as may be prescribed by the appropriate Government including –
 - Number of days for which work performed;
 - Number of hours of work performed by a worker;
 - Wage paid;
 - Leave, leave Wages, Wages for overtime work and attendance;
 - Employees identification number, by whatever nomenclature it may be called;
 - Number of dangerous occurrences, accidents, injuries in respect of which compensation has been paid by the employer and the amount of such compensation relating to this code;
 - Statutory deductions made by employer from the Wages of an employee; and
 - Details as to cess paid in respect of building and other construction work.
 - Total number of employees (regular, contractual or fixed term employment) on the day specified
 - Persons recruited during a particular period
 - Occupational details of the employees
 - Vacancies for which suitable candidates were not available during the specified period

- **Display notices** at the work places of the workers in the manner and form as may be prescribed by appropriate Government.

- **Issue wage slips** to the workers, in electronic forms or otherwise; and

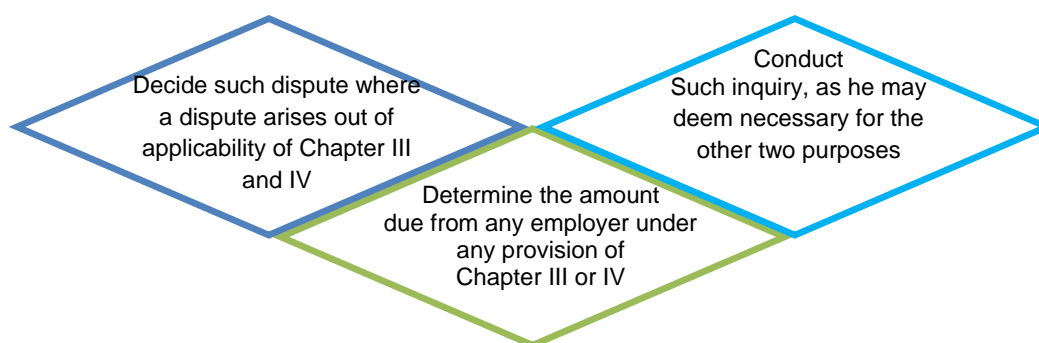
- **File such return** electronically or otherwise to such officer or authority in such manner and during such periods as may be prescribed by appropriate Government.

10.2 Employer not to reduce Wages

No employer in relation to an establishment to which this code or any scheme framed there under applies shall, by reason only of his liability for the payment of any contribution under this code, or any charges there-under reduce whether directly or indirectly, the Wages of any employee or the total quantum of benefits to which such employee is entitled under the terms of his employment, express or implied.

10.3 Assessment and determination of money dues from employer

- The Central Government may authorize, such officers of the Central Board or the Corporation, not below the rank of Group A officer of that Government, to function as the Authorized officers for the purposes of Chapter III or Chapter IV of the Code, who may, by order-



- No proceeding shall be initiated after the expiry of the period of 5 years from the date on which the dispute is alleged to have been due from an employer.
- Irrelevant of the Code of Civil Procedure, 1908, the inquiry as far as practicable, shall be held on day-to-day basis and endeavor shall be made to ensure that the inquiry is concluded within a period of 2 years.
- When the enquiry is not concluded within a period 2 years, the officer conducting enquiry shall record the reasons for the same and submit to Central PF Commissioner or to the Director General of the Corporation, or any other officer authorized by him in this behalf After considering the reason, the Central PF Commissioner or the Director General of the Corporation may grant an extension for a period up to 1 year.
- The Authorized officer conducting the inquiry shall, for the purposes of such inquiry have the same powers as are vested in a court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:-
 - enforcing the attendance of any person or examining him on oath;

- requiring the discovery and production of documents;
 - receiving evidence on affidavit; and
 - issuing commissions for the examination of witnesses
- Where the employer, employee or any other person required to attend the inquiry fails to attend such inquiry without assigning any valid reason or fails to produce any document when called upon to do so, inquiry officer may decide the applicability of the relevant provisions of this Code or determine the amount due from any employer, on the basis of the evidence adduced during such inquiry and other documents available on record.

10.4 Appeal against the order of the authorized officer

- If an employer is not satisfied with the order made, he may prefer an appeal to an appellate authority as may be prescribed by the Central Government, within **60 days of the date of such order only after depositing 25% of the contribution** so ordered or the contribution as per his own calculation, whichever is higher, with the concerned Social Security Organization.
- If the employer finally succeeds in the appeal, the concerned Social Security Organization shall refund such deposit to the employer together with such interest **within 45 days** of such final order appeal.

10.5 Recovery of amount due

- Any amount due from an employer or any other person in relation to an establishment including any contribution or cess payable, charges, interest, damages, or benefit or any other amount may, if the amount is in arrears, be recovered in the manner specified in sections 130 to 132 of the code.
- Where any amount is in arrears under this Code, the Authorized officer, or the Competent Authority, as the case may be, shall issue, to the Recovery Officer, a certificate under his signature, electronically or otherwise, specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer, by one or more of the modes mentioned below, namely:-
- attachment and sale of the moveable or immovable property of the establishment or, as the case may be, of the employer;
 - arrest of the employer and his detention in prison;

- appointing a receiver for the management of the movable or immovable properties of the defaulter:

- The Authorized officer or the Competent Authority, may forward the certificate issued, to the Recovery Officer within whose jurisdiction the employer-
 - carries on his business or profession or within whose jurisdiction the principal place of his establishment is situated; or
 - Resides or any movable or immovable property of the establishment or the employer is situated.

