

4 NEW LABOUR CODES



WAGES CODE



SOCIAL SECURITY CODE



**OCCUPATIONAL
SAFETY CODE**



**INDUSTRIAL
RELATIONS CODE**

ZUBAIR JAHANGIR

SBILL SUBJECT

LABOUR LAW





DECODING
THE
4 NEW
LABOUR CODES
SBILL CS EXECUTIVE
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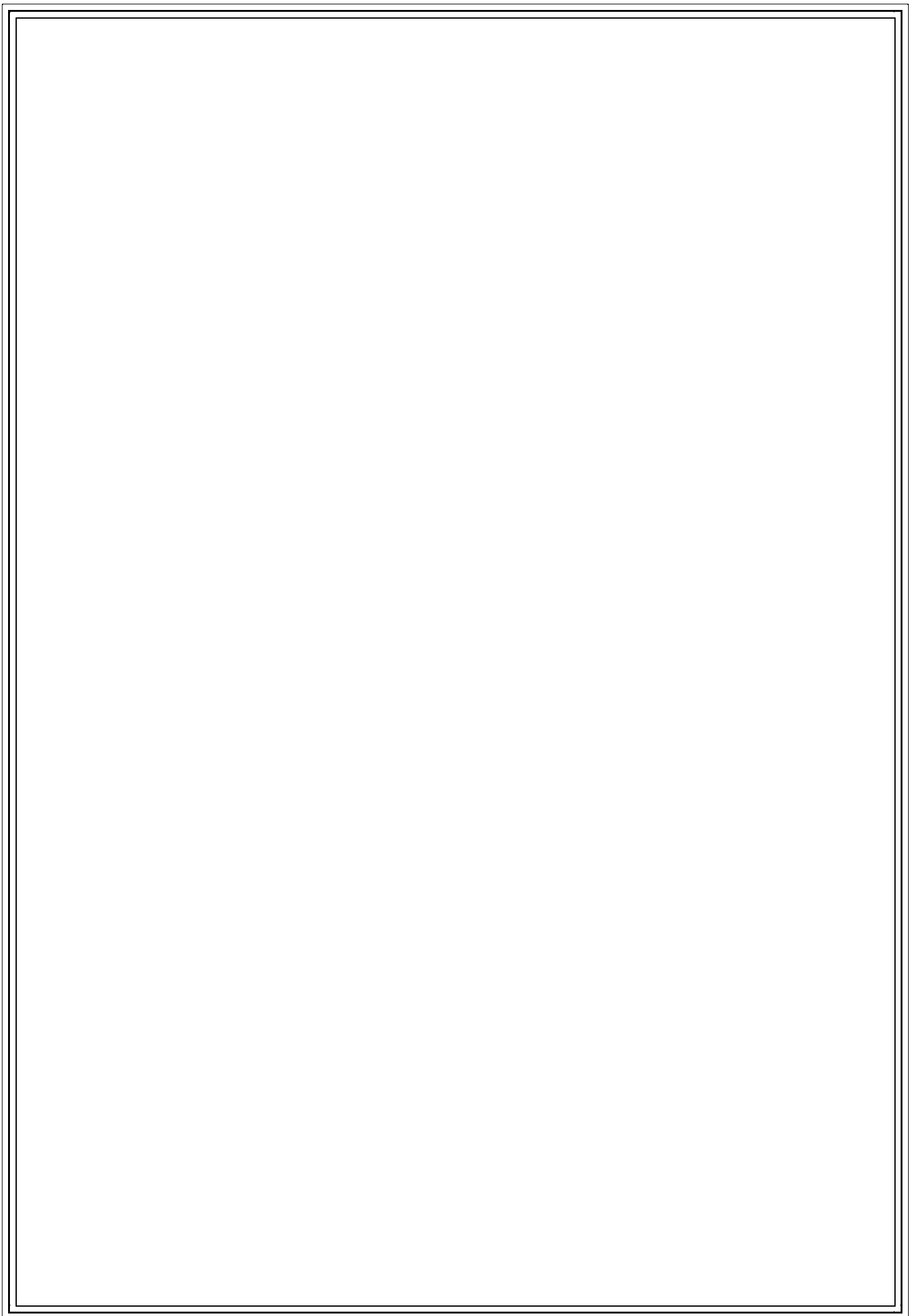
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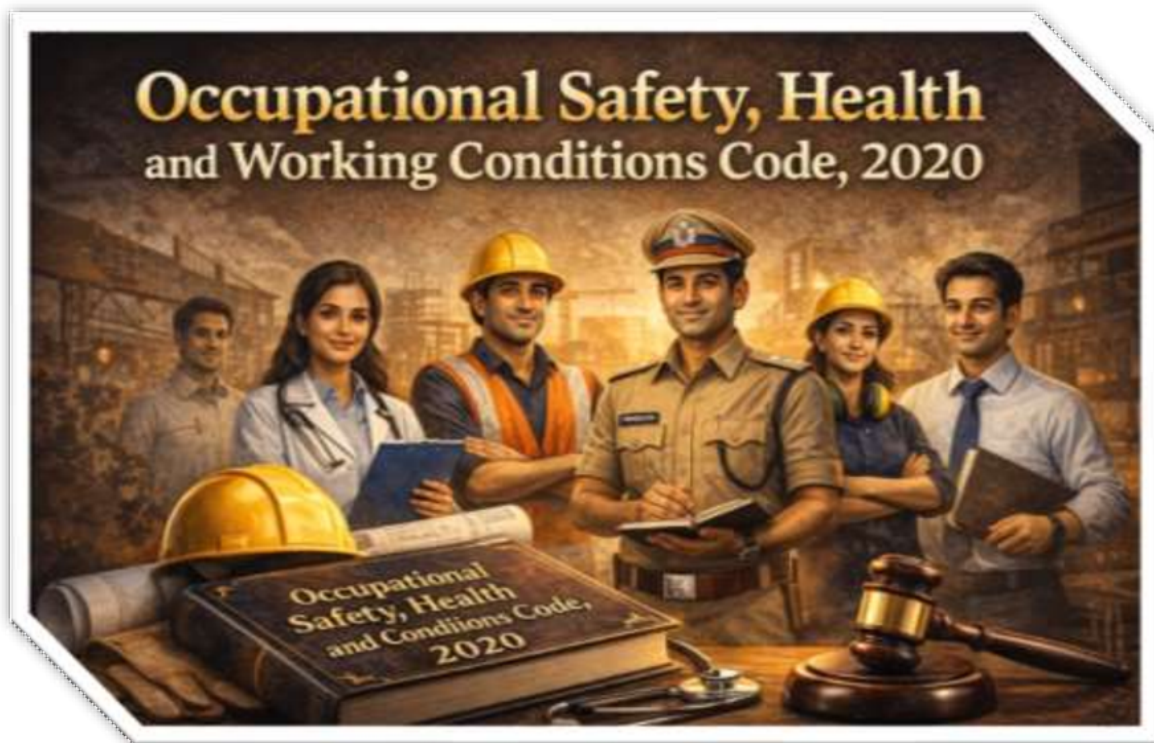
PART II – INDUSTRIAL AND LABOUR LAWS (40 Marks)

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2	The Industrial Relations Code, 2020	17.1 – 17.55
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Note:

The above chapters correspond to **Chapter Nos. 16 to 19** respectively in the SBILL syllabus. Page numbering is structured chapter-wise for clarity and ease of reference.





Occupational Safety, Health and Working Conditions Code, 2020

Introduction

- The **Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code)** consolidates the laws relating to **occupational safety, health and working conditions of persons employed in establishments**.
- It forms part of India's **labour law reforms based on the recommendations of the Second National Commission on Labour**.
- **29 Central Labour Acts** have been rationalised into **four Labour Codes**:
 - **Code on Wages, 2019**
 - **Industrial Relations Code, 2020**
 - **Code on Social Security, 2020**
 - **Occupational Safety, Health and Working Conditions Code, 2020**
- The Code consolidates **13 labour laws** relating to **factories, mines, plantations, construction workers, contract labour and inter-State migrant workers**.
- It received **Presidential assent on 28 September 2020** and was **published in the Official Gazette on 29 September 2020**.

Preamble (Objective of the Code)

“An Act to **consolidate** and amend the laws regulating the **occupational safety, health and working conditions of persons employed** in an establishment and for matters connected therewith or incidental thereto.”

Salient Features of the OSH Code, 2020**1. Consolidation of Labour Laws**

- The Code merges **13 Central Labour Acts into a single legislation**, creating a **uniform framework for workplace safety, health and working conditions**.

2. Major Acts Subsumed

The most important Acts merged into the Code include:

- **Factories Act, 1948** – regulated **health, safety and welfare of workers in factories**.
- **Contract Labour (Regulation and Abolition) Act, 1970** – regulated **employment and welfare of contract labour**.
- **Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979** – protected **migrant workers employed outside their home states**.

Other Acts subsumed include:

- **Mines Act, 1952**
- **Plantation Labour Act, 1951**
- **Dock Workers (Safety, Health and Welfare) Act, 1986**
- **Building and Other Construction Workers Act, 1996**
- **Motor Transport Workers Act, 1961**
- **Working Journalists and Other Newspaper Employees Act, 1955**

3. Worker Welfare and Employment Conditions**Appointment Letters**

- Employers must issue **formal appointment letters** specifying **designation, wages and employment conditions**, ensuring clarity in employment relationships.

Annual Leave with Wages

- Workers are eligible for **paid annual leave after working 180 days in a year**, earlier the requirement was **240 days**.

Working Hours and Overtime

- **Working hours** are limited to **8 hours per day and 48 hours per week**.
- **Overtime work** must be compensated at **twice the normal wage rate**.

4. Protection for Inter-State Migrant Workers

- The definition includes **self-migrating workers as well as workers recruited through contractors**.

Key provisions include:

- **Journey allowance** to visit the **native place once every year**.
- **Portability of welfare benefits and ration facilities**.
- **Helpline facility for grievance redressal**.

5. Health and Safety Measures

Safety Committees

- Certain establishments must constitute **Safety Committees with representatives of employers and workers** to monitor workplace safety.

Health Check-ups

- Workers are entitled to **free annual health check-ups**, helping detect occupational diseases at an early stage.

National Occupational Safety and Health Advisory Board

- Establishment of a **National Advisory Board** to recommend **standards relating to occupational safety, health and working conditions**.

6. Ease of Doing Business

Simplified Compliance

- Introduction of:
 - **Single electronic registration**
 - **Single all-India licence**
 - **Single annual return**

Revised Factory Threshold

- A **factory licence** is required only when:
 - **20 workers are employed with power, or**
 - **40 workers are employed without power.**

LEGISLATIVE FRAMEWORK

Chapter	Topic	Sections
Chapter I	Preliminary	Sections 1 – 2
Chapter II	Registration	Sections 3 – 5
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Section 1 – Short Title and Application

This Act is called the **Occupational Safety, Health and Working Conditions Code, 2020**. It extends to the whole of India.

Definitions – Section 2(1)

Section 2(1) of the **Occupational Safety, Health and Working Conditions Code, 2020** begins with the words “**unless the context otherwise requires**” and defines important terms used in the Code.

Below are the **important definitions** in a clear and structured form.

Adolescent – section 2(1)(a)

Adolescent has the same meaning as assigned in **section 2(i) of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**.

Adult – section 2(1)(b)

An **Adult** means a person who has **completed eighteen years of age**.

Contract Labour – section 2(1)(m)

Contract Labour means a worker employed **through a contractor** in connection with the work of an establishment, **with or without the knowledge of the principal employer**.

Contractor – section 2(1)(n)

A **Contractor** means a person who:

- Undertakes to produce a **given result for an establishment through contract labour**, or
- **Supplies contract labour** for the work of the establishment.

It includes a **sub-contractor**.

Day – section 2(1)(q)

A **Day** means a period of **twenty-four hours beginning at midnight**.

Employee – section 2(1)(t)

An **Employee** means a person employed on **wages in an establishment** to do **skilled, semi-skilled, unskilled, manual, technical, operational, clerical, managerial or administrative work**.

Members of the Armed Forces of the Union are excluded from this definition.

Employer – section 2(1)(u)

Employer means a person who **employs one or more employees in an establishment**, directly or through another person.

It includes:

- **Occupier of a factory**
 - **Owner, agent or manager of a mine**
 - **Person having ultimate control over the affairs of the establishment**
 - **Contractor**
 - **Legal representative of a deceased employer**
-

Establishment – section 2(1)(v)

An **Establishment** means:

- A place where **industry, trade, business or manufacturing activity** is carried on with **ten or more workers**, or
 - **Motor transport undertaking, newspaper establishment, audio-visual production, building and construction work or plantation** employing **ten or more workers**, or
 - A **mine or port** where **dock work** is carried out.
-

Factory – section 2(1)(w)

A **Factory** means any premises where:

- **20 or more workers** are employed and **manufacturing process** is carried on with the **aid of power**, or
 - **40 or more workers** are employed and **manufacturing process** is carried on without the **aid of power**.
-

Hazardous Process – section 2(1)(za)

A **Hazardous Process** means any process or activity where **special care is required** because the **materials or substances used may cause harm to health or the environment**.

Manufacturing Process – section 2(1)(zi)

Manufacturing Process includes activities such as:

- Making, altering, repairing, finishing, packing or treating any article or substance
 - Generating or transmitting power
 - Printing or book binding
 - Constructing or repairing ships
 - Preserving or storing goods in cold storage
-

Occupier – section 2(1)(zs)

Occupier of a factory means the person who has **ultimate control over the affairs of the factory**.

- In a **company** – **one of the directors**
 - In a **firm** – **one of the partners**
 - In a **government factory** – **the person appointed to manage the factory**
-

Principal Employer – section 2(1)(zz)

Principal Employer means:

- In **government office** – head of the department
- In a **factory** – owner or occupier or factory manager
- In a **mine** – owner or agent of the mine
- In **other establishments** – person responsible for supervision and control

Wages – section 2(1)(zzj)

Wages means **all remuneration expressed in money payable to an employee for work done**, including:

- **Basic Pay**
- **Dearness Allowance**
- **Retaining Allowance**

Certain payments such as **bonus, house rent allowance, overtime allowance, gratuity, provident fund contribution and travelling allowance** are excluded from wages.

Worker – section 2(1)(zzl)

A **Worker** means a person employed in an establishment to perform **manual, skilled, technical, operational, clerical or supervisory work for hire or reward**.

It does not include:

- Members of **Armed Forces**
- **Police or prison employees**
- Persons employed mainly in **managerial or administrative capacity**
- Supervisory employees drawing **wages exceeding ₹18,000 per month** (or such amount as notified).

Section 3 – Registration of Establishments**Obligation to Register**

Every **employer** must **register the establishment**. Where a new establishment comes into existence, the employer shall file an **electronic application within 60 days** from the date of applicability. Applications filed after **60 days** may be accepted on payment of **late fees**.

Application (Form & Particulars)

The application shall be submitted **electronically** in the **prescribed form and manner** along with **fees**. It must include:

- all **prescribed particulars**, and
- details relating to **inter-State migrant workers**.

Grant of Registration Certificate

Upon receipt of the application, the **registering officer** shall register the establishment and issue an **electronic certificate of registration** within the prescribed time. If the officer fails to act, the establishment shall be treated as **deemed registered**, and the certificate will be **auto-generated**.

Intimation of Changes

Any change in **ownership, management, or particulars** must be intimated **electronically within 30 days**, and the registration certificate shall be **amended accordingly**.

Closure of Establishment

Within **30 days of closure**, the employer must:

- **inform the registering officer**, and
- **certify payment of all dues to workers**.

The registering officer shall cancel the registration within **60 days**, failing which it shall be treated as **deemed cancelled**.

Misrepresentation or Fraudulent Registration

If registration is obtained by **misrepresentation or suppression of material facts**, it shall amount to contravention punishable under **section 94**. If the registration is **fraudulent or ineffective**, it may be **revoked after giving an opportunity of being heard**, and such revocation must be completed within **60 days**.

Prohibition on Employment Without Registration

No employer shall employ workers if:

- the establishment is **not registered**, or
- the registration is **cancelled or revoked**, and no **appeal** is pending or the appeal has been dismissed.

Deemed Registration (Existing Establishments)

An establishment already registered under any earlier law shall be treated as **deemed registered**, subject to furnishing prescribed details.

Section 4 – Appeal

An employer may file an **appeal within 30 days** against the order of the registering officer. The **appellate officer** shall provide an opportunity of being heard and dispose of the appeal within **30 days**.

Section 5 – Notice of Commencement and Cessation

Notice of Commencement

No employer shall **commence operations** of an establishment without giving **prior notice** to the prescribed authority.

Notice of Cessation

When operations are discontinued, the employer shall **inform the authority**.

Mode of Submission

All notices shall be submitted **electronically** in the **prescribed form, manner, and time**.

Timelines

- **60 days** → **Registration / Cancellation / Revocation**
- **30 days** → **Changes / Closure / Appeal**

Section 6 – Duties of Employers: Safety, Health and Welfare

General Duties of Employer

Every **employer** shall ensure that the workplace is **free from hazards** and does not cause **injury or occupational disease**. The employer must **comply with safety and health standards** prescribed under the Code.

The employer shall:

- provide **free annual health examinations** for prescribed employees,
- maintain a **safe working environment** without risk to health,
- ensure proper **disposal of hazardous and toxic waste**, including e-waste, and
- issue an **appointment letter** to every employee in the prescribed form.

Employees who were not issued appointment letters earlier must receive them within **3 months** from commencement of the Code.

No employer shall **charge employees** for any safety or health measures, including medical examinations. In establishments like **factories, mines, construction work, dock work, and plantations**, the employer is responsible for the **safety and health of all persons** present.

Specific Duties of Employer

In addition to general duties, the employer shall ensure:

- **safe plant and systems of work,**
 - **safe handling, storage, and transport** of substances,
 - proper **information, instruction, training, and supervision,**
 - maintenance of **safe workplace conditions** with proper access and exit, and
 - provision of **safe working environment with welfare facilities.**
-

Section 10 – Notice of Certain Accidents

Duty to Report Accidents

The employer must send notice of an accident if it:

- causes **death**,
- causes injury preventing work for **48 hours or more**, or
- is of a **prescribed nature**.