CHAPTER 11 - OFFENCES AND PENALTIES

11.1 Penalty for failure to pay contributions, etc.

Offences	Penalties
<p>If any person being an employer, fails to pay any contribution which he is liable to pay under this Code or rules, regulations or schemes made thereunder</p>	<p>Imprisonment for a term which may extend to 3 years but—</p> <p>(a) which shall not be less than 1 year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's Wages and shall also be liable to fine of one lakh rupees;</p> <p>(b) which shall not be less than six months, in any other case and shall also be liable to fine of fifty thousand rupees:</p> <p>Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term.</p>
<p>If any person being an employer-</p> <ul style="list-style-type: none"> • Deducts or attempts to deduct from the Wages of an employee, the whole or any part of employer's contribution. • in contravention of the provisions of this Code, reduces the Wages or any privilege or benefits admissible to an employee. • in contravention of the provisions of Chapter IV or Chapter VI or rules, regulations or schemes made or framed under this Code relating, respectively, to such Chapters, dismisses, discharges, reduces in rank or otherwise penalizes a woman employee. • Obstructs any Inspector-cum-Facilitator or other officer or staff of the Central Board or 	<p>Imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both</p>

<p>the Corporation or other Social Security Organization or a Competent Authority in the discharge of his duties.</p> <ul style="list-style-type: none"> • Fails to pay any amount of gratuity to which an employee is entitled under this Code. • Fails to provide any maternity benefit to which a woman is entitled under this Code. • Fails to produce on demand by the Inspector-cum-Facilitator any register or document in his custody kept in pursuance of this Code or the rules, regulations or schemes made or framed thereunder. • fails to pay the cess for building workers which he is liable to pay under this Code. • is guilty of any contravention of or non-compliance with any of the requirements of this Code or the rules or the regulations or schemes made or framed thereunder in respect of which no special penalty is provided in this Chapter. 	
<p>If any person being an employer-</p> <ul style="list-style-type: none"> • Fails or refuses to submit any return, report, statement or any other information required under this Code or any rules, regulations or schemes made or framed thereunder. • Fails to pay any amount of compensation to which an employee is entitled under this Code. • Fails to send to a competent authority a statement which he is required to send under Chapter VII. • obstructs executive officer in exercising his functions under Chapter XIII 	<p>Fine which may extend to 50,000 rupees</p>
<p>If any person being an employer dishonestly makes a false return, report, statement or</p>	<p>Imprisonment for a term which may extend to 6 months.</p>

11.2 Enhanced punishment in certain cases after previous conviction

- Whoever, having been convicted by a court of an offence punishable under this Code, commits the **same offence shall, for second**, or every subsequent such offence, be punishable with **imprisonment** for a term which may extend to **two years and with fine of two lakh rupees**:
- Provided that where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation which under this Code he is liable to pay, he shall, for such second or subsequent offence, be punishable with imprisonment for a term which may extend to **3 years but which shall not be less than two years and shall also be liable to fine of 3,00,000 rupees.**

11.3 Offences by companies

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

11.4 Cognizance of offences

- No court shall take cognizance of an offence punishable under this Code except on a complaint made by such officer or other person as may be prescribed for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government.
- No prosecution under this Code shall be instituted except by or with the previous sanction of the authority prescribed for the purposes of offences relating to Chapter III and Chapter IV.
- No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Chapter.

11.5 Compounding of Offences

- Irrespective of anything contained in the Code of Criminal Procedure, 1973, any offence committed for the first time, punishable under this Chapter, punishable with fine only or

punishable with imprisonment for a term which is not more than 1 year and also with fine, on an application made, either before or after the institution of any prosecution, be compounded by an officer authorized by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and

- For the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government, in such manner as may be prescribed by the Central Government on payment by the offender to the appropriate Government such amount as may be notified by that Government.

- A person who fails to comply with the order made by the officer, shall be liable to pay a sum equivalent to 25% of the maximum fine provided for the offence, in addition to such fine.

CHAPTER 12 - EMPLOYMENT INFORMATION AND MONITORING

12.1 Reporting of vacancies to career centers

- The appropriate Government may, by notification, require that from such date as may be specified in the notification, the employer in every establishment shall report that vacancy to such career center as may be specified in the notification and the employer shall thereupon comply with such requisition.
- The appropriate Government may prescribe the manner in which such vacancies shall be reported to the career centers electronically or reported along with the form if any and manner of filing the form by the employer.

12.2 Exclusions from applications:

- The reporting criteria shall not apply in case of following vacancies:

- In any employment in agriculture (including horticulture) in any establishment in private sector other than employment in plantation
- In any employment in domestic service
- In any employment connected with the staff of Parliament or any State Legislature
- In any employment the total duration of which is less than ninety days
- In any class or category of establishments as may be notified by the Central Government
- In any establishment (other than Government establishment) with less than 20 or such number of employees as may be notified by the Central Government

Chapter 13 – Miscellaneous

13.1 Application of Aadhar

- An employee or unorganized worker or any other person for—
 - registration as member or beneficiary; or
 - seeking benefit whether in kind, cash or medical sickness benefit or pension, gratuity or maternity benefit or any other benefit or for withdrawal of fund; or
 - availing services of career center; or
 - receiving any payment or medical attendance as insured person himself or for his dependents,

Under this Code has to establish his identity or, the identity of his family members or dependents through Aadhar number in such manner as may be prescribed by the Central Government.

- The Aadhar number issued to an individual shall be in accordance with the provisions of section 3 of the Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

13.2 Power to defer or reduce

In PF and ESIC , the Central Govt may be order, defer or reduce employer's contribution, or employee's contribution or both, payable under PF and ESIC for a period up to 3 months at a time for whole in india or part thereof in the event of pandemic, endemic or national disaster.

13.3 Liability in case of transfer of establishment

- Where an employer transfers his establishment in whole or in part, by sale, gift, lease or license or in any other manner, the transferee shall jointly and severally be liable to pay the amount due in respect of any liabilities, cess or any other amount payable under this Code in respect of the periods up to the date of such transfer.
- Further, the liability of the transferee shall be limited to the value to the assets acquired by him by such transfer.

THE INDUSTRIAL RELATIONS CODE, 2020

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CHAPTER 1 - INTRODUCTION

1.1 The proposed legislation intends to amalgamate, simplify and rationalize the relevant provisions of the following three central labour enactments relating to industrial relations, namely: — It seeks to replace three labour laws:

- the Industrial Disputes Act, 1947,
- the Trade Unions Act, 1926, and
- the Industrial Employment (Standing Orders) Act, 1946.

It extends to the whole of India.