Persons Responsible for Reporting

- **Mine** → Employer / owner / agent / manager
- **Factory or dock work** → Employer or manager
- **Other establishments** → Employer

Inquiry in Case of Death

If the accident results in death, an **inquiry must be conducted within 2 months** by the concerned authority or Inspector-cum-Facilitator.

Section 11 – Notice of Dangerous Occurrences

Reporting Requirement

The employer must report any **dangerous occurrence**, even if it does not cause injury, to the prescribed authority in the prescribed form and time.

Section 12 – Notice of Certain Diseases

Duty of Employer

If a worker contracts a disease specified in the **Third Schedule**, the employer must send notice to the prescribed authority.

Duty of Medical Practitioner

A **medical practitioner** attending such a case must report it to the **Chief Inspector-cum-Facilitator without delay**.

Penalty

Failure to report such disease may result in a penalty up to **₹10,000**.

Summary

- Employer ensures **Safety + Health + Welfare**
- **Accident (48 hours)** → **Mandatory Reporting**
- **Death** → **Inquiry within 2 months**
- **Diseases (Third Schedule)** → **Employer + Doctor reporting duty**

Section 13 – Duties of Employees at the Workplace

Every employee at the workplace shall perform the following duties:

Duty to Take Reasonable Care

- Employees must **take reasonable care for their own health and safety** and also ensure that their actions **do not endanger other persons at the workplace**.

Duty to Follow Safety Standards

- Employees must **comply with occupational safety and health standards and requirements** applicable to the establishment.

Duty to Cooperate with Employer

- Employees must **cooperate with the employer** in the implementation of the provisions of this Code and in fulfilling statutory obligations relating to safety and health.

Duty to Report Unsafe Conditions

- Employees must **promptly report unsafe or unhealthy situations** to:
 - the **employer**, or
 - the **health and safety representative**, or
 - in case of **mines**, to the **agent, manager (section 67), safety officer, or designated official**.

Prohibition on Misuse of Safety Facilities

- Employees must **not wilfully interfere with, misuse, or neglect any safety equipment, appliance, or welfare facility** provided for health and safety.

Prohibition on Dangerous Conduct

- Employees must **not wilfully and without reasonable cause do anything that may endanger their own safety or the safety of others**.

Other Prescribed Duties

- Employees must perform **such other duties as may be prescribed by the appropriate Government**.

Section 14 – Employee’s Right to Information & Protection Against Imminent Danger

Right to Information and Representation

- Every employee has the **right to obtain information from the employer relating to workplace health and safety**.
- The employee may also raise concerns regarding **inadequate safety measures** through a **member of the Safety Committee constituted under section 22**, if such committee exists.
- If the employee is not satisfied, the matter may be **reported to the Inspector-cum-Facilitator**.

Reporting of Imminent Danger

- Where an employee reasonably believes that there is **imminent danger of serious injury, death, or health hazard**, the employee may bring the matter to the notice of:
 - the **employer directly or through a member of the Safety Committee**, and
 - the **Inspector-cum-Facilitator simultaneously**.

Immediate Remedial Action

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

Final Authority

- If the employer does not agree that **imminent danger exists**, the matter must still be **referred to the Inspector-cum-Facilitator**.
- The **decision of the Inspector-cum-Facilitator on the existence of imminent danger shall be final**.

Section 16 – National Occupational Safety and Health Advisory Board

Introduction

This section provides for the **constitution of a National level advisory body** to guide the Central Government on matters relating to **occupational safety, health standards and implementation of the Code** across the country.

Constitution of National Board

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

Functions of the National Board

The National Board shall advise the **Central Government** on matters relating to:

- **Standards, rules and regulations** under this Code.
- **Implementation of the provisions of the Code** and occupational safety standards.
- **Policies and programmes relating to occupational safety and health** referred to it by the Central Government.
- **Any other matter relating to this Code** referred to it by the Central Government

Section 17 – State Occupational Safety and Health Advisory Board

Introduction

This section provides for the **constitution of a State level advisory board** to assist the State Government in matters relating to **administration and implementation of occupational safety and health provisions under the Code.**

Constitution of State Advisory Board

- The **State Government shall constitute a State Occupational Safety and Health Advisory Board.**

Functions of the State Advisory Board

- The Board shall **advise the State Government on matters relating to administration and implementation of this Code** as referred to it by the State Government.

Procedure and Composition

- The **constitution, procedure and other matters relating to the State Advisory Board** shall be **prescribed by the State Government.**

Health, Safety and Welfare under OSH Code, 2020

Introduction

The Code establishes a framework to ensure **safe working conditions, protection of health and welfare of workers** in establishments.

- **Section 18** prescribes **Occupational Safety and Health standards.**
- **Section 22** provides for **Safety Committees and Safety Officers.**
- **Section 23** places **responsibility on the employer** for health and safety.
- **Section 24** provides for **welfare facilities.**

Section 18 – Occupational Safety and Health Standards

Introduction

The Central Government is empowered to prescribe **Occupational Safety and Health (OSH) standards** to ensure protection of workers from workplace hazards.

Declaration of Standards

The Central Government shall, by **notification**, declare OSH standards for establishments such as factories, mines, dock work, building and other construction work, beedi and cigar establishments and other establishments.

Scope of Standards

Hazard Control

The standards shall address **physical, chemical, biological and other hazards** so that employees do not suffer **impairment of health or functional capacity**.

Hazard Management Measures

The standards may provide for:

- **identification and appraisal of hazards,**
- **symptoms, treatment and precautions** for safe handling of substances,
- **monitoring of exposure levels,**
- **medical examinations free of cost by employer,** and
- **hazard evaluation procedures** such as safety audits, hazard studies and risk assessments.

Occupational Disease

An **occupational disease** means a disease arising out of or in the course of employment due to exposure to workplace hazards. Such disease may be **detected and reported even after cessation of employment**.

Sector-Specific Measures

The standards may provide for special safety and health measures for industries such as **factories, mines, construction work, dock work and beedi or cigar establishments**.

Second Schedule

The standards shall also cover matters specified in the **Second Schedule**, which contains important **safety, health and welfare requirements**.

Section 22 – Safety Committee and Safety Officers

Introduction

This section provides for constitution of **Safety Committees** and appointment of **Safety Officers** to ensure effective implementation of safety measures.

Safety Committee

The appropriate Government may require an establishment to constitute a **Safety Committee**.

- The Committee shall consist of **representatives of employer and workers**.
- The number of **worker representatives shall not be less than employer representatives**.

Safety Officers

The employer shall appoint **Safety Officers** in the following establishments:

- factories employing **500 or more workers**,
- factories carrying hazardous processes employing **250 or more workers**,

- building or construction establishments employing **250 or more workers**, and
- mines employing **100 or more workers**.

The number, qualifications and duties of Safety Officers shall be prescribed.

Section 23 – Responsibility of Employer for Health, Safety and Working Conditions

Introduction

The responsibility for maintaining **health, safety and working conditions** lies on the **employer**, who must ensure compliance with prescribed standards.

General Duty of Employer

The employer shall maintain health, safety and working conditions in accordance with standards prescribed under the Code.

Specific Workplace Conditions

The employer shall ensure:

- **cleanliness and hygiene;**
- **proper ventilation, temperature and humidity;**
- workplace free from **dust, fumes, gases and harmful impurities;**
- adequate **humidification, ventilation and cooling arrangements**, where required;
- provision of **safe and potable drinking water;**
- prevention of **overcrowding** and sufficient working space;
- **adequate lighting** in work areas; and
- **separate and hygienic latrine and urinal facilities for male, female and transgender employees.**

Section 24 – Welfare Facilities in the Establishment

Introduction

This section provides for **welfare facilities** to ensure healthy working conditions and decent standards of living for employees.

Welfare Facilities to be Provided by Employer

The employer shall provide and maintain:

- **adequate and suitable washing facilities separately for male and female employees;**
- **bathing places and locker rooms separately for male, female and transgender employees;**
- facilities for keeping clothing not worn during working hours and for drying wet clothing;

- **suitable sitting arrangements** for employees required to work in a standing position;
- **canteen facilities where 100 or more workers are employed;**
- **medical examination of mine workers** before employment and at prescribed intervals; and
- **adequate first-aid boxes or cupboards** accessible during all working hours.

Additional Welfare Measures

The Central Government may also prescribe:

- **ambulance rooms** in establishments employing **500 or more workers;**
- **medical facilities, uniforms, raincoats and protective amenities** for motor transport workers;
- **shelters, rest rooms and lunch rooms separately for male, female and transgender employees;**
- **lunch rooms** in factories and mines employing more than **50 workers;**
- similar facilities in motor transport undertakings where employees halt at night;
- **welfare officers** in factories, mines or plantations employing **250 or more workers;**
- **temporary living accommodation** for building workers free of charge;
- removal of such accommodation and restoration of land after completion of work;
- reimbursement to contractors for accommodation expenses; and
- any other welfare measure as prescribed.

Crèche Facilities

Crèche facilities refer to **day-care centres for children below six years of age** of employees.

The Central Government may require establishments employing more than **50 workers** to provide such facilities.

- The crèche shall consist of suitable rooms located at a **convenient distance.**
- It may be provided by the employer, jointly by establishments, or through Government, municipalities or other agencies.

Conclusion

The provisions relating to **health, safety and welfare** establish a system where **standards are prescribed by the Central Government and implemented by the employer.** They ensure that workers are provided with a **safe, healthy workplace** conducive to their **well-being.**

Hours of Work and Annual Leave with Wages (Sections 25–32)

Introduction

The provisions relating to **working hours, overtime, weekly holidays and annual leave with wages are covered from Section 25 to 32.**

These provisions ensure that workers are not subjected to excessive work and are provided with **adequate rest, fair compensation and leave benefits**, thereby protecting their health and efficiency.

Section 25 – Daily and Weekly Working Hours and Leave

Section 25 lays down the rules relating to **daily working hours and leave**, along with special provisions for certain categories of workers based on the nature of their work.

Maximum Daily Working Hours

- A worker shall not be required or allowed to work for more than **8 hours in a day**, thereby preventing excessive workload.
-

Key Terms

- **Working Journalist** means a person engaged in **journalistic activities such as reporting, editing or writing for newspapers or media.**
 - **Sales Promotion Employee** means a person engaged in **promotion of sales of goods or services.**
 - **Motor Transport Worker** means a person employed in a **motor transport undertaking and engaged in driving or related duties.**
-

Special Provisions under Section 25

Mines

- Work below ground shall be carried on in **shifts**, so as to ensure proper safety and supervision.
 - No person shall remain below ground except during the **working hours recorded in the prescribed register.**
-

Motor Transport Workers

- Working hours shall include the following:
 - the **running time of the vehicle**,
 - **subsidiary duties** such as loading, unloading, maintenance and related work, and
 - **waiting time up to 15 minutes at terminals**.
- Accordingly, all such duties shall be treated as **working hours** and not merely driving time.

Illustration

If a driver drives for 6 hours, performs loading work for 1 hour and waits for 10 minutes, the entire period shall be treated as **working hours**.

Working Journalists

- Total working hours shall not exceed **144 hours in any period of 4 consecutive weeks**.
- Every working journalist shall be given **24 consecutive hours of rest in every period of 7 days**.

Leave for Sales Promotion Employees and Working Journalists

- Earned leave shall be granted at the rate of **1 day for every 11 days worked with full wages**.
- Medical leave shall be granted at the rate of **1 day for every 18 days of service with half wages**.

Illustration

- If an employee works for 110 days, the employee shall be entitled to **10 days of earned leave**.
- If an employee works for 180 days, the employee shall be entitled to **10 days of medical leave**.

Compensation for Unused Leave

- Where earned leave is not availed, it shall be **paid in cash on retirement or termination (except punishment) or to legal heirs in case of death**.

Adolescent Workers

- The working hours of adolescent workers shall be governed by the **Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**.
-

Section 26 – Weekly and Compensatory Holidays

Section 26 ensures that workers receive **weekly rest** so that continuous work does not adversely affect their health.

Weekly Holiday

- A worker shall not be required or allowed to work for more than **6 days in a week**, and every worker shall be provided **1 day of rest**.

Motor Transport Workers

- A worker may be required to work on a weekly holiday; however, such worker shall not be required to work for more than **10 consecutive days without a full day of rest**.

Compensatory Holidays

- Where a worker is deprived of a weekly holiday, the worker shall be provided **compensatory holidays within the same month or within the next 2 months**.

Section 27 – Extra Wages for Overtime

Section 27 ensures that workers are fairly compensated for overtime work and are protected from forced overtime.

- A worker who works beyond prescribed working hours shall be paid **wages at twice the normal rate**.
- A worker shall not be required to perform overtime work without **his consent**.

Section 28 – Night Shifts

- Where a worker works in a night shift extending beyond midnight, the weekly holiday shall consist of **24 consecutive hours beginning from the end of the shift**.
- The next working day shall be calculated from the **end of the shift**, and work done after midnight shall be treated as part of the **previous day's work**.

Section 29 – Prohibition of Overlapping Shifts

- Work in an establishment shall not be arranged in such a manner that **more than one group of workers performs the same work at the same time**, thereby ensuring safety and discipline.

Section 30 – Restriction on Double Employment

- A worker shall not be required or allowed to work in a **factory or mine** if the worker has already worked in another factory or mine during the **preceding 12 hours**, thereby preventing fatigue and overwork.

Section 31 – Notice of Periods of Work

- Every establishment shall display a **notice showing the periods of work**, so that workers are informed of their working hours and shifts.
- Such notice shall also be communicated to the **Inspector-cum-Facilitator**.
- Where any change is proposed, it shall be **intimated in advance**, and no change shall be made within **1 week of the previous change**, unless permitted.

Section 32 – Annual Leave with Wages

Section 32 provides for **paid annual leave**, ensuring rest after continuous work during the year.

Eligibility

- A worker shall be entitled to leave if the worker has worked for **180 days or more in a calendar year**, and the period of lay-off, maternity leave and leave taken shall be counted for this purpose.

Accrual of Leave

- Leave shall be earned as follows:
 - A worker shall earn **1 day of leave for every 20 days worked in a calendar year**.
 - An adolescent worker and a worker employed below ground in a mine shall earn **1 day of leave for every 15 days worked**.

Illustration

If a worker works for 200 days, the worker shall be entitled to **10 days of leave**.

Leave for Workers Joining During the Year

- Where a worker joins employment during the year, the worker shall be entitled to leave if the worker has worked for at least **one-fourth of the remaining days** of that calendar year.

Leave on Separation

- Where a worker is discharged, resigns, retires or dies, the worker or legal heirs shall be entitled to **wages in lieu of unused leave**.
- Such wages shall be paid:
 - within **2 working days from the date of discharge, dismissal or resignation**, and
 - within **2 months from the date of retirement or death**.

Carry Forward of Leave

- A worker may carry forward up to **30 days of leave to the next year.**
 - Where leave is applied for but refused, it may be carried forward **without any limit.**
-

Encashment of Leave

- Where the total accumulated leave exceeds **30 days**, the worker shall be entitled to **encash the leave exceeding 30 days.**
-

Special Provisions for Mines

- Where more favourable leave provisions exist under any law, agreement or contract, such provisions shall **prevail**, and the Government may grant exemptions where conditions are not less favourable.
-

Conclusion

The provisions relating to **working hours, overtime, weekly holidays and leave** create a balanced framework that protects workers from excessive workload and ensures **adequate rest, fair compensation and overall well-being.**

Summary of Section 32**Particulars****Core Rule / Timeline**

Eligibility for Leave

Worker must have worked **180 days in a calendar year**

Leave Accrual

1 day leave for every 20 days of work

Accrual for Adolescent / Mine Workers (below ground)

1 day leave for every 15 days of work

Maximum Carry Forward

30 days of unused leave can be carried forward

Payment for Unused Leave on Separation

Employer must **pay wages for earned leave that the worker did not take**

Time Limit (Discharge / Resignation)

Payment must be made **within 2 working days**

Time Limit (Retirement / Death)

Payment must be made **within 2 months**

Encashment of Leave

Leave exceeding 30 days may be converted into wages (leave encashment)

Maintenance of Registers, Records and Returns

Section 33 – Maintenance of Registers, Records and Filing of Returns

Introduction

Section 33 ensures **proper documentation and transparency in employment records**. It requires employers to **maintain registers, issue wage slips, display notices and submit returns** so that authorities can monitor compliance with labour laws and workers' rights.

Maintenance of Registers

Every employer must **maintain registers (electronically or otherwise)** containing important details of workers, including:

- **Nature of work performed by workers**
 - **Normal working hours in a day**
 - **Weekly day of rest**
 - **Wages paid and wage receipts**
 - **Leave, overtime work and attendance records**
 - **Dangerous occurrences in the establishment**
 - **Employment of adolescent workers**
-

Display of Notices

- Employers must **display required notices at the workplace** so that workers are aware of their rights and working conditions.
-

Wage Slips

- Employers must **issue wage slips to workers, either in electronic form or physical form.**
-

Filing of Returns

- Employers are required to **submit prescribed returns to the Inspector-cum-Facilitator** regarding employment and compliance matters.
-

Inspector-cum-Facilitators and Other Authorities

Section 34 – Appointment of Inspector-cum-Facilitators

Introduction

Section 34 provides for the **appointment of Inspector-cum-Facilitators who are responsible for enforcing the provisions of the Code**. Unlike traditional inspectors, they also play a **facilitating role by guiding employers and workers in complying with safety and labour regulations**.

Appointment and Jurisdiction

- The **appropriate Government may appoint Inspector-cum-Facilitators** through notification.
 - They exercise their powers **within the jurisdiction specified in the notification**.
-

Inspection Scheme

The Government may introduce an **inspection scheme** that includes:

- **Web-based inspections**
- **Randomised selection of establishments for inspection**

This system promotes **transparency and reduces arbitrary inspections**.

Chief Inspector-cum-Facilitator

The Government may appoint a **Chief Inspector-cum-Facilitator** who supervises the enforcement mechanism.

- The Chief Inspector may be appointed **for a State, multiple States, or for the whole country**.
-

Other Officers

The Government may also appoint:

- **Additional Chief Inspector-cum-Facilitators**
- **Joint Chief Inspector-cum-Facilitators**
- **Deputy Chief Inspector-cum-Facilitators**

These officers may exercise **specified powers of the Chief Inspector within their jurisdiction**.

Conflict of Interest Restriction

- A person cannot be appointed or continue as Inspector-cum-Facilitator if they have any direct or indirect interest in the workplace or business being inspected.

Status of Officers

All officers appointed under this section are deemed to be public servants under section 21 of the Indian Penal Code.

Section 35 – Powers of Inspector-cum-Facilitators

Introduction

Section 35 defines the powers of Inspector-cum-Facilitators for inspection, investigation and enforcement. These powers enable authorities to ensure compliance with occupational safety and labour standards.

Inspection and Entry

An Inspector-cum-Facilitator may:

- Enter any workplace with necessary assistance.
- Inspect premises, machinery, equipment and working conditions.

Inquiry into Accidents

- The Inspector may investigate accidents or dangerous occurrences, whether or not they result in injury or death.
- Statements of persons involved may be recorded.

Examination of Documents

The Inspector may:

- Require production of registers, records and other documents.
- Search, seize or take copies of relevant documents related to offences under the Code.

Preservation of Evidence

- The Inspector may direct that any premises or materials remain undisturbed during inspection or inquiry.

Collection of Evidence

The Inspector may:

- **Take photographs, videographs and measurements.**
 - **Collect samples of substances or air from the workplace** for examination.
-

Preventive Powers

If any article or substance appears **dangerous to workers' health or safety**, the Inspector may:

- **Direct it to be dismantled or tested.**
 - **Take possession of such articles for examination.**
-

Compliance and Enforcement

The Inspector may:

- **Issue show-cause notices relating to safety, health and welfare violations.**
 - **Initiate prosecution or legal proceedings under the Code.**
-

Section 37 – Third Party Audit and Certification

Introduction

Section 37 introduces the concept of **third-party audits**, allowing independent experts to evaluate compliance with safety and health standards. This reduces excessive government inspections while maintaining regulatory oversight.

Empanelment of Experts

- The appropriate Government may **empanel qualified experts to conduct safety audits and certifications.**
-

Allocation of Audits

- Audits and certifications are **assigned randomly through a web-based system** to ensure fairness and transparency.
-

Duties of Empanelled Experts

The empanelled experts must:

- **Conduct safety audits and certifications of establishments.**
- **Submit audit reports to both the employer and the Inspector-cum-Facilitator.**

This mechanism promotes **professional evaluation of workplace safety and compliance**.

Special Provisions Relating to Employment of Women

Section 43 – Employment of Women

Introduction

Section 43 recognises the **right of women to participate equally in the workforce**. The provision allows women to be **employed in all establishments and for all types of work**, while ensuring that **appropriate safeguards relating to safety and working conditions are maintained**.

Right to Employment

- Women are **entitled to be employed in all establishments and in all types of work** under this Code.

This provision promotes **gender equality in employment opportunities**.

Employment during Night Hours

- Women may be employed **before 6 a.m. and beyond 7 p.m.**
- Such employment is allowed **only with the consent of the woman employee**.

This provision recognises the **changing nature of modern workplaces**, while ensuring that women are not compelled to work during late hours.

Section 44 – Safety of Women in Dangerous Operations

Introduction

Section 44 ensures that while women have **equal access to employment**, adequate precautions are taken when work involves **hazardous or dangerous operations**. The provision allows the Government to ensure that **health and safety safeguards are in place before women are employed in such work**.

Government Power to Ensure Safety

- If the **appropriate Government considers that employment of women in certain establishments or hazardous processes may pose a risk to their health or safety**, it may require the employer to **implement adequate safety measures before employing women in such operations**.

This provision ensures that **equality in employment is balanced with necessary protection for health and safety**.

Special Provisions for Contract Labour (Sections 45–56)

Introduction

A **contract worker (contract labour)** is a worker who is **hired by a contractor to work in an establishment of a principal employer**, rather than being directly employed by that establishment. The contractor supplies labour or undertakes work on behalf of the principal employer.

The Code contains several provisions to **regulate employment of contract labour and protect their welfare**. The key objectives of these provisions are to:

- **Regulate engagement of contract labour through a licensing system.**
- Ensure **welfare facilities and safe working conditions** for contract labour.
- Fix **responsibility for payment of wages** on the contractor and, in certain cases, on the principal employer.
- Prevent misuse of contract labour in **core activities of an establishment**.
- Ensure **transparency, accountability, and fair treatment of contract workers**.

These provisions apply only where **a minimum threshold of contract labour is employed**, ensuring that larger establishments engaging contract labour operate under proper regulation.

Section 45 – Applicability of Contract Labour Provisions

Introduction

Section 45 determines **when the provisions relating to contract labour apply**. It lays down the **threshold for coverage and exclusions**, thereby identifying the establishments and contractors that must comply with the contract labour regulations.

Applicability

The provisions relating to contract labour apply to:

- **Every establishment where 50 or more contract labour are employed**, or were employed on any day in the **preceding 12 months**.
- **Every manpower supply contractor who has employed 50 or more contract labour** on any day in the **preceding 12 months**.

Exclusion

These provisions **do not apply where the work performed is purely intermittent or casual in nature**.

Determination of Intermittent Work

Work will **not be considered intermittent** if:

- It was performed for **more than 120 days in the preceding 12 months**, or
- It is **seasonal work performed for more than 60 days in a year**.

Section 46 – Appointment of Designated Authority

Introduction

Section 46 empowers the Government to appoint authorities responsible for **administering licensing and regulatory functions relating to contract labour**.

Appointment

The appropriate Government may appoint **Gazetted officers as designated authorities**.

Functions

The designated authority may perform functions such as:

- **Issuing contractor licences**
- **Revoking or suspending licences**
- **Performing regulatory functions electronically**

Section 47 – Licensing of Contractors

Introduction

Section 47 establishes the **licensing requirement for contractors engaging contract labour**. The objective is to ensure that contractors operate **only with proper authorisation and regulatory oversight**.

Mandatory Licence

No contractor shall:

- **Supply contract labour to any establishment, or**
- **Execute work through contract labour,**

unless the contractor **holds a valid licence issued by the designated authority**.

Conditions of Licence

A licence issued to a contractor generally specifies:

- **Maximum number of contract labour permitted**
- **Security deposit required to be maintained**

Section 48 – Procedure for Issue or Renewal of Licence

Introduction

Section 48 lays down the **procedure for obtaining and renewing contractor licences**.

Application

Applications for licences must be **submitted electronically**.

Validity of Licence

A contractor licence is **valid for five years**.

Amendment of Licence

If a contractor wishes to **increase the number of contract labour**, the contractor must apply for **amendment of the licence** and deposit the required additional security.

Section 49 – No Fees or Charges from Contract Labour

Introduction

Section 49 protects contract labour from exploitation by prohibiting contractors from charging recruitment or service fees.

Prohibition

A contractor **shall not charge any fee, commission, or cost from contract labour**, either **directly or indirectly**.

Section 50 – Intimation of Work Order

Introduction

Section 50 ensures **transparency and regulatory monitoring of contract labour engagements**.

Mandatory Intimation

When a contractor receives a work order:

- To **supply contract labour**, or
- To **execute work through contract labour**,

the contractor must **inform the designated authority**.

Consequence of Non-Compliance

Failure to provide such information may result in **suspension or cancellation of the contractor's licence**.

Section 51 – Revocation or Suspension of Licence

Introduction

Section 51 provides the **disciplinary framework for contractor licences**, ensuring accountability and compliance with labour laws.

Grounds for Revocation or Suspension

A licence may be revoked or suspended if:

- The licence was **obtained through misrepresentation or suppression of facts**, or
- The contractor **violates licence conditions or provisions of the Code**.

Opportunity of Hearing

Before revocation or suspension, the contractor must be **given an opportunity to be heard**.

Section 52 – Appeals

Introduction

Section 52 provides a **remedy for contractors aggrieved by licensing decisions**.

Appeal Procedure

Any person aggrieved by an order under sections **47, 48, or 51** may file an **appeal within 30 days** of communication of the order.

Disposal of Appeal

The appellate authority must **dispose of the appeal within 30 days after giving the appellant an opportunity of being heard**.

Section 53 – Liability of Principal Employer for Welfare Facilities

Introduction

Section 53 ensures that **contract labour receive welfare facilities similar to regular workers**.

Responsibility of Principal Employer

The **principal employer must provide welfare facilities** to contract labour, including those relating to:

- **Health and safety**
 - **Working conditions and welfare facilities**
-

Section 54 – Effect of Employing Contract Labour through an Unlicensed Contractor

Introduction

Section 54 ensures strict compliance with the licensing requirement for contractors.

Legal Consequence

If a principal employer engages contract labour through a contractor **who is required to obtain a licence but has not obtained one**, such employment shall be treated as a **contravention of the provisions of the Code**.

Section 55 – Responsibility for Payment of Wages

Introduction

Section 55 establishes the **financial responsibility framework for payment of wages to contract labour**.

Contractor's Responsibility

The contractor is primarily responsible for paying wages to contract labour.

Mode of Payment

Wages must be paid through bank transfer or electronic mode.

Liability of Principal Employer

If the contractor:

- Fails to pay wages, or
- Makes short payment,

then the principal employer must pay the full wages to the contract labour and may later recover the amount from the contractor.

Section 56 – Experience Certificate**Introduction**

Section 56 ensures that contract labour receive formal recognition of their work experience.

Obligation of Contractor

On request, the contractor must issue an experience certificate to the contract labour specifying the nature of work performed.

Conclusion

These provisions create a structured framework for regulation of contract labour by ensuring licensing of contractors, protection of workers from exploitation, provision of welfare facilities and clear responsibility for payment of wages, thereby promoting fairness, accountability and worker welfare.

Factories – Approval, Hazardous Processes and Safety Provisions (Sections 79–89)

Introduction

This part deals with the provisions relating to approval, licensing and regulation of factories, along with special safeguards for hazardous processes. These provisions ensure that factories operate only after complying with safety, health and welfare standards, and that workers are protected from industrial risks.

Section 79 – Approval and Licensing of Factories

Section 79 regulates the establishment and operation of factories by requiring prior approvals and licensing.

Approval for Establishment

- The appropriate Government may require submission of **plans and specifications of the factory**.
- Prior permission shall be obtained for the **site, construction or extension of the factory building**.
- Factories shall operate only after obtaining a **licence and its renewal on payment of prescribed fees**.

Deemed Approval

- Where an application is submitted electronically and no order is communicated within **30 days**, the permission shall be **deemed to be granted**, thereby avoiding delays.

Appeal

- Where permission is refused, the applicant may file an appeal within **30 days from the date of refusal**.

Section 80 – Liability of Owner of Premises

Section 80 applies where multiple factories operate within the same premises.

- Where premises are leased to different occupiers, the **owner and occupiers shall be jointly and severally responsible** for maintaining common facilities.

Common Facilities include:

- safety and fire prevention arrangements,
- sanitation and access,
- ventilation and temperature control,
- emergency preparedness,
- canteens, shelters, rest rooms and crèches.

This ensures that workers receive proper facilities even in shared premises.

Section 81 – Power to Apply Code to Certain Premises

Section 81 empowers the Government to extend factory provisions to certain premises.

- The Government may declare any place where a **manufacturing process is carried on** to be treated as a factory, regardless of the number of workers.
- Once declared:
 - the **owner shall be deemed to be the occupier**, and
 - the persons working shall be deemed to be **workers under the Code**.

This prevents avoidance of legal obligations.

Section 82 – Dangerous Operations

Section 82 empowers the Government to regulate dangerous manufacturing processes.

- The Government may:
 - declare certain processes as **dangerous**,
 - prohibit or restrict employment of **pregnant women**,
 - require **periodic medical examination at the cost of the occupier**, and
 - mandate provision of **protective equipment and welfare facilities**.

These provisions aim to protect workers from serious risks such as injury or occupational diseases.

Section 83 – Site Appraisal Committee

Section 83 provides for the constitution of a Site Appraisal Committee.

- The Committee shall examine applications relating to:
 - **location of factories involving hazardous processes**, and
 - **expansion of such factories**.
- The Committee shall submit its recommendations within **30 days**.

Section 84 – Disclosure of Information by Occupier

Section 84 requires disclosure of hazards and safety measures.

Disclosure of Hazards

- The occupier shall disclose:
 - **health hazards and dangers**, and
 - **measures to control such hazards**.

Persons to whom Disclosure is made:

- workers,
- Inspector-cum-Facilitator,
- local authority, and
- general public in the surrounding area.

Emergency Plan

- The occupier shall prepare an **on-site emergency plan** and inform workers and the public about safety measures.

Prior Intimation

- Where a hazardous process is to be commenced, the occupier shall inform the authority at least **30 days in advance**.
-

Section 85 – Specific Responsibility of Occupier

Section 85 imposes additional duties on occupiers handling hazardous substances.

- The occupier shall maintain **health records of workers** exposed to hazardous substances.
- Qualified persons shall be appointed to **supervise handling of hazardous substances**.
- Workers shall undergo medical examination:
 - before assignment,
 - periodically (not exceeding **12 months**), and
 - after cessation of such work.

Section 86 – National Board Inquiry

Section 86 empowers the Central Government to investigate hazardous situations.

- The Government may direct the **National Occupational Safety and Health Advisory Board** to inquire into:
 - causes of failure in safety measures, and
 - preventive steps for future.
- The recommendations of the Board shall be **advisory in nature**.

Section 87 – Emergency Standards

Section 87 provides for emergency safety standards.

- Where existing standards are inadequate, the Central Government may direct authorities to prescribe **emergency safety standards**.
- These standards shall remain applicable until incorporated into formal rules.

Section 88 – Permissible Limits of Exposure

Section 88 protects workers from harmful exposure.

- The State Government shall prescribe **maximum permissible limits** of exposure to chemical and toxic substances.
- These limits ensure that workers are not exposed to **dangerous levels of substances**.

Section 89 – Right of Workers to Warn About Imminent Danger

Section 89 grants workers the right to report danger.

Right of Workers

- Workers may report **imminent danger** to:
 - occupier or manager, and
 - Inspector-cum-Facilitator.

Duty of Employer

- The employer shall:
 - take **immediate remedial action**, and
 - inform the authority.

Final Authority

- If the employer disagrees, the matter shall be referred to the **Inspector-cum-Facilitator**, whose decision shall be final.

Conclusion

These provisions ensure that factories are established and operated only after proper approval, and that hazardous processes are strictly regulated through **disclosure, monitoring, safety standards and worker rights**, thereby safeguarding **health, safety and welfare of workers**.

Section 114 – Composition of Certain Offences**Introduction**

Section 114 provides a mechanism for **compounding certain offences under the Code**. Compounding means that instead of continuing legal prosecution in court, the offender may **settle the matter by paying a prescribed amount to the Government**.

Amount Payable for Compounding

Type of Case	Amount Payable	Meaning
Penalty	50% of the maximum penalty	If the maximum penalty under a provision is ₹10,000, the case may be settled by paying ₹5,000 .
Offence punishable with fine	75% of the maximum fine	If the maximum fine for an offence is ₹20,000, the case may be settled by paying ₹15,000 .

Effect of Compounding

Once a penalty or offence is compounded:

- The person is **discharged from liability**, and
- **No further legal proceedings will continue in respect of that offence.**

Additional Penalty for Non-Compliance

If a person fails to comply with the order of the compounding authority, he shall be liable to pay **an additional penalty equal to 20% of the maximum penalty or fine**, apart from the original amount.

Credit of Compounding Amount

The amount collected through compounding is **credited to the Social Security Fund established for the welfare of unorganised workers.**

Restriction on Repeat Offences

Compounding is **not allowed** where the same person commits **the same offence again within a period of three years** if the earlier offence was either compounded or resulted in conviction.

Section 115 – Social Security Fund

Introduction

Section 115 provides for the creation of a **Social Security Fund** to support the welfare of **unorganised workers**, who generally do not have access to formal employment benefits such as insurance, pension or social protection.

The fund acts as a **dedicated financial mechanism** through which the Government can provide **social security benefits, welfare schemes and financial support** to improve the living conditions of such workers.

Establishment of Fund

- The appropriate Government shall establish a **Social Security Fund for the welfare of unorganised workers.**

Sources of the Fund

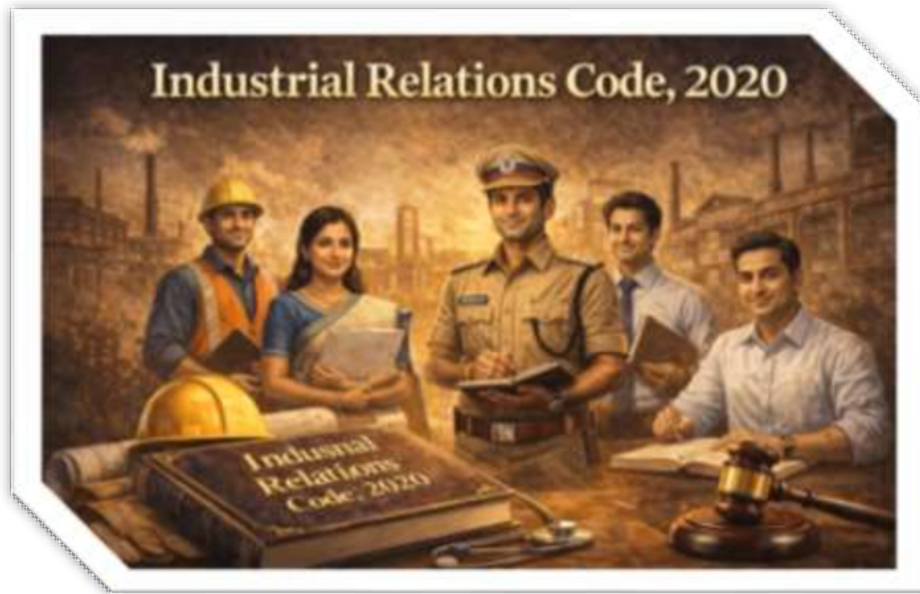
- The fund shall include amounts received from:
 - **composition of offences under section 114**, and
 - **penalties collected under section 111(6).**
- The fund may also receive contributions from **other sources as prescribed by the Government.**

Administration and Utilisation of the Fund

- The fund shall be **administered by the appropriate Government**.
- The amount shall be **utilised for welfare measures for unorganised workers** in the prescribed manner.
- The Government may also transfer amounts from this fund to **any other welfare fund** established for unorganised workers, if required.

Conclusion

The Social Security Fund ensures that amounts collected under the Code are channelled towards **welfare and protection of unorganised workers**, thereby strengthening their **social security and improving their living conditions**.