CHAPTER 2 - SALIENT FEATURES

- 2.1 This is to simplify, rationalize and harmonize several differences in definitions and application of labour laws across industry, states and companies.
- 2.2 To define the expression “fixed term employment” to mean engagement of a worker on the basis of a written contract of employment for a fixed period. The fixed term employee will get all statutory benefits like social security, Wages, etc., at par with the regular employee who is doing work of same or similar nature; it defines the term “Industry” with certain exceptions; The definition of "strike" is proposed to be modified to include mass casual leave within its ambit;
- 2.3 To define the term "worker" to include persons in supervisory capacity getting Wages up to fifteen thousand rupees within its ambit. At present, under the Industrial Disputes Act, 1947, definition of 'worker' includes person in supervisory capacity getting salary up to ten thousand rupees per month;
- 2.4 to provide for the obligation on the part of the industrial establishment pertaining to mines, factories and plantation having one hundred or more workers to take prior permission of the appropriate Government before lay-off, retrenchment or closure. However, the appropriate Government is proposed to be empowered to modify such threshold number of workers by notification;
- 2.5 To set up a re-skilling fund for training of retrenched employees, to which the employers will pay a contribution of 15 days Wages or such other days as may be notified by the Central Government in case of retrenchment of workers
- 2.6 In case of more than one Trade Union of workers, a Trade Union would be designated as a sole negotiating union if it has support of 51% or more of the workers on the muster roll in an establishment and if no Trade Union has such support strength on the muster roll of an establishment, then a negotiating council will be constituted for negotiation;
- 2.7 To provide for Industrial Tribunal to be the adjudicating body to decide appeals against the decision of the conciliation officer in place of multiple adjudicating bodies like Court of Inquiry, Board of Conciliation and Labour Courts

- 2.8 The maximum number of members in the Grievance Redressal Committee has been increased from 6 to 10; provisions are being made to have two-member Industrial Tribunals, with second member being from administrative side, in place of single member Labour Court and Industrial Tribunal at present. Further, the Tribunal will be empowered to execute the award as a decree of a civil court, which will facilitate speedy disposal of disputes
- 2.9 To prohibit strikes and lockouts in any industrial establishment without giving notice of 14 days and also during the pendency of conciliation proceedings;
- 2.10 Rights of workers laid off, for compensation shall not apply to industrial establishments in which less than 50 workers on an average per working day have been employed in the preceding calendar month; or to industrial establishments which are of a seasonal character or in which work is performed intermittently.
- 2.11 To empower the appropriate Government to appoint officers for holding enquiry and impose penalty in certain contraventions punishable with fine up to 50,000 rupees.
- 2.12 To provide for compounding of offences which are not punishable with imprisonment.
- 2.13 The employer shall prepare draft standing orders within a period of 6 months from the date of commencement of this code, based on the model standing orders referred to in sec.29.
- 2.14 The Code prohibits employers, workers, and trade unions from committing any unfair labour practices listed in a Schedule to the Code. These include:
- Restricting workers from forming trade unions,
 - Establishing employer sponsored trade union of workers, and
 - Coercing workers to join trade unions.

CHAPTER 3 - APPLICABILITY

- It shall extend to the whole of India
- It shall come into force on such date as the Central Government may, notify in the Official Gazette

CHAPTER 4 - IMPORTANT DEFINITIONS

4.1 "average pay"— Section 2(c)

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;

4.2 "industrial dispute" — Section 2(q)

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;

4.3 "lay-off" (with its grammatical variations and cognate expressions) — Section 2(t)

the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason, to give employment to a worker whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched;

4.4 "lock-out" — Section 2(u)

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;

4.5 "retrenchment" — Section 2(zc)

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 if the contract of employment between the employer and the worker concerned contains a stipulation in that behalf; 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;

4.6 "strike" — Section 2(zk)

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 50% . or more workers employed in an industry;

4.7 "Trade Union" — Section 2(zl)

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;

4.8 "unorganized sector" shall have the same meaning as assigned to it in clause (l) of section 2 of the Unorganized Workers' Social Security Act, 2008;

CHAPTER 5 - BI-PARTITE FORUMS

5.1 Constitution of Works Committee:

Applicability	Representative members in Committee	Ratio of representative	Objective and duties of committee
Every establishment in which 100 or more workers are been employed on any day in preceding 12 months	It consists of representatives of employer and workers engaged in establishment. Representatives of workers chosen shall be in consultation with their trade union (if any).	Worker representatives not less than the number of representatives of employer	promote measures for securing and preserving amity and good relations between the employer and workers.

5.2 Constitution of Grievance Redressal Committee:

Applicability	Every establishment having more than 20 or more workers shall require constituting one or more Grievance Redressal Committees
Ratio of representative	Consist of equal number (50:50) of members representing the employer and the workers.
Constitution of Committee	(i) Appointment of Chair Person: - The chairperson selected from among persons representing the employer and the workers alternatively on rotational basis every year. (i) women workers 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.
Limitation of member	The number of members should not exceed 10.
Objective and duties of	the resolution of disputes arising out of grievances of an individual worker

committee	relating to non-employment, terms of employment or conditions of service.
Grievance solving process	<p>Application of dispute: -</p> <ul style="list-style-type: none"> • Any aggrieved worker may file application of dispute before committee within 1 year from date on which cause of action of such dispute arise. <p>Time limit to resolve dispute: -</p> <ul style="list-style-type: none"> • The Committee may complete its proceedings within 30 days. <p>Decision of Committee: -</p> <ul style="list-style-type: none"> • The decision shall be made on the basis of majority view of the Committee <p><i>“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”</i></p>
Appeal against Committee decision	The worker who is aggrieved by the decision of committee or whose grievance is not resolved in the said Committee within 30 days, may within period of 60 days from the date of decision or the said period (30 days) expiry, file an application for conciliation in of such grievance to the conciliation officer in such manner as may be prescribed

CHAPTER 6 - TRADE UNIONS

6.1 Criteria for Registration

Application for registration	Any 7 or more members of a Trade Union may, apply for registration of the Trade Union
Registration of Trade union	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 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	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, applicants 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
Requirement of Minimum membership to be continue	A registered Trade Union of workers shall at all times continue to have not less than 10% of the workers or 100 workers, whichever is less, subject to a minimum of 7, engaged or employed in an establishment or industry with which it is connected, as its members