Introduction

The **Industrial Relations Code, 2020** consolidates and amends the laws relating to **trade unions, conditions of employment in industrial establishments, and the investigation and settlement of industrial disputes.**

It forms part of the labour law reforms based on the recommendations of the **Second National Commission on Labour**, under which **29 Central Labour Acts** have been **rationalised into four Labour Codes**, namely:

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

The Code received **Presidential assent on 28 September 2020** and was **published in the Official Gazette on 29 September 2020.**

Acts Subsumed

The Code consolidates and replaces the following three labour laws:

- **Trade Unions Act, 1926**
- **Industrial Employment (Standing Orders) Act, 1946**
- **Industrial Disputes Act, 1947**

Preamble (Objective of the Code)

“An Act to consolidate and amend the laws relating to **trade unions, conditions of employment in industrial establishments and investigation and settlement of industrial disputes**, and for matters connected therewith or incidental thereto.”

LEGISLATIVE FRAMEWORK

Chapters under the Industrial Relations Code, 2020

Chapter	Topic	Sections
Chapter I	Preliminary	Sections 1 – 2
Chapter II	Bi-partite Forums	Sections 3 – 5
Chapter III	Trade Unions	Sections 6 – 22
Chapter IV	Standing Orders	Sections 23 – 30
Chapter V	Notice of Change	Section 31
Chapter VI	Voluntary Reference of Disputes to Arbitration	Section 32
Chapter VII	Mechanism for Resolution of Industrial Disputes	Sections 33 – 42
Chapter VIII	Strikes and Lock-outs	Sections 43 – 50
Chapter IX	Lay-off, Retrenchment and Closure	Sections 51 – 75
Chapter X	Worker Re-skilling Fund	Section 76
Chapter XI	Unfair Labour Practices	Section 77
Chapter XII	Offences and Penalties	Sections 78 – 89
Chapter XIII	Miscellaneous	Sections 90 – 101

Section 2 Definitions**Appropriate Government – section 2(b)**

Central Government in relation to:

- Industrial establishments carried on **by or under authority of the Central Government**
- **Controlled industries** specified by the Central Government
- **Railways (including metro railways), mines, oil fields, major ports, air transport services, telecommunication, banking and insurance companies**
- **Corporations or authorities established by a Central Act**
- **Central Public Sector Undertakings (CPSUs)**
- Companies where **51% or more paid-up share capital is held by the Central Government**

Explanation: The **Central Government continues to be the appropriate Government for CPSUs even if its shareholding falls below 50% after commencement of the Code.**

State Government in relation to:

- **All other industrial establishments**
- **State Public Sector Undertakings** and their subsidiaries

Average Pay – section 2(d)

Average pay means the average wages payable to a worker:

- **Monthly paid worker** → average of **3 calendar months**
- **Weekly paid worker** → average of **4 weeks**
- **Daily paid worker** → average of **12 working days**

If such calculation cannot be made, the average is based on the **period actually worked.**

Award – section 2(e)

Award means an **interim or final determination of an industrial dispute** by:

- **Industrial Tribunal**
- **National Industrial Tribunal**

It also includes an **arbitration award.**

Closure – section 2(h)

Closure means the **permanent closing down of a place of employment or part of it.**

Employee – section 2(l)

Employee means any person employed in an industrial establishment to perform:

- skilled work
- semi-skilled work
- unskilled work
- operational work
- supervisory work
- managerial work
- administrative work
- technical work
- clerical work

for **hire or reward**, whether the terms of employment are **express or implied**.

Excludes: **Members of the Armed Forces of the Union.**

Employer – section 2(m)

Employer means a person who **employs one or more employees or workers**, directly or through another person.

Includes:

- **Factory occupier** in case of a factory
 - Person having **ultimate control over establishment affairs**
 - **Manager or Managing Director**
 - **Contractor**
 - **Legal representative of a deceased employer**
-

Fixed Term Employment – section 2(o)

Fixed term employment means employment of a worker **for a fixed period through a written contract**.

Rights of such workers:

- Wages and benefits **equal to permanent workers doing similar work**
 - **Proportionate statutory benefits**
 - **Gratuity eligibility after one year of service**
-

Industry – section 2(p)

Industry means any **systematic activity carried on by cooperation between employer and worker** for:

- production
- supply
- distribution of goods or services

Whether or not:

- capital is invested
- profit motive exists

Excludes:

- Charitable or philanthropic institutions
- Sovereign functions of government
- Domestic service

Industrial Dispute – section 2(q)

Industrial dispute means any dispute between:

- employers and employers
- employers and workers
- workers and workers

connected with:

- employment
- non-employment
- terms of employment
- conditions of labour

It also includes disputes relating to **dismissal, discharge, retrenchment or termination of a worker**.

Industrial Establishment or Undertaking – section 2(r)

Industrial establishment means an establishment **where an industry is carried on**.

Where multiple activities exist:

- A separable industrial unit is treated as **separate industrial establishment**
- If activities are interlinked, the **entire establishment is treated as industrial establishment**

Lay-off – section 2(t)

Lay-off means **failure or inability of an employer to provide employment** due to:

- shortage of raw materials
- shortage of power or coal
- breakdown of machinery
- accumulation of stocks
- natural calamity
- similar reasons

The worker must be **on muster rolls and not retrenched.**

Lock-out – section 2(u)

Lock-out means:

- temporary closing of workplace
 - suspension of work
 - refusal by employer to continue employment
-

Retrenchment – section 2(zh)

Retrenchment means termination of service of a worker **for any reason**, except:

- disciplinary punishment
 - voluntary retirement
 - superannuation
 - expiry of contract
 - completion of fixed-term employment
 - termination due to ill-health
-

Settlement – section 2(zi)

Settlement means:

- settlement arrived during **conciliation proceedings**, or
 - **written agreement between employer and workers** signed and sent to the conciliation officer.
-

Strike – section 2(zk)

Strike means:

- cessation of work by workers acting together
- concerted refusal to work
- refusal to accept employment

Also includes **concerted casual leave by 50% or more workers.**

Trade Union – section 2(zl)

Trade union means any combination formed to regulate relations between:

- workers and employers
- workers and workers
- employers and employers

Also includes **federation of trade unions**.

Unfair Labour Practice – section 2(zo)

Unfair labour practice means practices specified in the **Second Schedule of the Code**.

Wages – section 2(zq)

Wages include:

- **Basic pay**
- **Dearness allowance**
- **Retaining allowance**

But exclude:

- bonus
- house rent allowance
- provident fund contribution
- gratuity
- overtime allowance
- commission
- travelling allowance
- retirement benefits

If excluded components exceed **50% of remuneration**, the excess is treated as **wages**.

Worker – section 2(zr)

Worker means a person employed in industry to perform:

- manual work
- skilled work
- unskilled work
- technical work
- operational work
- clerical work
- supervisory work

Includes **working journalists and sales promotion employees.**

Excludes persons:

- in **managerial or administrative capacity**
- in **supervisory capacity drawing wages above ₹18,000 per month**
- employed in **armed forces, police or prison services**



BI-PARTITE FORUMS

Meaning

Bi-partite Forums refer to institutions consisting of **representatives of both employer and workers**, established to **promote cooperation, maintain good industrial relations and resolve disputes within the establishment.**



Section 3 – Works Committee

In any **industrial establishment employing 100 or more workers**, or which has employed such number on any day in the preceding **12 months**, the **appropriate Government** may require the employer to constitute a **Works Committee**.

Composition

The Works Committee shall consist of **representatives of employer and workers** engaged in the establishment.

- The **number of representatives of workers shall not be less than the number of representatives of the employer**.
- The **representatives of workers shall be chosen from among the workers engaged in the establishment**.
- Such representatives shall be chosen **in consultation with the registered Trade Union**, if any.

Duties of Works Committee

It shall be the duty of the Works Committee:

- to **promote measures for securing and preserving amity and good relations between employer and workers**;
- to **comment upon matters of their common interest or concern**; and
- to **endeavour to compose any material difference of opinion** in respect of such matters.

Section 4 – Grievance Redressal Committee

Every **industrial establishment employing 20 or more workers** shall have **one or more Grievance Redressal Committees** for resolution of disputes arising out of **individual grievances**.

Composition

- The Committee shall consist of **equal number of members representing the employer and the workers**.
- The **chairperson** shall be selected from among the representatives of employer and workers **alternatively on rotational basis every year**.
- The **total number of members shall not exceed 10**.
- There shall be **adequate representation of women workers**, which shall **not be less than the proportion of women workers employed in the establishment**.

Filing of Application

An **aggrieved worker** may file an application before the Committee **within 1 year** from the date on which the cause of action arises.

Time for Disposal

The Committee shall **complete its proceedings within 30 days** from the receipt of the application.

Decision

The decision shall be based on the **majority view of the Committee**, provided that **more than half of the members representing workers agree**. Otherwise, it shall be deemed that **no decision could be arrived at**.

Further Remedy

If the worker is **aggrieved by the decision**, or if the grievance is **not resolved within 30 days**, he may **apply for conciliation before the conciliation officer** through the **Trade Union** within **60 days**.

Where a worker is **discharged, dismissed, retrenched or otherwise terminated**, the dispute between that worker and the employer shall be **deemed to be an industrial dispute**, even if no other worker or Trade Union is a party.

After 45 days from the date of application to the conciliation officer, the worker may make an application directly to the Tribunal for adjudication.

Such application must be made **within 2 years** from the date of **discharge, dismissal, retrenchment or termination**.

Stage	Time Limit
Application to Grievance Committee	1 year
Decision by Committee	30 days
Apply for Conciliation	60 days
Wait after conciliation	45 days
Application to Tribunal	2 years



TRADE UNIONS

Introduction

Trade Union means an organisation of **workers** formed to **protect their employment interests**, such as **wages, working conditions, and job security**, and to represent workers in **collective bargaining with employers**.

Sections 5 to 27 of the Industrial Relations Code, 2020 provide the legal framework for **registration, recognition, functioning, rights, and regulation of Trade Unions**, ensuring **effective representation of workers and industrial harmony**.

Section 5 – Registrar of Trade Unions

The **State Government** may appoint:

- **Registrar of Trade Unions**, and
- **Additional, Joint or Deputy Registrar of Trade Unions**.

These officers shall **exercise the powers and perform the duties of the Registrar as assigned by the State Government**.

Section 6 – Criteria for Registration of Trade Union

Minimum Members for Application

Any **7 or more members** of a Trade Union may apply for **registration** by subscribing their names to the rules of the Trade Union.

Membership Requirement

No Trade Union shall be registered unless **at least 10% of the workers or 100 workers, whichever is less**, employed in the industrial establishment or industry are members of that Trade Union on the date of application.

Withdrawal of Applicants

The application shall **not become invalid** merely because some applicants withdraw after the application, provided that **not more than half of the applicants withdraw**.

Condition for Continuing Registration

After a **Trade Union is registered**, it must **continue to maintain minimum membership** to remain valid.

The Trade Union must always have:

1. **At least 10% of the workers or 100 workers (whichever is less)** as members of the union; and
2. **Minimum 7 members who are workers in that establishment or industry**.

If the membership **falls below this level**, the **Registrar may cancel the registration of the Trade Union**.

Section 7 – Provisions to be Contained in Rules of Trade Union

A Trade Union shall not be entitled to registration unless its **constitution or rules provide for the following matters:**

- name of the Trade Union
- objects of the Trade Union
- purposes for which general funds may be used
- maintenance of list of members and inspection of such list
- admission of ordinary members engaged in the establishment or industry
- admission of honorary or temporary members as permitted
- subscription payable by members
- conditions for benefits, fines or forfeitures
- annual general body meeting and business to be transacted
- election of office-bearers once every 3 years
- removal of office-bearers and filling of casual vacancies
- safe custody of funds and annual audit of accounts
- inspection of account books by members
- procedure for amendment of rules
- manner in which the Trade Union may be dissolved.

Section 8 – Application for Registration, Alteration of Name and Procedure**Application for Registration**

Every **application for registration of a Trade Union** shall be made to the **Registrar, electronically or otherwise**, and shall be accompanied by:

- **Declaration by affidavit** in the prescribed form and manner
- **Copy of the rules of the Trade Union** along with the **resolution adopting such rules**
- **Resolution authorising the applicants** to apply for registration
- In case of a **federation or central organisation of Trade Unions**, a **resolution passed by each member Trade Union** agreeing to form such federation.

Power of Registrar

The **Registrar may call for further information** to satisfy that:

- the **application complies with the provisions of the Code**, and
- the **Trade Union is entitled to registration**.

The Registrar may **refuse registration until such information is furnished**.

Resemblance of Name

The Registrar shall require the applicants to **alter the name of the Trade Union** if:

- the proposed name is **identical with an existing registered Trade Union**, or
- it **closely resembles an existing Trade Union** and may mislead the public or members.

The Registrar shall **refuse registration until the name is altered**.

Section 9 – Registration of Trade Union and Cancellation

Registration by Registrar

If the Registrar is satisfied that the **requirements of this Chapter are complied with**, he shall **register the Trade Union** by entering its particulars in the **register maintained for this purpose**.

Certificate of Registration

After registration, the Registrar shall issue a **Certificate of Registration** to the Trade Union.

The certificate shall be **conclusive evidence** that the Trade Union has been registered under the Code.

Entry in Register

The **name and particulars of the Trade Union** shall be entered in the **register maintained by the Registrar**.

Cancellation or Withdrawal of Registration

The Registrar may **withdraw or cancel registration**:

- on the **application of the Trade Union**, or
- on receiving **information that the Trade Union has contravened provisions of the Code or rules**, or
- if the **membership falls below 10% of workers or 100 workers, whichever is less**.

The Registrar shall give **60 days prior written notice** before cancelling the registration (except where cancellation is on the application of the Trade Union).

Cancellation by Tribunal

If a **Tribunal orders cancellation**, the Registrar shall **cancel the registration accordingly**.

Reasoned Order

The Registrar shall **record the reasons for cancellation and communicate them in writing to the Trade Union**.

Section 10 – Appeal against Non-Registration or Cancellation

Right to Appeal

Any person aggrieved by:

- **refusal of registration**, or
- **cancellation of registration**

may file an **appeal before the Tribunal within the prescribed period**.

The Tribunal may **condone delay** if satisfied that the delay occurred due to **sufficient cause or unavoidable circumstances**.

Powers of Tribunal

After hearing the parties, the Tribunal may:

- **dismiss the appeal**, or
- **direct the Registrar to register the Trade Union and issue a certificate**, or
- **set aside the order cancelling registration**.

A **copy of the Tribunal's order shall be forwarded to the Registrar**.

Section 11 – Communication and Change in Particulars

Communication to Trade Union

All **communications and notices** to a registered Trade Union shall be sent to the **address of its head office as recorded in the Registrar’s register.**

Membership Threshold

The Trade Union shall **inform the Registrar if its membership falls below 10% of workers or 100 workers, whichever is less.**

Change in Particulars

The Trade Union shall **inform the Registrar of any change in the particulars given in the registration application or in its constitution or rules.**

Section 12 – Incorporation of Registered Trade Union

Every registered Trade Union shall be a **body corporate** by the name under which it is registered.

It shall have:

- **perpetual succession,**
 - **common seal,**
 - **power to acquire and hold movable and immovable property,**
 - **power to enter into contracts, and**
 - **the capacity to sue and be sued in its registered name.**
-

Section 14 – Recognition of Negotiating Union or Negotiating Council

Meaning and Purpose

Section 14 provides the **framework for collective bargaining between workers and the employer** in an industrial establishment.

For this purpose, the workers are represented either by a **Negotiating Union** or by a **Negotiating Council**, depending on the number and strength of the Trade Unions functioning in the establishment.

A **Negotiating Union** is a Trade Union recognised to represent the workers in negotiations with the employer.

A **Negotiating Council** is a body consisting of representatives of different Trade Unions which collectively negotiate with the employer when no single union has majority support.

Recognition when Only One Trade Union Exists

Where **only one registered Trade Union is functioning in an industrial establishment**, the employer shall recognise that Trade Union as the **Sole Negotiating Union** for the purpose of collective bargaining with the employer.

Recognition when Multiple Trade Unions Exist

Where **more than one registered Trade Union is functioning in the establishment**, the following rules apply:

- If a Trade Union has the **support of 51% or more workers on the muster roll**, that Trade Union shall be recognised as the **Sole Negotiating Union**.
- If **no Trade Union has the support of 51% workers**, the employer shall **constitute a Negotiating Council** for the purpose of collective bargaining.

Composition of the Negotiating Council

The **Negotiating Council shall consist of representatives of registered Trade Unions which have the support of at least 20% of the workers on the muster roll**.

Each such Trade Union shall have **one representative in the council for every 20% of workers it represents**, including representation for the remainder after such calculation.

Decision of the Negotiating Council

When negotiations take place between the employer and the Negotiating Council, an agreement shall be deemed to be reached if it is **approved by the majority of representatives of the Trade Unions in the council**.

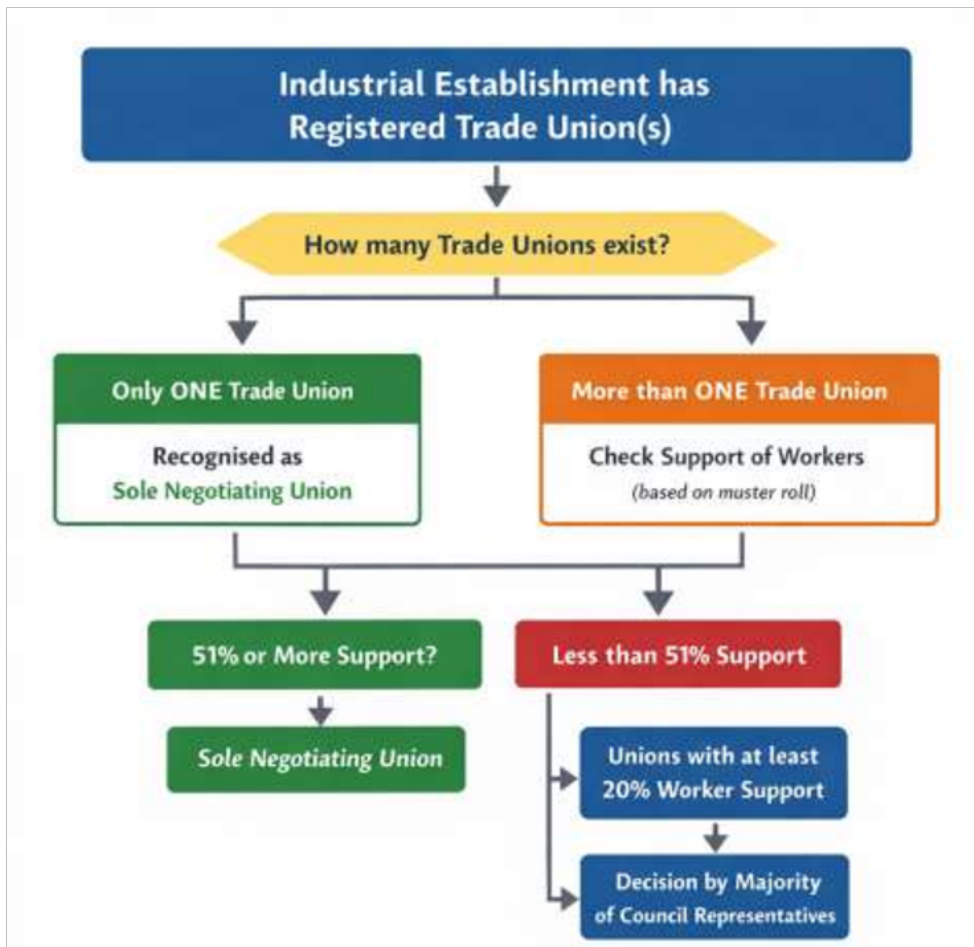
Validity of Recognition

The **recognition of a Negotiating Union or the constitution of a Negotiating Council shall remain valid for a period of three years** from the date of recognition or constitution.

This period may be **extended further by mutual agreement between the employer and the Trade Union**, but the total period shall **not exceed five years**.

Facilities to Negotiating Union or Council

The industrial establishment shall provide **necessary facilities to the Negotiating Union or the Negotiating Council as may be prescribed**, so that they can effectively carry out their role in collective bargaining.



Section 15 – Objects of General Fund and Separate Political Fund

Introduction

Section 15 regulates the **use of funds of a registered Trade Union**. It specifies the purposes for which the **general fund of the Trade Union may be used** and allows the creation of a **separate political fund** for promoting the civic and political interests of members.

General Fund

The **general funds of a registered Trade Union** shall be used **only for the objects prescribed under the law** and shall not be spent for any other purpose.

Separate Political Fund

A registered Trade Union **may create a separate political fund** from **voluntary contributions of its members** for promoting the **civic and political interests of the members**.

Voluntary Contribution

- **No member shall be compelled** to contribute to the political fund.
- Contribution to the political fund **shall not be a condition for admission** to the Trade Union.
- A member who does not contribute **shall not be denied any benefits** of the Trade Union or placed at any disadvantage.

Section 16 – Immunity from Civil Suit**Protection to Trade Union**

No **civil suit or legal proceeding** shall lie against:

- a **registered Trade Union**, or
- any **office-bearer or member of the Trade Union**

for acts done **in contemplation or furtherance of an industrial dispute**.

This protection applies even if the act:

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

Protection for Tortious Acts

A registered Trade Union shall **not be liable for tortious acts done by its agent** in furtherance of an industrial dispute if:

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

Section 17 – Criminal Conspiracy in Furtherance of Trade Union Objects**Protection from Punishment**

No **office-bearer or member of a registered Trade Union** shall be liable for punishment for **criminal conspiracy** merely because an agreement is made **to further the lawful objects of the Trade Union under section 15**.

Exception

This protection **does not apply where the agreement is to commit an offence**.

Section 18 – Enforceability of Agreements**Introduction**

This section explains the **validity of agreements between members of a registered Trade Union** and the **limits on enforcing such agreements in civil courts**.

Validity of Agreements

Agreements between members of a **registered Trade Union** shall **not be void merely because they restrain trade**.

Limitation on Enforcement

Civil courts **cannot entertain suits for enforcing or claiming damages** for breach of agreements relating to:

- selling goods,
- conducting business,
- working, or
- employing or being employed.

Illustration

Workers agree **not to work below ₹600 wages**. If a worker violates this, the union **cannot file a civil suit for damages**.

Section 19 – Right to Inspect Books of Trade Union**Introduction**

This section ensures **transparency in Trade Union management**.

Right of Inspection

Every **member or office-bearer** of a registered Trade Union may inspect:

- **books of accounts**, and
- **list of members**,

at the time specified in the union rules.

Illustration

A member suspects misuse of funds and **inspects the union accounts**.

Section 20 – Rights of Minor to Membership of Trade Union**Membership of Minor**

A person who has **attained 14 years of age** and works in a **non-hazardous industry** may:

- become a **member of a Trade Union**, and
- **exercise membership rights** according to union rules.

Section 21 – Disqualification of Office-Bearers of Trade Union**Grounds of Disqualification**

A person **cannot become an office-bearer** if:

- he is **below 18 years of age**,
- he has been **convicted of an offence involving moral turpitude and 5 years have not passed since release**, or
- the **Tribunal has disqualified him**.

Conflict of Interest

A **Minister or a person holding office of profit under Government** cannot be an office-bearer of a Trade Union.

Illustration

A **17-year-old worker cannot become Trade Union secretary**.

Section 22 – Adjudication of Disputes of Trade Unions

Disputes may be taken to the **Tribunal having jurisdiction where the Trade Union's registered office is located.**

Such disputes may arise between:

- two Trade Unions,
- members and the Trade Union,
- workers refused membership and the Trade Union.

Jurisdiction

Civil courts cannot decide such disputes. Only the Tribunal has jurisdiction.

Section 25 – Dissolution of Trade Union**Notice of Dissolution**

When a Trade Union is dissolved, **notice signed by the secretary and seven members must be sent to the Registrar within 14 days.**

The dissolution becomes **effective when registered by the Registrar.**

Distribution of Funds

If rules do not provide for distribution of funds, the **Registrar distributes the funds among members.**

Illustration

Members decide to **close the union due to low membership**, and the Registrar records the dissolution.

Section 26 – Annual Returns**Introduction**

This section ensures **financial reporting and accountability of Trade Unions.**

Annual Return

Every registered Trade Union must **submit an annual return to the Registrar.**

Information Included

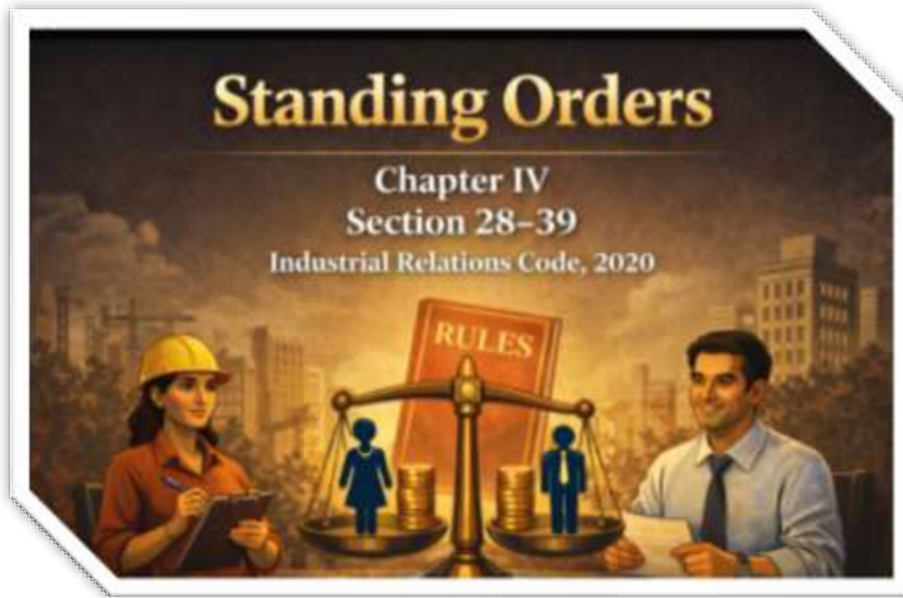
The return must contain:

- **receipts and expenditure of the year**, and
- **assets and liabilities of the union.**

Changes in office-bearers and updated rules must also be submitted.

Illustration

A union submits its **yearly financial statement to the Registrar.**



STANDING ORDERS

Introduction

Prior to this law:

- There was **significant exploitation of workmen.**
- **Conditions of employment were heavily in favour of employers.**

Therefore, the law was enacted to ensure that **conditions of employment in industrial establishments are clearly defined in written form**, so that employees are aware of their rights and obligations and exploitation is prevented.

Meaning of Standing Orders

Standing Orders are written rules relating to the conditions of service in an industrial establishment.

They regulate matters such as **classification of workers, working hours, leave, termination of employment, and misconduct.**

Standing Orders help to ensure **clarity, uniformity, and discipline in employment conditions.**

There are **two types of Standing Orders:**

- **Certified Standing Orders** – Standing Orders prepared by the employer and **approved (certified) by the Certifying Officer** under the law.
 - **Model Standing Orders** – **Standard Standing Orders prescribed by the Government**, which apply where the employer has not framed or obtained certification of their own Standing Orders.
-

Object and Scope of the Act

The Act was enacted with the following objectives:

- To **create uniformity in the terms and conditions of employment** in industrial establishments.
- To provide a **formal written declaration by the employer regarding conditions of work**.
- To **define and clarify the conditions of employment** of workmen.
- To ensure that **employment conditions cannot be altered arbitrarily or abruptly**, since they are prescribed in written form.

Section 28 – Application of Chapter IV (Standing Orders)

Applicability

The provisions of this Chapter apply to every **industrial establishment employing 300 or more workers**, or which has employed such number on any day in the preceding **12 months**.

Establishments Excluded

This Chapter **does not apply** to industrial establishments where workers are governed by the following rules or regulations:

- **Fundamental and Supplementary Rules**
- **Civil Services (Classification, Control and Appeal) Rules**
- **Civil Services (Temporary Service) Rules**
- **Revised Leave Rules**
- **Civil Service Regulations**
- **Civilians in Defence Service (Classification, Control and Appeal) Rules**
- **Indian Railway Establishment Code**
- Any other rules notified by the **appropriate Government**.

Section 29 – Model Standing Orders

Meaning

Model Standing Orders are **standard rules prescribed by the Central Government** regarding the **conditions of service in industrial establishments**, such as **classification of workers, working hours, leave, discipline, and termination**.

These rules act as a **default set of employment conditions** and **automatically apply to an establishment until its own Standing Orders are prepared and certified**.

Provision

- The **Central Government shall frame Model Standing Orders** relating to conditions of service and connected matters.
- **Temporary Application:** From the date this Chapter becomes applicable to an establishment, **Model Standing Orders shall apply to that establishment until its own Standing Orders are certified**.

Procedure to Obtain Certified Standing Orders

Section 30 – Preparation and Certification of Standing Orders

Step 1 – Preparation of Draft Standing Orders

The employer shall **prepare draft Standing Orders** based on the **Model Standing Orders** relating to matters specified in the **First Schedule** and other necessary matters concerning the establishment.

The draft Standing Orders must:

- **Cover all matters specified in the First Schedule**
- **Not be inconsistent with the provisions of the Code**

The draft shall be prepared **within 6 months from the commencement of the Code**.

Step 2 – Matters to be Covered (First Schedule)

Standing Orders shall include provisions relating to:

1. **Classification of workers** – permanent, temporary, apprentices, probationers, badlis or fixed term employment.
2. **Periods and hours of work**, holidays, pay days and wage rates.
3. **Shift working**.
4. **Attendance and late coming**.
5. **Leave and holidays**, procedure for applying and authority to grant leave.
6. **Entry into premises and liability to search**.
7. **Closing of sections, temporary stoppage of work**, and rights and liabilities of employer and workers.
8. **Termination of employment and notice** required by employer or worker.
9. **Suspension or dismissal for misconduct** and acts constituting misconduct.
10. **Means of redress for workers** against unfair treatment or wrongful exactions.
11. **Any other matter notified by the appropriate Government**.

Step 3 – Consultation with Trade Unions

Before submitting the draft Standing Orders, the employer shall consult:

- the **Trade Union**, or
- the **recognised negotiating union**, or
- the **members of the negotiating council**, if any.

After consultation, the draft shall be **forwarded to the Certifying Officer for certification**.

Step 4 – Adoption of Model Standing Orders

If the employer **adopts the Model Standing Orders prescribed by the Central Government**, such Standing Orders shall be **deemed to be certified**.

The employer must **inform the Certifying Officer accordingly**.

If the Certifying Officer has observations, he may **direct the employer to amend the Standing Orders within the prescribed period**.

Step 5 – Draft Modifications

Where modification of Standing Orders is required:

- the **employer shall prepare a draft modification**, and
- **submit it to the Certifying Officer for certification.**

Such draft modification must be submitted **within 6 months from the date this Chapter becomes applicable.**

Step 6 – Certification Procedure

On receiving the **draft Standing Orders or draft modifications**, the Certifying Officer shall issue notice to:

- the **Trade Union or negotiating union**, or
- **members of the negotiating council**, or
- **representatives of workers**, where no Trade Union exists.

After considering the **comments and hearing the parties**, the Certifying Officer shall decide whether **modifications are required.**

The procedure must be **completed within 60 days** from the date of receipt of the draft. If certification is **not completed within 60 days**, the **draft Standing Orders shall be deemed to be certified.**

Step 7 – Conditions for Certification

Standing Orders shall be certifiable if:

- they **cover all matters specified in the First Schedule**, and
- they are **in conformity with the provisions of the Code.**

Step 8 – Fairness and Reasonableness

The **Certifying Officer or Appellate Authority** shall examine the **fairness and reasonableness of the Standing Orders**, keeping in view the **Model Standing Orders.**

Step 9 – Certification and Communication

The Certifying Officer shall **certify the Standing Orders** and send copies of the certified Standing Orders:

- to the **employer**, and
- to the **Trade Union, negotiating union, negotiating council or worker representatives.**

This shall be done **within 7 days after certification.**

Step 10 – Statement of Particulars

The draft Standing Orders or draft modifications shall be accompanied by a **statement containing prescribed particulars** of:

- the **workers employed in the establishment**,
- the **Trade Union to which they belong**, and
- the **negotiating union or negotiating council**, if any.

Section 31 – Powers of Certifying Officer and Appellate Authority

The **Certifying Officer and Appellate Authority** shall have the powers of a **Civil Court** for the purpose of:

- receiving evidence
- administering oath
- enforcing attendance of witnesses
- compelling discovery and production of documents

They shall be deemed to be a **Civil Court within the meaning of Section 382 and Section 383 of the Bharatiya Nagarik Suraksha Sanhita, 2023.**

They may also **correct any clerical or arithmetical mistake** or accidental error in their orders.

Section 32 – Appeals**Right to Appeal**

The following persons may file an appeal against the order of the Certifying Officer under **Section 30(5)**:

- Employer
- Trade Union
- Negotiating Union or Negotiating Council
- Any Trade Union or representative body of workers where no negotiating union exists

Time Limit

The appeal must be filed **within 60 days** from the date of receipt of the order.

The appeal shall be made to the **Appellate Authority appointed by the appropriate Government**, which shall dispose of the appeal in the prescribed manner.

Section 33 – Date of Operation of Standing Orders

Standing Orders shall come into operation:

1. **Where no appeal is filed** – after **30 days** from the date authenticated copies are sent under **Section 30(8)**.
2. **Where an appeal is filed** – after **7 days** from the date copies of the order of the Appellate Authority are sent.

The employer shall **maintain the text of the certified Standing Orders** in the prescribed language and manner for the **information of workers**.

Section 34 – Register of Standing Orders

The **Certifying Officer shall maintain a register** of all Standing Orders certified under the Code.

The officer shall:

- **file copies of certified Standing Orders in the register**, or
- **upload them electronically or in prescribed form**

A copy may also be **furnished to any person on payment of the prescribed fee**.

Section 35 – Duration and Modification of Standing Orders**Minimum Period**

Certified Standing Orders **cannot be modified before 6 months** from the date they came into operation or from the date of the last modification.

Exception

Standing Orders may be modified earlier **if there is an agreement between the employer and workers**, or with the **Negotiating Union, Trade Union or representative body of workers**.

Application for Modification

An application for modification may be made by:

- Employer
- Worker
- Trade Union or representative body of workers

The application shall:

- **contain the proposed modifications**, and
- **include a certified copy of the agreement**, where modification is by agreement.

Procedure

The **same procedure applicable for certification of Standing Orders** shall apply for **certification of modifications**.

Section 36 – Oral Evidence Not Admissible

No **oral evidence** shall be admitted in any Court to **add to, vary or contradict the Standing Orders finally certified under this Chapter**.

Section 37 – Interpretation of Standing Orders**Dispute Regarding Interpretation**

Where a question arises regarding the **application or interpretation of certified Standing Orders**, an application may be made to the **Tribunal**.

Who May Apply

Application may be made by:

- **Employer**, or
- **Worker or workers concerned**, or
- **Trade Union representing the workers**.

The Tribunal shall **hear all parties and decide the question**, and its decision shall be **final and binding on the employer and workers**.

Section 38 – Time Limit for Disciplinary Proceedings and Subsistence Allowance
Meaning of Subsistence Allowance

Subsistence Allowance refers to the **amount paid to a worker during the period of suspension** pending investigation or disciplinary proceedings. It is intended to provide **basic financial support for the worker's livelihood during the suspension period**.

Object / Purpose of the Section

The purpose of this Section is:

- To ensure **disciplinary proceedings are completed within a reasonable time.**
- To prevent **prolonged suspension without inquiry.**
- To ensure that a **worker under suspension receives financial support for subsistence** during the period of inquiry.