6.2 Provisions to Be Contained In Constitution or Rules of Trade Union

- Prerequisites that are required to be fulfilled to get eligible for registration:
 - **Name:** - the name of the Trade Union;
 - **Object:** - Establishment of whole object of trade union.
 - **The lawful purpose:** - The lawful purposes for the general funds applicability
 - **Inspection of members:** - The maintenance of a list of members and adequate facilities for the inspection thereof;
 - **Admissibility of members:-** The admission of ordinary members who shall be persons actually engaged or employed in the establishment, undertaking or industry, or units, branches or offices of an establishment, 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 to be office-bearers to form the executive of the Trade Union;
 - **Subscription fees and donation:** - the payment of a subscription by members of the Trade Union and donation from such members;

- **Entitlement of benefits and Imposing of fines/forfeiture:** - 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;
- **Matters governed by Annual General Body:** - 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;
- **Manner of appointment and time frame for election and removal:** - 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 3 years and removed, and filling of casual vacancies;
- **Safety of funds:** - The safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof;
- **Inspection of books of accounts:** - adequate facilities for the inspection of the account books by the office-bearers and members of the Trade Union;
- **Manners to frame rules and regulation:** - the manner in which the rules shall be amended, varied or rescinded;
- **Manner of dissolution of union:** - the manner in which the Trade Union may be dissolved.

6.3 Procedure for Registration of Trade Union and Cancellation Thereof

Grant and registration of trade union	If registrar is not satisfied with furnished information, he shall refuse registration for the trade union and communicate electronically or by other mode, stating reason of refusal.	If registration granted, then he shall issue registration certificate to the applicant of trade union.
Register of trade union	The Registrar enters details like name and other particulars in his register after grant of certificate.	
Validity of earlier registered trade union	Every Trade Union registered under the Trade Unions Act, 1926 having valid registration shall deemed to have been registered under this Code	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.

6.4 Provisions for withdrawal or Cancellation of trade union and incorporation

	Circumstances for cancellation of registration	Prerequisite before 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	Provided that <ul style="list-style-type: none"> - 60 Days previous notice need to be given to trade union by the registrar - Notice shall clearly specify the ground for cancelling the certificate of registration
	(ii) on contravention by the Trade Union of the provisions of this Code or the rules made thereunder or its constitution or rules:	
	(ii) A certificate of registration cancelled by the Registrar where a Tribunal has made an order for cancellation of registration	While cancelling, 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.	<ul style="list-style-type: none"> -Any person aggrieved by the order of cancellation or refusal may file appeal within such time as may be specified. Provided that tribunal may entertain appeal after such period on sufficient cause of reason. -Appeal to be filed to the tribunal -After giving opportunity of being heard, tribunal may pass order to register or set a side cancellation of registration and issue certificate. -After passing order, copy shall be forwarded to concern registrar 	
Incorporation of a registered Trade Union	Every registered trade union shall <ul style="list-style-type: none"> -Be body corporate by the name -have perpetual succession and common seal. -power to acquire and hold moveable and immoveable property and to contract -by the said name sue and be sued. 	

6.5 Non-applicability of certain acts to trade union

• The Societies Registration Act, 1860
• The Co-operative Societies Act, 1912
• The Multi-State Co-operative Societies Act, 2002
• The Companies Act, 2013
• Any other corresponding law relating to co-operative societies for the time being in force in any State

6.6 Recognition of Negotiating Union Or Negotiating Council

For negotiating with the employer of the industrial establishment, there shall be negotiating union or negotiating council.

Number of Trade Union Registered	Who will be Negotiating Union?
One	Such trade union will be recognized by employer as sole negotiating union.
More than one	Trade Union having 51% or more workers on the muster roll of that establishment will be recognized as the sole negotiating union.
More than one trade union and not enough strength (75% or more worker)	<p>Appropriate Government will constitute a negotiating council consisting of the representatives of such Trade Unions which have the support of not less than 20% of the total workers on the muster roll and such representation shall be of one representative for each 10%, of such total workers.</p> <p><i>“Where any negotiation between employer and council and any agreement said to be reached if it is supported by majority of council”</i></p> <p><i>“Any negotiation as specified above shall be valid for three years from the date of recognition or constitution”</i></p> <p><i>“An agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade (Section 18)”</i></p>

6.7 Disqualification of Office-bearers of Trade Unions

A person shall be disqualified from being a member of the executive or any other office-bearer of a registered Trade Union if—

- he has not attained the age of 18 years;
- he has been convicted by a court in India of any offence involving moral turpitude and sentenced to imprisonment unless a period of 5 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.

“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”

6.8 Adjudication of Disputes of Trade Unions

Where a dispute arises between—

- one Trade Union and another; or
- one or more workers who are members of the Trade Union and the Trade Union matters; or
- one or more workers who are refused admission as members and the Trade Union; or
- where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorized in this behalf by the Trade Union,

an application may be made to the Tribunal having jurisdiction over the area.

No civil court other than the Tribunal shall have power to entertain any suit or other proceeding in relation to any dispute referred above.

6.9 Proportion of Office-Bearers To Be Connected With Industry

- **At least ½ of the total number of the office-bearers** of every registered Trade Union in an **unorganized sector** shall be persons actually engaged or employed in an establishment or industry with which the Trade Union is connected.

“Provided that appropriate government may by general or special order declare that provision shall not apply to specific trade union”

- All office-bearers of the registered trade union other than 1/3rd of the total members or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

“an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union’

6.10 Change of Name, Amalgamation, Notice of Change and Its Effect

- With the consent of at least 2/3rd of the members, any registered Trade Union may change its name
- Any two or more registered Trade Unions may be amalgamated.
- Notice in writing of every change of name and of every amalgamation signed:

In the case of a change of name	by the secretary and by seven members of the Trade Union changing its name, and	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 the case of an amalgamation	by the secretary and by seven members of each and every Trade Union which is a party thereto	

6.11 Dissolution of trade union

- **Intimation notice of dissolution to registrar:** - Notice of the dissolution signed by **seven members and by the secretary** of the Trade Union shall, **within 14 days of the dissolution**, be sent to the Registrar.
- **Effect of dissolution:** - The dissolution shall have effect from the date of such registration admitted.
- **Distribution of fund:** - Where 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.

6.12 Annual returns

- **Every registered Trade Union shall**

(a) forward annually to the Registrar, on or before such date, in such form, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and	(b) along with the general statement 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
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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;	the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar.
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6.13 Intimation of alteration

- A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within 15 days of such alteration.