Time Limit for Inquiry

Where a worker is **suspended pending investigation or inquiry into misconduct**, such investigation or inquiry shall **ordinarily be completed within 90 days from the date of suspension.**

Subsistence Allowance

Standing Orders must provide that a **worker under suspension shall receive subsistence allowance.**

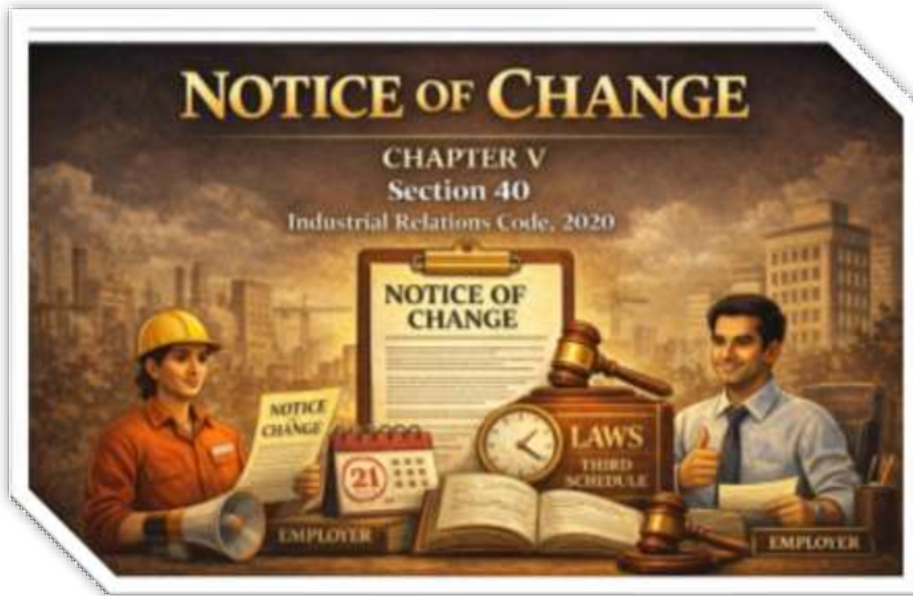
Rate of Subsistence Allowance

The allowance payable shall be:

- **50% of wages for the first 90 days of suspension, and**
- **75% of wages for the remaining period, if the delay in completing the proceedings is not attributable to the worker.**

Conclusion

Section 38 ensures that **disciplinary inquiries are completed within a reasonable time** and that a **suspended worker receives subsistence allowance** during the suspension period, thereby protecting the worker's livelihood.



NOTICE OF CHANGE

Section 40 – Notice of Change

Meaning

Notice of Change means the **prior notice that an employer must give to workers before making any change in their conditions of service** relating to matters specified in the **Third Schedule**.

The purpose is to ensure that **workers are informed in advance and are not subjected to sudden changes in employment conditions**.

General Rule

No employer who proposes to **effect any change in the conditions of service of workers** in respect of any matter specified in the **Third Schedule** shall effect such change:

- **Without giving notice to the workers likely to be affected**, in the prescribed manner, indicating the nature of the proposed change, or
- **Within 21 days of giving such notice**.

Exceptions (When Notice is Not Required)

Notice is not required where the change is effected:

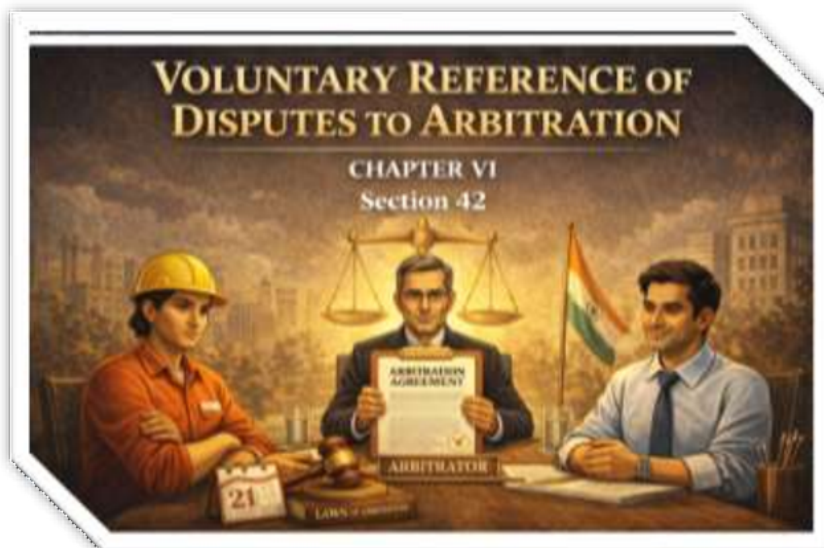
- **In pursuance of any settlement or award.**
- Where the workers are governed by **Fundamental and Supplementary Rules, Civil Services Rules, Civil Services Regulations, Indian Railway Establishment Code or other notified rules.**

- **In an emergent situation** requiring change of shift or shift working, otherwise than in accordance with Standing Orders, **in consultation with the Grievance Redressal Committee.**
- **In accordance with the orders of the appropriate Government.**

Matters for Which Notice is Required (Third Schedule)

Notice must be given before making changes relating to:

1. **Wages**, including period and mode of payment.
2. **Employer's contribution to provident fund, pension fund or similar benefits.**
3. **Compensatory and other allowances.**
4. **Hours of work and rest intervals.**
5. **Leave with wages and holidays.**
6. **Starting, alteration or discontinuance of shift working** otherwise than under Standing Orders.
7. **Classification of workers by grades.**
8. **Withdrawal of customary concessions or privileges or change in usage.**
9. **Introduction or alteration of disciplinary rules** (except those provided in Standing Orders).
10. **Rationalisation or improvement of plant or technique** likely to lead to retrenchment.
11. **Increase or reduction in number of workers employed** in any occupation, process, department or shift (other than casual changes due to uncontrollable circumstances).



Section 42 – Voluntary Reference of Disputes to Arbitration

Chapter VI – Voluntary Reference of Disputes to Arbitration

Meaning / Introduction

Voluntary reference to arbitration means that the employer and workers mutually agree to refer an industrial dispute to an independent arbitrator instead of approaching the Labour Court or Tribunal.

It is a **voluntary method of dispute resolution**, where both parties agree that the decision of the arbitrator will resolve the dispute.

Reference to Arbitration

Where an **industrial dispute exists or is apprehended**, the employer and workers may **agree in writing** to refer the dispute to arbitration.

The dispute may be referred to **one or more arbitrators** as specified in the **arbitration agreement**.

Appointment of Umpire

Where the arbitration agreement provides for an **even number of arbitrators**, it must also provide for the **appointment of an umpire**.

If the arbitrators are **equally divided in opinion**, the **umpire shall decide the dispute**, and his decision shall be **treated as the arbitration award**.

Form and Signature

The **arbitration agreement must be in the prescribed form** and **signed by the parties**.

Forwarding of Agreement

A copy of the **arbitration agreement shall be forwarded to:**

- the **appropriate Government**, and
- the **conciliation officer**.

Representation of Workers

Where the dispute **does not relate to termination of an individual worker**, workers shall be represented by:

- the **Negotiating Union or Negotiating Council**,
- where none exists, by the **Trade Union**,
- where no Trade Union exists, by **representatives of workers chosen in the prescribed manner**.

Where the dispute relates to **termination of an individual worker** (dismissal, discharge, retrenchment, etc.), the worker may appear:

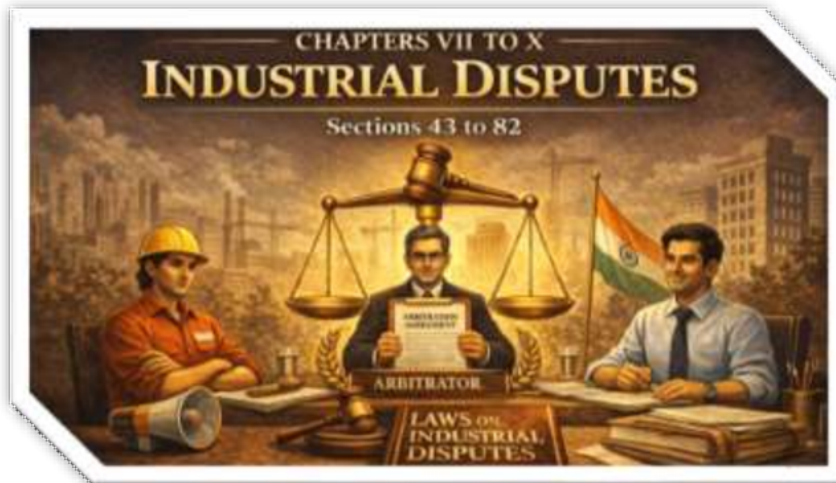
- **personally**, or
 - through an **authorised representative**.
-

Arbitration Award

The arbitrator or arbitrators shall investigate the dispute and submit the arbitration award to the appropriate Government, signed by the arbitrator(s).

Non-Applicability of Arbitration and Conciliation Act

The provisions of the Arbitration and Conciliation Act, 1996 do not apply to arbitration conducted under this Section.



INTRODUCTION

Chapters VII to X – Industrial Disputes (Sections 43 to 82)

Purpose of the Provisions

Chapters VII to X deal with **Industrial Disputes** and provide the **legal machinery for the peaceful settlement of disputes between employers and workers**. The objective of these provisions is to maintain **industrial peace, stability and harmonious relations** in industrial establishments.

Dispute Resolution Mechanism

These Chapters establish a structured framework through authorities such as **Conciliation Officers, Industrial Tribunals and National Industrial Tribunals** for the **investigation, conciliation and adjudication of industrial disputes**, ensuring that conflicts are resolved through **legal and institutional processes**.

Regulation of Industrial Actions and Employment Protection

The provisions also regulate important industrial matters such as **strikes, lock-outs, lay-off, retrenchment and closure of establishments**. They prescribe the **conditions, procedures and safeguards** governing these actions and provide **statutory protection and compensation to workers**, while ensuring a balance between the interests of employers and employees.

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

(Industrial Relations Code, 2020 – Sections 43 to 53)

Introduction

The Industrial Relations Code provides a **structured institutional mechanism for resolving industrial disputes** between **employers and workers**. The objective is to ensure that disputes are settled through **conciliation, mediation and adjudication** rather than through industrial unrest.

For this purpose, the Code establishes authorities such as **Conciliation Officers, Industrial Tribunals and National Industrial Tribunals**, and prescribes their **powers, procedure and jurisdiction**.

Section 43 – Conciliation Officer

Meaning and Role

A **Conciliation Officer** is a government-appointed authority whose primary role is to **mediate between the employer and workers and promote a voluntary settlement of industrial disputes** before the dispute escalates to adjudication.

Appointment

The **appropriate Government** may appoint **such number of Conciliation Officers as it considers necessary** through notification in the Official Gazette.

Area or Industry of Appointment

A Conciliation Officer may be appointed:

- for a **specific geographical area**,
- for **specified industries within a particular area**, or
- for **one or more specified industries**.

Tenure

The appointment may be:

- **permanent**, or
- for a **limited duration**, depending on the needs of the administration.

Illustration

Workers in a textile factory demand a wage increase and threaten to strike. The Government appoints a **Conciliation Officer** who meets both the **employer and the workers' union** and attempts to settle the dispute through negotiation before the matter reaches a Tribunal.

Section 44 – Industrial Tribunal

Meaning and Purpose

An **Industrial Tribunal** is a quasi-judicial body established by the Government to **adjudicate industrial disputes when conciliation fails or when disputes require formal judicial determination.**

Constitution

The **appropriate Government** may constitute one or more **Industrial Tribunals** for:

- **adjudication of industrial disputes, and**
- **performing functions assigned under the Code.**

A Tribunal constituted by the **Central Government** also exercises jurisdiction under the **Employees' Provident Funds and Miscellaneous Provisions Act, 1952.**

Composition

Every Industrial Tribunal consists of:

- **one Judicial Member, and**
- **one Administrative Member.**

Benches of the Tribunal

A Tribunal may function through benches consisting of:

- **Judicial Member and Administrative Member, or**
- **a single Judicial Member, or**
- **a single Administrative Member.**

Matters Requiring Two-Member Bench

Certain important matters must be decided by a bench consisting of **both members**, such as:

- **interpretation of Standing Orders,**
- **dismissal or discharge of workers,**
- **illegality of strike or lock-out,**
- **retrenchment or closure, and**
- **Trade Union disputes.**

Presiding Officer

Where both members sit together, the **Judicial Member presides over the bench.**

Vacancy

If a vacancy arises, it shall be **filled in the prescribed manner**, and proceedings continue from the stage already reached.

Staff

The **appropriate Government may appoint officers and staff** in consultation with the **Judicial Member** to assist the Tribunal.

Illustration

Workers challenge their **dismissal by the employer** and the dispute is referred to an **Industrial Tribunal**. The Tribunal examines the evidence and decides whether the dismissal was **legal or unjustified**, and may order **reinstatement or compensation**.

Section 45 – Finality of Constitution of Tribunal**Meaning and Purpose**

This provision ensures the **continuity and validity of tribunal proceedings** by preventing technical challenges to the tribunal's constitution.

Rule

The constitution of a Tribunal **cannot be questioned merely because of a vacancy or defect in its composition**.

Thus:

- appointment of a **Judicial Member or Administrative Member cannot be challenged**, and
- **acts or proceedings of the Tribunal remain valid** despite such defects.

Illustration

Suppose the **Administrative Member of a Tribunal resigns during proceedings**. Even though the post becomes vacant, the decisions already taken by the Tribunal **remain valid and cannot be challenged solely on this ground**.

Section 46 – National Industrial Tribunal**Meaning and Purpose**

A **National Industrial Tribunal** is a specialised adjudicatory body established by the **Central Government** to decide industrial disputes that are **of national importance or involve establishments in more than one State**.

Constitution

The Central Government may constitute **one or more National Industrial Tribunals**.

Composition

Each National Industrial Tribunal consists of:

- **one Judicial Member**, and
- **one Administrative Member**.

Qualification**Judicial Member**

- must be a **Judge or former Judge of a High Court**.

Administrative Member

- must have been **Secretary to the Government of India or equivalent**, and
- must possess **adequate experience in labour matters**.

Presiding Officer

The **Judicial Member** presides over the Tribunal.

Staff

The **Central Government** may appoint officers and staff in consultation with the Judicial Member.

Illustration

A dispute arises between a **multistate airline company and its employees working across several States**. Since the dispute affects establishments in **more than one State**, the Central Government refers the matter to a **National Industrial Tribunal**.

Section 47 – Decision of Tribunal or National Industrial Tribunal**Consensus Rule**

Normally, decisions are made by **consensus of the members**.

Difference of Opinion

If members disagree:

- they **record the points of difference**, and
- the matter is **referred to the appropriate Government**.

Resolution of Dispute

The Government appoints **another Judicial Member from another Tribunal**.

The final decision is based on the **majority opinion** of:

- the original members, and
- the additional Judicial Member.

Illustration

The **Judicial Member** believes a worker should be reinstated, while the **Administrative Member** believes only compensation should be paid. The dispute is referred to another Judicial Member and the final decision is taken by **majority opinion**.

Section 49 – Procedure and Powers of Authorities**Meaning and Scope**

This provision deals with the **procedure and powers of authorities involved in industrial dispute resolution**.

Authorities Covered

- Arbitrators
- Conciliation Officers
- Industrial Tribunals
- National Industrial Tribunals

Procedure

- These authorities are granted **procedural flexibility while conducting proceedings**.
- They may **follow their own procedure**, subject to the **provisions of the Code and the rules made thereunder**.

Right of Entry

A Conciliation Officer or authorised officer may **enter the premises of an establishment after giving reasonable notice** to investigate a dispute.

Powers of Civil Court

These authorities have powers similar to a **Civil Court under the Code of Civil Procedure, 1908**, including:

- **summoning persons,**
- **examining witnesses on oath,**
- **compelling production of documents, and**
- **issuing commissions for examination of witnesses.**

Judicial Proceedings

All inquiries and investigations are deemed **judicial proceedings** under the **Bharatiya Nyaya Sanhita, 2023**.

Additional Powers of Conciliation Officer

The Conciliation Officer may:

- **enforce attendance of persons, and**
- **inspect documents related to the dispute.**

Experts and Assessors

The Government may appoint **experts or assessors** to assist the Tribunal.

Public Servants

Conciliation Officers and Tribunal members are deemed **public servants**.

Costs of Proceedings

Tribunals may decide:

- **who shall pay the costs,**
- **the amount of costs, and**
- **conditions for payment.**

Execution of Award

Awards or orders of the Tribunal are executed under **Order XXI of the Code of Civil Procedure, 1908**.

Illustration

During a dispute regarding **illegal retrenchment**, the Tribunal may **summon company records, examine witnesses and inspect documents** just like a Civil Court to determine the facts of the case.

Section 53 – Conciliation and Adjudication of Dispute

Meaning and Purpose

This section explains the **process of conciliation and the subsequent reference of disputes for adjudication**.

Initiation of Conciliation

Where an **industrial dispute exists or is apprehended/held**, the **Conciliation Officer initiates conciliation proceedings**.

However, conciliation cannot begin **after two years from the date the dispute arose**.

Role of Conciliation Officer

The Conciliation Officer:

- **investigates the dispute,**
- **examines relevant facts, and**
- **encourages the parties to arrive at an amicable settlement.**

Settlement

If the parties reach a settlement:

- **a memorandum of settlement is prepared, and**
- **the report is sent to the appropriate Government.**

Failure of Settlement

If no settlement is reached, the officer sends a **failure report** explaining:

- **facts of the dispute,**
- **steps taken for settlement, and**
- **reasons for failure.**

Time Limit

The report must be submitted within:

- **45 days from commencement of conciliation, or**
- **14 days where conciliation follows a strike notice.**

Application to Tribunal

If conciliation fails, a concerned party may **apply to the Industrial Tribunal within 90 days** from receiving the conciliation report.



Introduction

Industrial relations may lead to conflicts between employers and workers, and therefore the Industrial Relations Code, 2020 defines key concepts such as **industrial dispute**, **strike**, **lock-out**, **retrenchment** and **lay-off** to regulate such situations and maintain industrial peace.

Industrial Dispute – section 2(q)

Meaning

An **industrial dispute** means a dispute between:

- employers and employers,
- employers and workers, or
- workers and workers,

which is connected with matters relating to:

- employment,
- non-employment,
- terms of employment, or
- conditions of labour.

The definition also includes disputes relating to **dismissal**, **discharge**, **retrenchment** or **termination of a worker**.

Strike – section 2(zk)**Meaning**

A **strike** means a **collective stoppage of work by workers** to press their demands against the employer. It includes situations where workers **refuse to work or refuse to accept employment collectively**.

The definition also includes **concerted casual leave taken by 50% or more workers together**.

Strike is considered a **weapon of collective bargaining in the hands of workers** to secure their industrial demands. However, it is important to note that **a strike does not terminate the contract of employment**.