CHAPTER 7 - STANDING ORDERS

7.1 Application of this Chapter

Applicability	To every industrial establishment wherein 300, or more than 300 are employed, or were employed on any day of the preceding 12 months.
Non-applicability	The provisions of this Chapter shall not apply to an industrial establishment in so far as the workers employed therein are persons to whom <ul style="list-style-type: none">- the Fundamental and Supplementary Rules,- Civil Services (Classification, Control and Appeal) Rules,- Civil Services (Temporary Service) Rules,- Civil Service Regulations, Civilians in Defense Service (Classification, Control and Appeal) Rules or- the Indian Railway Establishment Code;- or any other rules or regulations that may be notified are applicable

7.2 Preparation of Draft Standing Orders by Employer and Procedure for Certification

Preparation of Draft order and matters to be set out in it:-

- The employer shall prepare draft standing orders, within a period of 6 months, based on the model standing orders in respect of **the matter specified in the First Schedule** on any other matter considered necessary by him for incorporation in such standing orders for his industrial establishment or undertaking considering the nature of activity in his industrial establishment.
- **Consultation with trade union:** - The employer shall consult the draft of the standing order, with the Trade Unions or recognized negotiating union or council and thereafter forward a copy of the same for being certified by the certifying officer.
- **Time limit for the certification:** - The employer shall complete the draft within six months from the date, it becomes applicable to his industrial establishment.
- **Actions taken by Certifying officer:** - On receipt of the draft, the certifying officer shall issue notice, for seeking their comments in the matter and after receipt of their comments give an opportunity of being heard —

where there is negotiating union of the industrial establishment or undertaking	to such negotiating union
where there is no negotiating union	to the members of the negotiating council
where there is no Trade Union	to such representatives of the workers

- **Certifying officer shall complete such procedure for certification**
 - (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,

- **Certification review:** - 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.

- **Function of certifying officer:** - It shall be the function of the certifying officer or the appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

- **Modification, certification and circulation:-** The certifying officer shall certify the draft standing orders, after making modifications, if any, therein, and shall within 7 days thereafter send copies of the certified 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.

- **Statement of particulars:-** The draft standing orders or draft of the proposed standing orders shall be accompanied by a statement giving such particulars, as may be prescribed, of the workers employed in the industrial establishment, the Trade Union to which they belong, and the negotiating union or negotiating council, if any.

- **Provision related to Joint draft:-** A group of employers in similar establishments may submit a joint draft of standing orders and for the purposes of proceedings, 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.

7.3 Date of Operation of Standing Orders and Its Availability

Date of operation	The Modified standing orders shall come into operation on the expiry of 30 days from the date on which authenticated copies thereof are sent.
Appeal	Appeal can be filed on the expiry of 7 days from the date on which copies of the order of the appellate authority are sent.

7.4 Duration and Modification of Standing Orders

Time limit for modification and its application	<p>-Modification not allowed until expiry of 6 months from when last modification came to operation.</p> <p>-The foregoing provisions shall apply as they apply to the certification of the first-time standing orders.</p> <p><i>“However, modification allowed on an agreement between the employer and the workers, or a negotiating union or a Trade Union or other representative body of the workers”</i></p>
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7.5 Provision of Disciplinary Proceedings and Subsistence Allowance:

Where any worker is suspended by the employer pending 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 90 days from the date of suspension.

- **Payment of subsisting allowance rate (for the first 90 days):** - At the rate of 50% of the Wages which the worker was entitled to immediately preceding the date of such suspension, and
- **Payment of subsisting allowance rate (for the remaining period):** - at the rate of 75% of such Wages for the remaining period of suspension, if the delay in the completion of disciplinary proceedings against such worker is not directly attributable to the conduct of such worker.

CHAPTER 8 - NOTICE OF CHANGE

8.1 Notice of Change

- No employer can make any changes in the conditions of service applicable to any worker in respect of any matter specified in the Third schedule of the Code without giving 21 days' notice to workers likely to be affected.
- No notice shall be required where the change is effected in pursuance of any settlement or any award and in emergent situation, change in shift.

CHAPTER 9 - VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

9.1 Voluntary Reference of Disputes to Arbitration:

- **Reference of arbitration by mutual agreement:** - Where any industrial dispute exists, the employer and the workers may refer such dispute to arbitration by written agreement stating reference of the person or persons acting as arbitrator.

- **Appointment of arbitrator and its award:** - If the agreement provides for the even number of arbitrators, then the same must provide for the appointment of umpire who shall enter when 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.

- **Circulation and authentication:** - A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer, and the conciliation officer shall, register it in such manner as may be prescribed. It shall be in such form as may be prescribed and be signed by the parties.

- **Reference of appropriate government:** - Appropriate government may by issuing notification give an opportunity of being heard to employer and worker who are not parties to the agreement,
“In case appropriate government satisfied that the persons making the reference represent the majority of each party”

- **Investigation and submission of report:** - 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.

CHAPTER 10 - MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

10.1 Conciliation officers

- The appropriate Government may, appoint such number of persons as conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

10.2 Decision of Tribunal or National Industrial Tribunal

- The decision of a Tribunal or a National Industrial Tribunal, shall be by consensus of the members.
- If members of a Tribunal or National Industrial Tribunal differ in opinion then they shall state the matters on which they differ and make a reference of it to Appropriate Government.
- The appropriate Government shall, on receipt of a reference made, appoint a Judicial Member of other Tribunal or a National Industrial Tribunal, who shall hear the points himself and such points shall be decided according to the majority of the members of a Tribunal or a National Industrial Tribunal, as the case may be, who have first heard the case, including the Judicial Member of the other Tribunal who heard the case thereafter.

10.3 Disqualifications for Members of Tribunal and National Industrial Tribunal

No person shall be appointed to, or continue in, the office of the member of a Tribunal or National Industrial Tribunal, respectively, if—

- he is not an independent person; or
- he has attained the age of sixty-five years.

10.4 Procedure and Powers of Arbitrator, Conciliation Officer, Tribunal And National Industrial Tribunal

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 for the following matters:

- (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,

10.5 Powers of Tribunal and National Industrial Tribunal To Give Appropriate Relief In Case Of Discharge Or Dismissal Of Worker

- If the Tribunal or National Industrial Tribunal is not satisfied with the order of discharge or dismissal or otherwise termination it may, by its award, set aside the order of discharge or dismissal or termination and direct reinstatement of the worker on such terms and conditions, if any, as it thinks fit, or give such other relief to the worker.
- A Tribunal or National Industrial Tribunal, as the case may be, may, in the interest of justice, grant such interim relief to the worker during the pendency of the industrial dispute as the circumstances of the case may require.

10.6 Transfer of Pending Cases

Cases Pending	Transferred
At Labour Court and the Tribunal constituted under the Industrial Disputes Act, 1947	At Tribunal having corresponding jurisdiction under this Code
At National Tribunal constituted under the Industrial Disputes Act, 1947	At National Industrial Tribunal having corresponding jurisdiction under this Code.

10.7 Conciliation and Adjudication of Dispute

- Where any industrial dispute exists or is apprehended or a notice has been given, the conciliation officer shall, hold conciliation proceedings in such manner as may be prescribed.
- The conciliation officer shall not hold any such proceedings relating to the industrial dispute after three years from the date on which such industrial dispute arose.
- 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.
- If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send to the concerned parties and to the appropriate Government, a full report stating all the steps taken for ascertaining the facts and reasons on account of which settlement could not be arrived at.

- The conciliation officer shall send the report to the concerned parties and the appropriate Government within 45 days of the commencement of the conciliation proceedings.

10.8 Form of Award, Its Communication and Commencement

- The award shall be in writing and signed electronically or otherwise by both the Judicial Member and the Administrative Member.
- An award made under this Code shall become enforceable on the expiry of 30 days from the date of its communication.
- If the enforceability of the award becomes inexpedient on public grounds affecting national economy or social justice, then the appropriate Government or the Central Government, may, within 90 days from the date of communication of the award, make an order rejecting or modifying the award.
- Where any award as rejected or modified by an order is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of 15 days from the date on which it is so laid.

10.9 Payment of Full Wages to Worker Pending Proceedings In Higher Courts (Section 56):

Where in any case, a Tribunal or a National Industrial Tribunal by its award directs reinstatement of any worker and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such worker, during the period of pendency of such proceedings in the High Court or the Supreme Court, full Wages last drawn by him.

10.10 Recovery of Money due From Employer

- Where any money is due to a worker from an employer under a settlement or an award or under the provisions of Chapter IX or Chapter X, the worker himself or any other person authorized in this behalf can make application to the appropriate government for the recovery of money and if appropriate government is satisfied with the application, then it shall issue certificate to the collector for recovery.
- Such application shall be made within one year from which the amount is due.
- Where any worker is entitled to receive from the employer any money or any benefit which can be computed in terms of money and if any question arises as to the amount of money due

or as to the amount at which such benefit should be computed, then the question be decided by such Tribunal as may be specified in this behalf by the appropriate Government within a period not exceeding three months.

10.11 Commencement and Conclusion of Proceedings

Commencement	Conclusion
On the date on which the first meeting is held by the conciliation officer after the receipt of the notice of strike or lock-out by the conciliation officer	<ul style="list-style-type: none">• where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;• where no settlement is arrived at, and failure of conciliation is recorded by the conciliation officer; or• when a reference is made to a National Industrial Tribunal, under this Code, during the pendency of conciliation proceedings.

CHAPTER 11 - STRIKES AND LOCK-OUTS

11.1 Prohibition of Strikes and Lock-Outs

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

- **without giving to the employer notice, within 60 days before striking or locking out or,**
- **within 14 days of giving such notice or,**
- **before the expiry of the date of strike or lock-out specified in any such notice or,**
- **during the pendency of any conciliation proceedings before a conciliation officer and 7 days after the conclusion of such proceedings or**
- **during the pendency of proceedings before a Tribunal or a National Industrial Tribunal and 60 days, after the conclusion of such proceedings or**
- **during the pendency of arbitration proceedings before an arbitrator and 60 days after the conclusion of such proceedings, where a notification has been issued**
- **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.**

- If employer receives any such notice then he shall within 2 days of receipt of such notice intimate 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.

11.2 Illegal Strikes And 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.
- 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.

11.3 Prohibition of Financial Aid to Illegal Strikes or Lock-Outs

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

CHAPTER 12 - LAY-OFF, RETRENCHMENT AND CLOSURE

12.1 Application of Sections 67 To 69 :

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

- (a) to industrial establishments in which less than 50 workers on an average per working day have been employed in the preceding 12 calendar month; or
- (b) to industrial establishments which are of a seasonal character or in which work is performed intermittently.

12.2 Definition of Continuous Service

- 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 authorized 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.
- 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—

For a period of 1 year	For a period of 6 months
<p>If the worker during a period of 12 months preceding the date under reference has actually worked for at least:</p> <ul style="list-style-type: none"> • 190 days in case of worker employed below ground in a mine; • 240 days in any other case. 	<p>If the worker during a period of six months preceding the date under reference has actually worked under the employer for at least:</p> <ul style="list-style-type: none"> • 95 days in case of worker employed below ground in a mine; • 120 days in any other case.

12.3 Rights of Workers Laid Off, For Compensation, Etc.

- Whenever a worker whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene,

compensation which shall be equal to 50% of the total of the basic Wages and dearness allowance that would have been payable to him, had he not been so laid-off.

- If during any period of 12 months, a worker is so laid-off for more than 45 days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first 45 days, if there is an agreement to that effect between the worker and the employer.
- 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 45 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.

12.4 Duty of an Employer to Maintain Muster Rolls of Workers

Irrespective of workers 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.

12.5 Workers Not Entitled For Compensation In Certain Cases

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

- if he refuses to accept any alternative employment in the same establishment from which he has been laid-off.
- if he refuses to accept any alternative employment in any other establishment belonging to the same employer situated in the same town or village or situate within a radius of 8 kilometers from the establishment to which he belongs.
- if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day.
- if such laying-off is due to a strike or slowing-down of production on the part of workers in another part of the establishment.

12.6 Conditions Precedent to Retrenchment of Workers:

No worker employed in any industry who has been in continuous service for not less than 1 year shall be retrenched by the employer until:the worker has been given 1 month notice in writing indicating the reason and the period of such notice has expired , or the worker in lieu of such notice was paid, Wages for the period of the notice;

- The workers has been paid compensation at the time of retrenchment and the compensation shall shall be equivalent to 15 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 6 months.
- Notice may be served as may be prescribed by the authorities.