Lock-out – section 2(u)**Meaning**

A **lock-out** is the **opposite of a strike**. It is a situation where the **employer temporarily closes the workplace or refuses to continue employment** in order to pressurise workers to accept the employer's terms.

It includes:

- **temporary closing of the workplace,**
- **suspension of work,** or
- **refusal by the employer to continue employment.**

The essence of a lock-out is the **refusal of the employer to continue to employ workers**.

The Supreme Court in **Express Newspapers (P) Ltd. v. Their Workers** observed that just as a strike is a weapon in the hands of employees, **lock-out is a weapon available to the employer to persuade workers to accept the employer's demands**.

Retrenchment – section 2(zh)**Meaning**

Retrenchment means **termination of the service of a worker by the employer for any reason**, except in certain specified cases.

Retrenchment does **not include termination due to:**

- **disciplinary punishment,**
- **voluntary retirement,**
- **superannuation,**
- **expiry of contract,**
- **completion of fixed-term employment,** or
- **termination due to ill-health.**

Thus, retrenchment generally refers to **termination of workers due to surplus labour or business reasons**.

Illustration

A company introduces **automation and no longer requires some workers**. The employer terminates the services of those workers due to **excess manpower**. This

termination is **retrenchment**.

Lay-off – section 2(t)

Meaning

A **lay-off** occurs when the employer **temporarily fails or is unable to provide employment to workers**, even though the employment relationship continues.

This may occur due to reasons such as:

- shortage of raw materials,
- shortage of power or coal,
- breakdown of machinery,
- accumulation of stock,
- natural calamity, or
- other similar reasons.

The worker must **remain on the muster rolls of the establishment and must not be retrenched**.

STRIKES AND LOCK-OUTS

Section 62 – Prohibition of Strikes and Lock-Outs

Workers employed in an industrial establishment **cannot go on strike in breach of the contract of employment** in the following situations:

1. Strike Notice Requirement

Workers must **give prior notice of strike to the employer**, and the strike must take place **within 60 days from the date of giving such notice**. If the strike does not take place within this period, a **fresh notice must be given**. The **60-day rule ensures that an old strike notice cannot remain valid indefinitely**.

2. Cooling-off Period After Notice

Workers **cannot go on strike within 14 days after giving the strike notice**. This period is intended to provide time for **negotiation and conciliation**. Therefore, the strike can legally occur **between the 14th day and the 60th day after giving notice**.

3. Strike Before the Specified Date

Workers **cannot go on strike before the date mentioned in the strike notice**. The strike must begin **only on or after the date specified in the notice**.

4. Strike During Conciliation Proceedings

Workers cannot go on strike **during the pendency of conciliation proceedings before a Conciliation Officer and for seven days after the conclusion of such proceedings**.

5. Strike During Tribunal Proceedings

Workers cannot go on strike **during the pendency of proceedings before an Industrial Tribunal or National Industrial Tribunal and for sixty days after the conclusion of such proceedings.**

6. Strike During Arbitration Proceedings

Where arbitration proceedings are pending and a **notification has been issued under section 42(5)**, workers cannot go on strike **during the pendency of arbitration proceedings and for sixty days after their conclusion.**

7. Strike During Operation of Settlement or Award

Workers cannot go on strike **during the period in which a settlement or award is in operation**, in respect of matters that are **covered by that settlement or award.**

Prohibition on Lock-out by Employer

Similarly, an employer **cannot declare a lock-out in an industrial establishment** in the following situations:

1. Lock-out Notice Requirement

The employer must **give prior notice of lock-out**, and the lock-out must take place **within 60 days from the date of giving such notice**. If the lock-out does not occur within this period, a **fresh notice must be issued.**

2. Cooling-off Period After Notice

The employer **cannot declare a lock-out within 14 days after giving the notice of lock-out**. This period allows time for **negotiation and conciliation.**

3. Lock-out Before the Specified Date

The employer **cannot declare a lock-out before the date mentioned in the notice**. The lock-out must begin **only on or after the date specified in the notice.**

4. Lock-out During Conciliation Proceedings

The employer cannot declare a lock-out **during the pendency of conciliation proceedings before a Conciliation Officer and for seven days after their conclusion.**

5. Lock-out During Tribunal Proceedings

The employer cannot declare a lock-out **during the pendency of proceedings before an Industrial Tribunal or National Industrial Tribunal and for sixty days after the conclusion of such proceedings.**

6. Lock-out During Arbitration Proceedings

Where arbitration proceedings are pending and a **notification has been issued under section 42(5)**, the employer cannot declare a lock-out **during the pendency of arbitration proceedings and for sixty days after their conclusion.**

7. Lock-out During Operation of Settlement or Award

The employer cannot declare a lock-out **during the period in which a settlement or award is in operation**, in respect of matters covered by that settlement or award.

Notice or Intimation of Strike or Lock-out

Intimation to Authority

The employer must **send the notice of strike or lock-out to the authority specified by the appropriate Government.** If a strike or lock-out already exists, the employer must send an **intimation of such strike or lock-out on the same day it is declared.**

Reporting by Employer

Where the employer **receives a notice of strike from workers or issues a notice of lock-out**, the employer must **report the matter within 5 days** to:

- the **appropriate Government or specified authority**, and
 - the **Conciliation Officer.**
-

Section 63 – Illegal Strikes and Lock-outs

When a Strike or Lock-out is Illegal

A strike or lock-out shall be considered **illegal** if:

1. **It is commenced or declared in contravention of the act.**

Consequential Strike or Lock-out

A lock-out declared in consequence of an illegal strike, or a strike declared in consequence of an illegal lock-out, shall not be considered illegal.

Section 64 – Prohibition of Financial Aid

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

Section 65 – Applicability of Lay-off Compensation Provisions

Provision

The provisions relating to **lay-off compensation (sections 67–69)** do **not apply** to:

- establishments employing **300 or more workers** (covered under **Chapter X**)
- establishments employing **less than 50 workers**
- establishments that are **seasonal or intermittent in nature**

If there is a dispute about whether an establishment is **seasonal or intermittent**, the **decision of the appropriate Government is final**.

For these provisions, **industrial establishment** includes:

- a **factory** under the Factories Act, 1948
- a **mine** under the Mines Act, 1952
- a **plantation** under the Plantations Labour Act, 1951

Rationale

This section clarifies that **lay-off compensation rules apply mainly to medium-sized establishments**, while **very small and very large establishments are governed by different provisions**.

Section 66 – Continuous Service

Meaning

This section defines **continuous service**, which is important to determine whether a worker is **eligible for benefits such as lay-off compensation or retrenchment compensation**.

Provision

Continuous service means **uninterrupted service of a worker**. However, certain interruptions are still treated as part of continuous service, including interruptions due to:

- sickness
- authorised leave
- accident
- a **strike which is not illegal**
- **lock-out**
- stoppage of work **not due to the fault of the worker**

Even where service is not completely uninterrupted, a worker will still be considered to be in continuous service if he has actually worked for the required number of days.

For **one year of continuous service**, the worker must have worked:

- **190 days** – if employed below ground in a mine
- **240 days** – in any other case

Certain days are also counted as days worked, such as:

- days of **lay-off permitted under law**
- **leave with full wages**
- absence due to **employment injury**
- **maternity leave** permitted under the Maternity Benefit Act

Rationale

This provision ensures that workers **do not lose their eligibility for compensation merely because of unavoidable interruptions in service.**

Illustration

A worker has worked **240 days in a year**, but during the year he was absent for **15 days due to illness and 10 days due to a lock-out**. These interruptions will still be treated as part of **continuous service**, and the worker will qualify for benefits.

Section 67 – Compensation for Lay-off

Eligibility for Lay-off Compensation

A worker is entitled to lay-off compensation if:

- the worker's **name is entered in the muster rolls** of the establishment; and
- the worker has completed **at least one year of continuous service.**

Amount of Compensation

During the period of lay-off, the worker is entitled to receive **50% of the total of basic wages and dearness allowance** for the days on which he is laid off.

Weekly holidays are excluded while calculating this compensation.

Lay-off Beyond 45 Days

If a worker is laid off for **more than 45 days during a period of 12 months**, compensation is **not payable beyond the first 45 days**, provided there is an **agreement between the employer and the worker.**

Adjustment Against Retrenchment

In such a situation, the employer may **retrench the worker under section 70**, and the **lay-off compensation already paid may be adjusted against the retrenchment compensation.**

Rationale

The purpose of this section is to **provide financial protection to workers during temporary stoppage of work**, while also allowing employers some flexibility when the lay-off continues for a long period.

Illustration

Due to **shortage of raw materials**, a factory temporarily stops production and lays off workers for **20 days**. The workers will be entitled to receive **50% of their basic wages and dearness allowance for those 20 days** as lay-off compensation.

Section 68 – Maintenance of Muster Rolls

Even when workers are laid-off, the employer must:

- **maintain a muster roll of workers**, and
- allow workers to **mark their attendance when they present themselves for work during normal working hours**.

Section 69 – Workers Not Entitled to Lay-off Compensation**Situations Where Compensation Is Not Payable**

A worker shall **not be entitled to lay-off compensation** in the following situations:

1. Refusal of Alternative Employment

If the worker **refuses alternative employment** offered by the employer in the **same establishment or another establishment of the same employer within 8 kilometres**, provided that:

- the work **does not require special skill**, and
- the **wages remain the same**.

2. Failure to Present for Work

If the worker **fails to present himself for work at the establishment at least once a day during normal working hours**.

3. Lay-off Due to Workers' Strike or Slowdown

If the lay-off occurs due to a **strike or deliberate slowing down of production by workers in another part of the establishment**.

Retrenchment

Retrenchment refers to the **termination of service of workers by the employer for reasons such as surplus labour, reorganisation, or reduction in workforce**, otherwise than as a punishment. The law prescribes certain **conditions and procedures to protect workers from arbitrary termination**.

Section 70 – Conditions Precedent to Retrenchment

A worker who has completed **1 year of continuous service** cannot be retrenched unless the employer satisfies the following conditions:

1. Notice to Worker

The worker must be given **1 month’s written notice stating the reasons for retrenchment**, or the employer must pay **wages in lieu of such notice**.

2. Retrenchment Compensation

The worker must be paid **retrenchment compensation equal to 15 days’ average pay for every completed year of continuous service or part exceeding 6 months**.

3. Notice to Government

The employer must **give notice to the appropriate Government or specified authority** regarding the retrenchment.

Section 71 – Procedure for Retrenchment

When workers of a particular category are to be retrenched, the employer should **ordinarily retrench the worker who was last employed in that category**, unless valid reasons are recorded for retrenching another worker.

This principle is known as the **“Last-In-First-Out (LIFO) rule.”**

Section 72 – Re-employment of Retrenched Workers

If the employer proposes to **hire workers within 1 year after retrenchment**, the employer must:

- give an opportunity to the **retrenched workers (who are citizens of India)** to apply for re-employment; and

Section 75 – Compensation in Case of Closure

When an undertaking is closed, every worker who has completed **1 year of continuous service** immediately before closure is entitled to **notice and compensation as if retrenched under section 70**.

Closure Due to Unavoidable Circumstances

If the closure occurs due to **unavoidable circumstances beyond the control of the employer**, the compensation payable **shall not exceed 3 months' average pay**.

Mining Undertakings

In mining undertakings, **no compensation is payable** if:

- the employer provides **alternative employment within 20 kilometres**,
- the worker's **service continues without interruption**, and
- the employer remains **liable for retrenchment compensation based on continuous service**.

Construction Undertakings

If a construction project **closes within 2 years due to completion of the project**, workers are **not entitled to retrenchment compensation**.

However, if the project **continues beyond 2 years**, workers become entitled to **notice and compensation under section 70**.

SPECIAL PROVISIONS RELATING TO LAY-OFF AND RETRENCHMENT IN LARGE ESTABLISHMENTS

Introduction

This Chapter contains **special provisions applicable to large industrial establishments employing 300 or more workers**. In such establishments, the employer **cannot suddenly lay-off or retrench workers**. Prior **permission of the appropriate Government is required** to protect workers.

Section 77 – Application

Applicability

Sections **77 to 88 apply to industrial establishments employing 300 or more workers** on an average per working day in the preceding 12 months.

Industrial Establishment Includes

- **factory**
 - **mine**
 - **plantation**
-

Section 78 – Prohibition of Lay-off

Prior Government Permission

In establishments covered under this Chapter, **no worker whose name is on the muster rolls can be laid-off without prior permission of the appropriate Government.** This means **sudden lay-off is generally not allowed.**

Exceptions

Prior permission is **not required** where lay-off is due to:

- **shortage of power**
- **natural calamity**
- **in mines, fire, flood, gas or explosion**

Government Decision

The employer must **apply to the Government stating the reasons for lay-off.** The Government will **hear both employer and workers** and then grant or refuse permission. If no decision is communicated within **60 days**, permission is **deemed to be granted.**

Illegal Lay-off

Lay-off is **illegal** if permission is **not taken** or is **refused.**

In such a case, workers are entitled to **all benefits as if they had not been laid-off.**

Compensation for Lay-off

If lay-off is validly made under this Chapter, the worker is entitled to **lay-off compensation according to the law applicable to lay-off**, unless he is excluded by the provision itself, such as in the case of **badli or casual workers.**

Section 79 – Conditions Precedent to Retrenchment

Conditions for Retrenchment

In establishments employing **300 or more workers**, a worker who has completed **1 year of continuous service** cannot be retrenched unless:

1. **3 months' written notice** stating the reasons for retrenchment is given, or wages in lieu of notice are paid.
2. **Prior permission of the appropriate Government is obtained.**

Government Decision

The Government will **hear both parties** and decide whether permission should be granted.

If no decision is communicated within **60 days**, permission is **deemed to be granted.**

Illegal Retrenchment

Retrenchment is **illegal** if permission is **not obtained** or is **refused.**

In such a case, the worker is entitled to **all benefits as if retrenchment had not taken place.**

Retrenchment Compensation

Where retrenchment is permitted, the worker is entitled to **compensation equal to 15 days' average pay for every completed year of continuous service or part exceeding 6 months.**

The core idea is: in **large establishments, lay-off cannot be done suddenly and retrenchment cannot be done freely**; in both cases, **Government permission is the key protection.**

Special Provisions Relating to Closure in Large Industrial Establishments

Introduction

This Chapter regulates **closure of undertakings in large industrial establishments employing 300 or more workers.** The employer **cannot close the establishment without prior permission of the appropriate Government**, so that the interests of workers and the public are protected.

Section 80 – Procedure for Closing Down an Industrial Establishment

Prior Government Permission

An employer who intends to **close down an undertaking** in an establishment covered under this Chapter must **apply for prior permission of the appropriate Government.**

The application must:

- be made **at least 90 days before the intended closure,**
- **state the reasons for closure,** and
- **a copy must be served on the workers' representatives.**

Decision of Government

The Government will **conduct enquiry and hear the employer and workers** before granting or refusing permission.

If the Government **does not communicate its decision within 60 days,** permission is **deemed to be granted.**

Illegal Closure

Closure will be **illegal** if:

- no application for permission is made, or
- permission for closure is **refused.**

In such cases, workers are **entitled to all benefits as if the undertaking had not been closed.**

Compensation to Workers

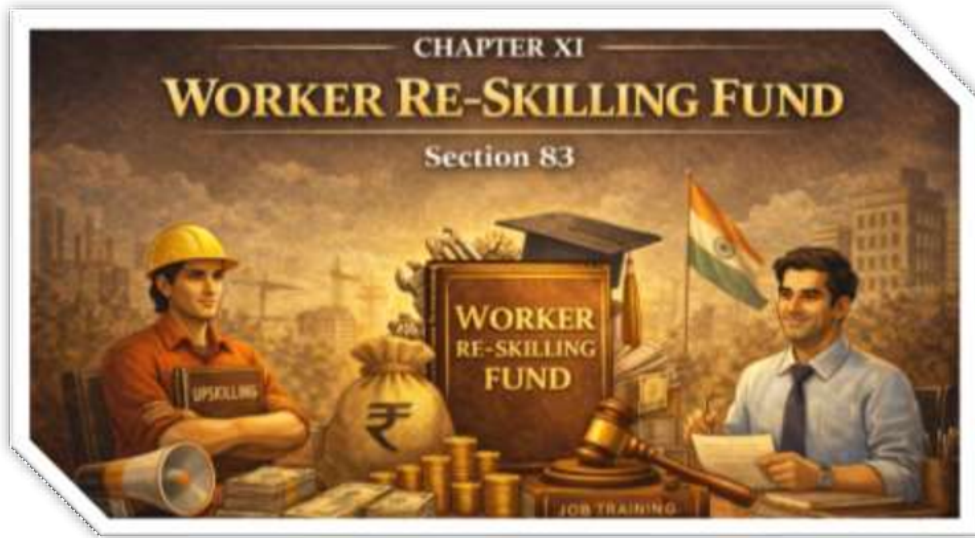
Where closure is permitted, every worker who has completed **1 year of continuous service** is entitled to compensation.

The compensation shall be **15 days' average pay for every completed year of continuous service.**

Section 81 – Duty to Maintain Muster Rolls

Every employer must:

- **maintain a muster roll of workers**, and
- allow workers to **record their attendance when they present themselves for work during normal working hours**.



WORKER RE-SKILLING FUND AND UNFAIR LABOUR PRACTICES

Section 83 – Worker Re-skilling Fund

Purpose

This section provides for the creation of a **Worker Re-skilling Fund to help retrenched workers acquire new skills and improve their chances of re-employment**.

Establishment of Fund

The **appropriate Government shall establish a fund called the Worker Re-skilling Fund**.