12.7 Procedure for Retrenchment

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.

12.8 Re-Employment of Retrenched Worker

Where any worker is retrenched and the employer proposes to take into his employment any person within 1 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 them re-employment.

12.9 Compensation to Workers In Case Of Transfer of Establishment:

- Every worker who has been in continuous service for not less than one year in that establishment shall be entitled to notice and compensation where the ownership or management of an establishment is transferred, from the employer in relation to that establishment to a new employer.
- No notice or compensation will be required if :
 - the service of the worker has not been interrupted by such transfer
 - the terms and conditions of service applicable to the worker after such transfer are not in any way less favorable to the worker than those applicable to them immediately before the transfer
 - 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.

12.10 Sixty Days' Notice to Be Given Of Intention to Close Down Any Undertaking

- 60 days' notice to be given of intention to close down any undertaking:

- an employer who intends to close down an undertaking shall serve a notice of at least 60 days before the date of execution of such intention and the notice shall be served in such manner as may be prescribed by the appropriate Government:
- Provided that nothing in this section shall apply to —
 - an industrial establishment in which less than 50 workers are employed or were employed on any day in the preceding 12 months;
 - an industrial establishment set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

12.11 Compensation to workers in case of closing down of undertakings

- Every worker who has been in continuous service for not less than 1 year in that undertaking immediately before such closure shall be entitled to notice and compensation where an establishment is closed down for any reason.
- Where the undertaking is closed down on account of unavoidable circumstances, the compensation to be paid to the worker shall not exceed his average pay for 3 months.
- The following will not be considered as unavoidable circumstances:
 - financial difficulties (including financial losses);
 - accumulation of un-disposed stocks; or
 - the expiry of the period of the lease or license granted to it; or
 - in case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which operations are carried on.
- 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 if—
 - the employer provides the worker, at the place located within a radius of 20 kilometers from such undertaking engaged in mining operation is closed down, with alternative employment;
 - the service of the worker has not been interrupted by such alternative employment; and
 - 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.

CHAPTER 13 - SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

13.1 Application:

- The provisions of this Chapter shall apply to an industrial establishment in which not less than 300 workers, or such number of workers as may be notified by the appropriate Government, were employed on an average, per working day in the preceding 12 months:

13.2 Prohibition of Lay-Off

- No worker (other than a badli worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment shall be laid off by his employer except with the prior permission of the appropriate Government obtained on an application made in this behalf, unless such lay-off is due to shortage of power, natural calamity, and in the case of a mine, such layoff is due to fire, flood, excess of inflammable gas or explosion.
- Where the workers (other than badli workers or casual workers) of industrial establishment, being a mine, have been laid-off for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of 30 days from the date of commencement of such lay-off, make an application for permission electronically or otherwise in the prescribed manner, to the appropriate government for permission to continue the Lay-off.
- Where an application for permission has been made, the appropriate Government, after making such enquiry as it thinks fit, with the employer, the workers concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.
- Where an application for permission has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of 60 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 or the specified authority, as the case may be.

13.3 Conditions precedent to retrenchment of workers to which Chapter X applies:

- No worker employed in any industrial establishment who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—
 - the worker has been given 3 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; and
 - the prior permission of the appropriate Government has been obtained on an application made in this behalf.

13.4 Procedure for retrenchment

- an application for permission
- reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such retrenchment
- order and for reasons to be recorded in writing, for grant or refusal to grant such permission
- copy of such order shall be communicated to the employer and the workers.
- If appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of 60 days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of 60 days
- If a reference has been made to a Tribunal, it shall pass an award within a period of 30 days from the date of such reference.

13.5 Procedure for Closing Down an Industrial establishment :

- An employer who intends to close down an undertaking of an industrial establishment shall apply for prior permission at least 90 days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the closure and a copy of such application shall also be served on the representatives of the workers.
- Where an application for permission has been made to the appropriate Government, after making such inquiry as it thinks fit grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

- Where an application 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 60 days from the date on which such application is made, the permission applied for shall be deemed to have been granted.
- An order of the appropriate Government granting or refusing to grant permission shall, be final and binding on all the parties and shall remain in force for 1 year from the date of such order.
- The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission within the prescribed time from the date on which such order is made or refer the matter to a Tribunal for adjudication, that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of 30 days from the date of such reference.
- Where no application for permission is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workers shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.
- Where an undertaking is permitted to be closed down or where permission for closure is deemed to be granted, every worker who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to 15 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 6 months.

CHAPTER 14 - WORKER RE-SKILLING FUND

14.1 Worker Re-Skilling Fund

- The appropriate government shall setup a fund known as workers re-skilling fund:

- The fund shall consist of :
 - contribution of the employer of an industrial establishment an amount equal to 15 days' Wages last drawn, or such other number of days as may be notified by the Central Government, of every retrenched worker immediately before the retrenchment or closure; and
 - any other contribution as may be prescribed by the Central Government.

- The fund shall be utilized by crediting 15 days Wages last drawn by the worker, who is retrenched, within 45 days of such retrenchment, in such manner as may be prescribed.

CHAPTER 15 - PROHIBITION OF UNFAIR LABOUR PRACTICE

- No employer or worker or a Trade Union, whether registered under this Code or not, shall commit any unfair labour practice specified in the Second Schedule

CHAPTER 16 - OFFENCES AND PENALTIES

Contravention of provision	Power of officers of appropriate Government	Fine for committing offence second or subsequent time
<p>Section 85 Contravenes the provisions of Section 84 (Prohibition of unfair labour practice.)</p> <p>And penalty under sub-sections of section 86 and sub-section (7) of section 89,</p>	<p>the appropriate Government may appoint any officer</p> <p>he may impose such penalty as he thinks fit in accordance with such provisions.</p>	<p>Punishable with fine</p> <p>- not less than Rs. 50,000/- but which may extend up to Rs. 200,000/-or</p>

Contravention of provision	Fine for committing offence the first time	Fine for committing offence second or subsequent time
<p>Contravenes the provisions of</p> <ul style="list-style-type: none"> - Prohibition of lay-off (Section 78) or - Retrenchment of workers (section 79) or - Procedure for closing down an undertaking (Section 80) 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - not less than Rs. 1,00,000/- - but which may extend to Rs. 10,00,000/- 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - not less than Rs. 5,00,000/- but which may extend up to Rs. 20,00,000/-or - with imprisonment for a term which may extend to 6 months, or with both.
<ul style="list-style-type: none"> - Rights of workers laid-off for compensation (section 67) - Conditions precedent to retrenchment of workers (section 70) - Compensation to workers in case of transfer of establishment (Section 73) 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - not less than Rs. 50,000/- - but which may extend to Rs. 2,00,000/- 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - not be less than Rs. 1,00,000/- but which may extend up to Rs. 5,00,000/-or - - with imprisonment for a term which may extend to 6 months, or with both.

<p>Compensation to workers in case of closing down of undertakings (Section 75)</p>		
<p>Unfair labour practice as specified in the Second Schedule (section 84)</p>	<p>Punishable with fine</p> <ul style="list-style-type: none"> - not less than Rs. 10,000/- - but which may extend to Rs. 2,00,000/- 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - not less than 50,000/- rupees for committing the second or subsequent offence - but which may extend up to Rs. 5,00,000/-or - with imprisonment for a term which may extend to 3 months, or with both.
<p>Every member of the executive of the Trade Union shall be punishable if default is made on the part of any registered Trade Union</p> <ul style="list-style-type: none"> - in giving any notice or - sending any statement or other document as required by or under any provisions of this Code, 	<p>Punishable with fine which shall not be less than Rs. 1,000/- but which may extend to Rs. 10,000/-.</p>	<p>punishable with an additional penalty of Rs. 50/- per day so long as the default continues</p>
<p>An employer who fails</p> <ul style="list-style-type: none"> -to submit draft standing orders as required by section 30, modifies his standing orders otherwise than in accordance with section 35 	<p>Punishable with fine which shall not be less than 50,000/- but which may extend to Rs. 2,00,000/-.</p>	<p>Continuing offence with an additional fine of Rs. 2,000/- per day till the offence continues</p>

<p>An employer who does any act in contravention of the standing orders finally certified under this Code</p>	<p>Punishable with fine which shall not be less than Rs. 1,00,000/- but which may extend to Rs. 2,00,000/-.</p>	<p>Punishable with fine</p> <ul style="list-style-type: none"> - which shall not be less than Rs. 2,00,000/- but which may extend to Rs. 4,00,000/- or - with imprisonment for a term which may extend to 3 months or with both.
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<p style="text-align: center;">Contravention of provision</p>	<p style="text-align: center;">Fine for committing offence</p>
<p>Any person who willfully makes, or causes to be made,</p> <ul style="list-style-type: none"> - any false entry in, or - any omission from, - the general statement required by section 26 or from any copy of rules or of alterations of rules sent to the Registrar under that section 	<p>Punishable with fine which shall not be less than Rs. 2,000/- but which may extend to Rs. 20,000/-.</p>
<ul style="list-style-type: none"> - Worker who commences, continues or otherwise acts in furtherance of a strike which is illegal 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - which shall not be less than Rs. 1,000/- but which may extend to Rs. 10,000/- or - with imprisonment for a term which may extend to 1 month or with both.
<ul style="list-style-type: none"> - Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - which shall not be less than Rs. 50,000/- but which may extend to Rs. 1,00,000/- or - with imprisonment for a term which may extend to 1 month or with both.
<ul style="list-style-type: none"> - Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal 	<p>Punishable with fine</p> <ul style="list-style-type: none"> - which shall not be less than Rs. 10,000/- but which may extend to Rs. 50,000/- or with imprisonment for a term which may extend to 1 month or with both.

<p>- Any person who knowingly spends or applies any money in direct furtherance or support of any illegal strike or lock-out</p>	<p>Punishable with fine - which shall not be less than Rs. 10,000/- but which may extend to Rs. 50,000/- or with imprisonment for a term which may extend to 1 month or with both.</p>
<p>Any person who, with intent to deceive</p> <ul style="list-style-type: none"> - gives to any member of a registered Trade Union or - any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union - any person who, with the intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, 	<p>Punishable with fine - which shall not be less than Rs. 5,000/- but which may extend to Rs. 20,000/-</p>
<p>Any person who contravenes any other provision of this Code not covered under sub-sections (1) to (19) or the rules or regulations framed under this Code</p>	<p>Punishable with fine which may extend to Rs. 1,00,000/-</p>
<p>Any person who commits a breach of any term of any settlement or award, which is binding on him under this Code</p>	<p>Punishable with fine - which shall not be less than Rs. 20,000/- but which may extend to Rs. 2,00,000/- or - with imprisonment for a term which may extend to 3 months or with both.</p> <p>Fine for the committing offence second or subsequent time</p> <p>Continuing offence with an additional fine of Rs. 1,000/- per day till the offence continues</p>

Offences by companies

Particulars	Liability of punishment fall on	Burdon of proof and due diligence
<p>If the person committing an offence under this Code is a company</p>	<p>Every person who is</p> <ul style="list-style-type: none"> - In-charge at the time of offence committed - Responsible for conduct of business of the company <p>Deemed to be the guilty of the offence.</p>	<p>Shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly</p> <p><i>“Provided that nothing to be liable if he proves that offence was committed without his knowledge and for that he exercised due diligence to prevent”</i></p>
<p>Where an offence under this Code has been committed by a company with the consent or convenience of any director, manager, secretary or other officer</p>	<p>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.</p>	

CHAPTER 17- MISCELLANEOUS

17.1 Representation of Parties

- A worker who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—
 - any member of the executive or other office-bearer of a registered Trade Union of which he is a member;
 - any member of the executive or other office-bearer of a federation of Trade Unions to which the Trade Union referred to in clause (a) is affiliated;
 - where the worker is not a member of any Trade Union, any member of the executive or other office-bearer of any Trade Union connected with, or by any other worker employed in the industry in which the worker is employed and authorized in such manner as may be prescribed.

- An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—
 - an officer of an association of employers of which he is a member;
 - an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;
 - where the employer is not a member of any association of employers, an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorized in such manner as may be prescribed.

- No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Code or any proceedings before Tribunal or National Industrial Tribunal.

- In any proceeding before a Tribunal or a National Industrial Tribunal, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Tribunal or National Industrial Tribunal, as the case may be.

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