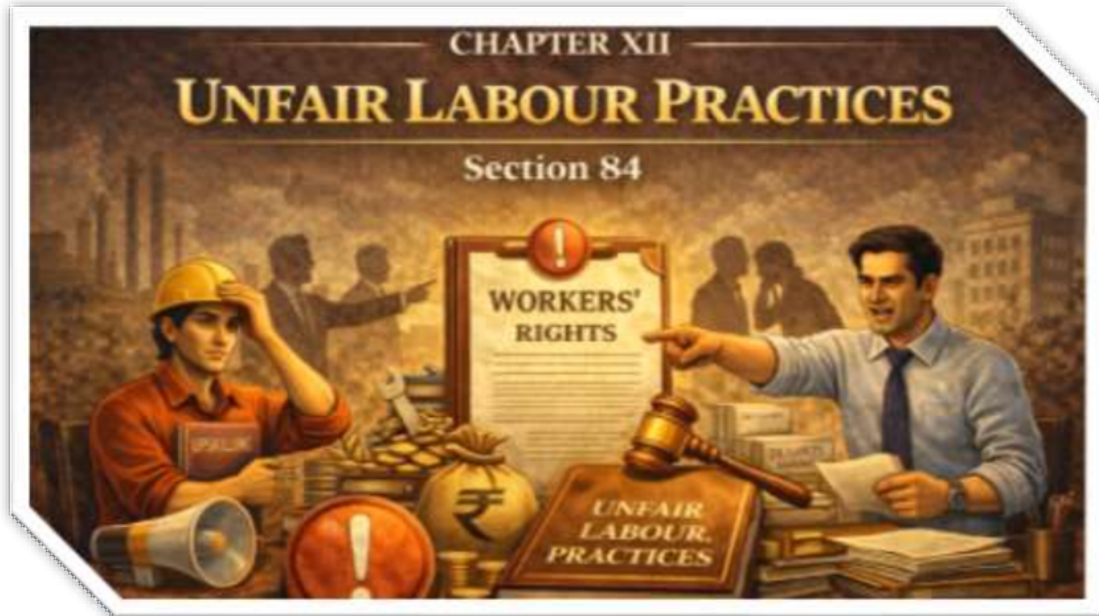
Sources of the Fund

The fund shall consist of:

1. **Contribution by Employer**
The employer must contribute an amount equal to **15 days' wages last drawn by the retrenched worker** for every retrenched worker.
2. **Other Contributions**
The fund may also receive **contributions from other sources as prescribed by the Government**.

Utilisation of the Fund

An amount equal to **15 days' wages last drawn by the retrenched worker** shall be **credited to the worker's account within 45 days of retrenchment** to support re-skilling and future employment.



Section 84 – Prohibition of Unfair Labour Practices

Meaning

This section prohibits **unfair labour practices by employers, workers and Trade Unions** in order to maintain **fair industrial relations and protect the rights of both employers and workers**.

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

I. Unfair Labour Practices by Employers or Employers' Trade Unions

1. Interference with Trade Union Rights

Employers shall not **interfere with or restrain workers from exercising their rights to organise, form or join a Trade Union, or participate in collective bargaining**.

Examples include:

- threatening workers with **dismissal if they join a Trade Union**
- threatening **lock-out or closure** if a Trade Union is formed
- granting **wage increases during union formation to weaken union activities**

2. Domination or Control of Trade Unions

Employers shall not:

- interfere with the **formation or functioning of a Trade Union**
 - provide **financial or other support** to a Trade Union
 - show **favouritism to a particular Trade Union**
-

3. Employer-Sponsored Trade Unions

Employers shall not **establish or promote Trade Unions that are controlled or influenced by the employer.**

4. Discrimination Against Trade Union Members

Employers shall not **discriminate against workers because of Trade Union membership or activities**, such as:

- dismissal for participating in a **legal strike**
 - denial of **promotion due to union activities**
 - manipulation of **seniority or promotion to weaken a Trade Union**
-

5. Victimisation or Unfair Dismissal

Employers shall not dismiss workers:

- by **victimisation**
 - **in bad faith**
 - on **false or fabricated charges**
 - in violation of **principles of natural justice**
 - for **minor misconduct resulting in disproportionate punishment**
-

6. Other Unfair Practices by Employers

Employers shall not:

- abolish regular work and give it to **contract labour to break a strike**
- **maliciously transfer workers** under the guise of management policy
- compel striking workers to sign **good conduct bonds**
- show **favouritism among workers**
- keep workers as **temporary or casual for years to deny permanent status**
- punish workers for **giving evidence in industrial dispute proceedings**
- **recruit workers during a legal strike**

- fail to **implement awards, settlements or agreements**
- indulge in **violence**
- refuse to **bargain collectively with recognised Trade Unions**
- declare or continue an **illegal lock-out**

II. Unfair Labour Practices by Workers or Workers' Trade Unions

1. Supporting Illegal Strikes

Workers or Trade Unions shall not **advise, support or instigate illegal strikes.**

2. Coercion of Workers

Workers shall not **coerce or intimidate other workers regarding Trade Union membership.**

Examples include:

- blocking entry of **non-striking workers into the workplace**
- **threatening or intimidating workers or management**

3. Refusal to Bargain Collectively

A recognised Trade Union shall not **refuse to bargain collectively in good faith with the employer.**

4. Coercive Actions by Workers or Trade Unions

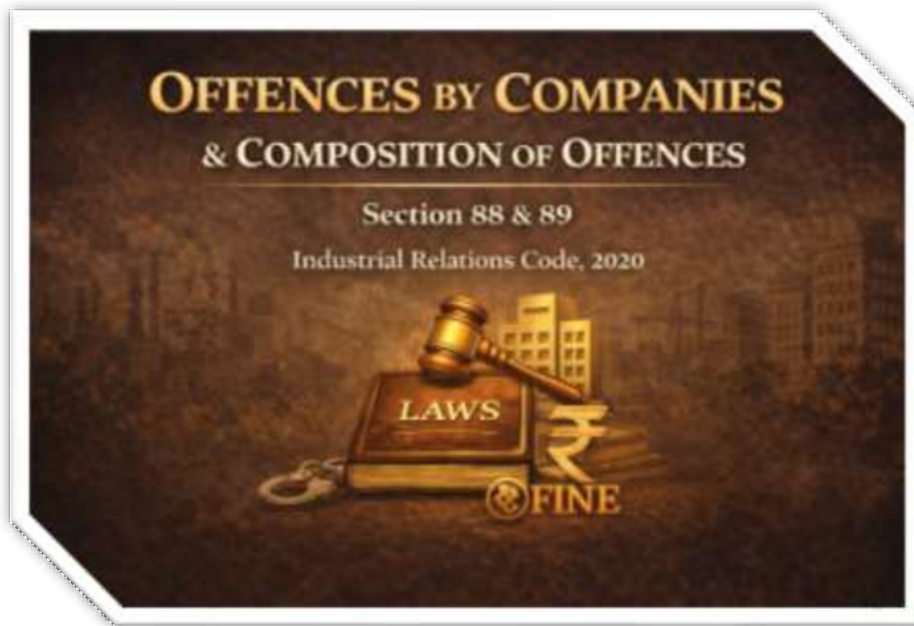
Workers or Trade Unions shall not engage in coercive actions such as:

- **go-slow**
- **squatting at the workplace after working hours**
- **gherao of managerial staff**
- demonstrations outside the **residences of employers or managers**
- **damage to employer's property**
- **violence or intimidation** to prevent workers from attending work

Meaning of "Go-Slow"

"Go-slow" means a situation where **two or more workers deliberately reduce their work speed or effort** to pressure the employer for **higher wages or better service conditions.**

Where no work standard is specified, the **normal rate of work shall be determined based on the average work performed during the previous three months.**



OFFENCES BY COMPANIES AND COMPOSITION OF OFFENCES

Introduction

The Industrial Relations Code, 2020 provides provisions relating to **liability of companies for offences and the compounding of offences**.

Section 88 fixes **liability on companies and responsible officers**, while section 89 allows **certain offences to be settled by payment of a prescribed amount instead of full prosecution**.

Section 88 – Offences by Companies

Meaning

This section explains **who will be held responsible when an offence under the Code is committed by a company**. Since a company acts through its officers and managers, the law fixes liability not only on the company but also on the persons who were responsible for managing its business.

General Liability

Where an offence under this Code is committed by a company, the following persons shall be deemed to be guilty:

- **the company itself**, and
- **every person who was in charge of and responsible for the conduct of the company's business at the time the offence was committed**.

Such persons may be **prosecuted and punished under the Code**.

Defence Available to Responsible Persons

A person will not be liable for punishment if he proves that:

- the offence was committed **without his knowledge**, and
- he had exercised **due diligence to prevent the commission of the offence**.

Liability for Consent, Connivance or Neglect

If the offence was committed with the **consent, connivance or neglect** of any:

- **director**
- **manager**
- **secretary**
- **other officer of the company**

such person will also be **deemed guilty and liable for punishment**.

Meaning of Company

For the purposes of this section:

- **company includes a body corporate, firm, LLP or association of individuals;**
- in the case of a **firm, the term “director” means a partner.**

Section 89 – Composition of Offences

Meaning

This section provides a **mechanism for compounding offences**, which means certain offences can be **settled by paying a specified amount instead of undergoing full prosecution in court**.

Compounding of Offences

Any offence under this Code may be compounded **except offences punishable with imprisonment only or with imprisonment and fine**.

An application for compounding may be made **before or after prosecution begins**.

Compounding Authority

The **appropriate Government may appoint a Gazetted Officer** to act as the authority for compounding offences.

Amount Payable for Compounding

An offence may be compounded by paying:

- **50% of the maximum fine**, where the offence is punishable with **fine only**;
- **75% of the maximum fine**, where the offence is punishable with **imprisonment up to one year or with fine**.

The amount collected shall be **credited to the Social Security Fund under the Code on Social Security, 2020**.

When Compounding Is Not Allowed

Compounding is **not permitted** if a person commits a **similar offence again within three years**:

- after the earlier offence was compounded, or
- after the person was convicted for a similar offence.

Effect of Compounding

- If the offence is compounded **before prosecution**, no prosecution will be initiated.
- If the offence is compounded **after prosecution has begun**, the person will be **discharged from the case**.

Failure to Comply with Compounding Order

If a person **fails to comply with the compounding order**, he must pay an **additional amount equal to 20% of the maximum fine** prescribed for the offence.



Introduction

The **Code on Wages, 2019** consolidates the laws relating to **equal remuneration, minimum wages, payment of wages, and payment of bonus**.

It aims to create a **uniform wage framework applicable to all employees across organised and unorganised sectors**.

The Code was **notified on 8 August 2019** and is structured into **9 chapters covering sections 1 to 69**.

Chapter	Relates to	Sections Covered
Chapter I	Equal Remuneration and Preliminary	Section 1 – 4
Chapter II	Minimum Wages	Section 5 – 14
Chapter III	Payment of Wages	Section 15 – 25
Chapter IV	Payment of Bonus	Section 26 – 41
Chapter V	Advisory Boards	Section 42
Chapter VI	Payment of Dues, Claims and Audit	Section 43 – 50
Chapter VII	Inspector-cum-Facilitator	Section 51
Chapter VIII	Offences and Penalties	Section 52 – 57
Chapter IX	Miscellaneous Provisions	Section 58 – 69

THE CODE ON WAGES, 2019

Section 1 – Short title, extent and commencement

Short title

This Act is called the **Code on Wages, 2019**.

Extent

The Code extends to the **whole of India**.

Section 2 – Definitions

Section 2 provides various **key definitions used in the Code on Wages, 2019**. Below are the **important definitions under the act** -

Accounting Year

Accounting year means the **year commencing on 1st April**. (Section 2(a))

Advisory Board

Advisory Board means the **Central Advisory Board or the State Advisory Board constituted under section 42**. (Section 2(b))

Appropriate Government

The **appropriate Government** depends on the type of establishment.

Establishment Type

Appropriate Government

Establishment carried on by or under authority of Central Government	Central Government
Railways, mines, oil fields, major ports, air transport, telecommunication, banking, insurance	Central Government
Corporations established under Central Act	Central Government
Central Public Sector Undertakings (PSUs), subsidiaries, autonomous bodies controlled by Central Government	Central Government
Contractors engaged for such establishments	Central Government
Any other establishment (Section 2(d))	State Government

Contractor

Contractor means a person who—

- undertakes to produce a given result for an establishment through **contract labour**, or
- **supplies contract labour** for any work of the establishment, and includes a **sub-contractor**.
- A mere **supplier of goods or articles** is **not treated as a contractor**. (Section 2(f))

Contract Labour

Contract labour means a **worker hired through a contractor** for work of an establishment, **with or without knowledge of the principal employer**, and includes **inter-State migrant workers**.

However, it **does not include** a worker who:

- is **regularly employed by the contractor**, and
- receives **regular increments, social security and welfare benefits** under applicable laws. (Section 2(g))

Employee

Employee means **any person employed on wages in an establishment** to perform **skilled, semi-skilled, unskilled, managerial, technical, clerical, supervisory or administrative work**.

Excludes:

- **Apprentices under the Apprentices Act, 1961**
- **Members of the Armed Forces** (Section 2(k))

Employer

Employer means a person who **employs one or more employees**, directly or indirectly.

Examples include:

- **Head of department** in Government establishments
- **Chief executive** in local authority establishments
- **Factory occupier or manager**
- **Person having ultimate control of establishment**
- **Contractor**
- **Legal representative of deceased employer** (Section 2(l))

Establishment

Any place where **industry, trade, business, manufacture or occupation is carried on**, including Government establishments. (Section 2(m))

Factory

Factory as defined in **section 2(m) of the Factories Act, 1948**.
(Section 2(n))

Industrial Dispute

Industrial dispute means any dispute between:

- **employers and employers,**
- **employers and workers,** or
- **workers and workers,**

connected with **employment, non-employment, terms of employment or conditions of labour**.

It also includes disputes relating to **dismissal, discharge, retrenchment or termination of an individual worker**. (Section 2(q))

Same Work or Work of Similar Nature

Work requiring **same skill, effort, experience and responsibility** under **similar working conditions**, where differences are **not practically significant**.

(Section 2(v))

Wages

Wages include **all monetary remuneration payable to an employee**, including:

- **Basic pay**
- **Dearness allowance**
- **Retaining allowance**

However, the following are **excluded**:

- Bonus not forming part of remuneration
- Value of house accommodation or amenities
- Employer contribution to PF or pension
- Conveyance allowance
- Special employment expenses
- House rent allowance
- Overtime allowance
- Commission
- Gratuity
- Retrenchment or retirement benefits

Special Rule

- Excluded components **cannot exceed 50% of total remuneration**.
- If they exceed 50%, the **excess will be treated as wages**. (Section 2(y))

Worker

Worker means a person employed in an industry to perform **manual, skilled, technical, clerical, operational or supervisory work** for hire or reward.

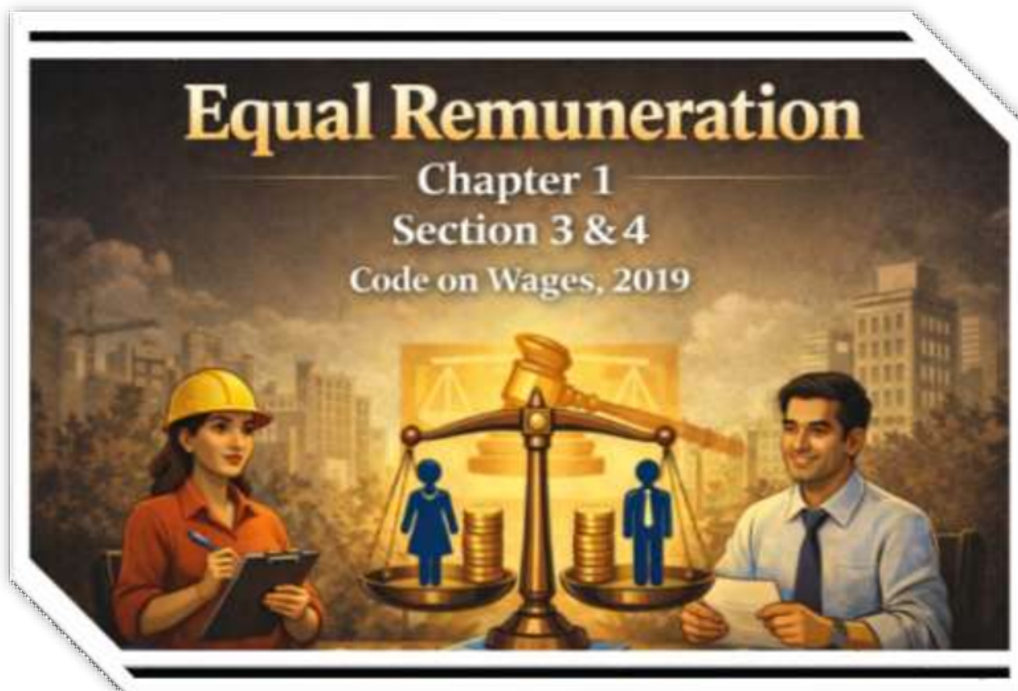
Includes:

- **Working journalists**
- **Sales promotion employees**
- Workers involved in **industrial dispute proceedings**

Excludes:

- Members of **armed forces**
- **Police personnel and prison staff**
- Persons employed mainly in **managerial or administrative capacity**
- Supervisors drawing wages **above the notified limit**

(Section 2(z))



Chapter I – Prohibition of Discrimination on Ground of Gender (Sections 3 & 4)

Introduction

Article 39(d) of the Constitution of India directs the State to secure **equal pay for equal work for both men and women**. In line with this constitutional principle, the **Code on Wages, 2019** provides that there shall be **no discrimination on the ground of gender in matters relating to wages and employment for the same work or work of a similar nature**.

Meaning of Same Work or Work of Similar Nature

Work in respect of which the **skill, effort, experience and responsibility required are the same**, when performed under **similar working conditions** by employees.

Explanation

If there is **any difference in skill, effort, experience or responsibility**, but such difference is **not practically important in relation to the terms and conditions of employment**, the work will still be treated as **same work or work of similar nature**.
(Section 2(v))

Illustration

A **male employee** and a **female employee** both work as **data entry operators** in the same office. One enters **customer data** while the other enters **supplier data**. Since the **skill, effort, responsibility and working conditions are essentially the same**, the work will be treated as **same work or work of similar nature**, and both must receive **equal wages**.

Section 3 – Prohibition of Discrimination on Ground of Gender**Section 3(1) – No discrimination in wages**

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

Section 3(2) – Restrictions on employer**Section 3(2)(i) – No reduction of wages**

No employer shall, for the purposes of complying with the provisions of **section 3(1)**, **reduce the rate of wages of any employee**.

Section 3(2)(ii) – No discrimination in recruitment and employment conditions

No employer shall **make any discrimination on the ground of sex while recruiting any employee for the same work or work of similar nature and in the conditions of employment**.

However, such a discrimination is allowed under Code where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

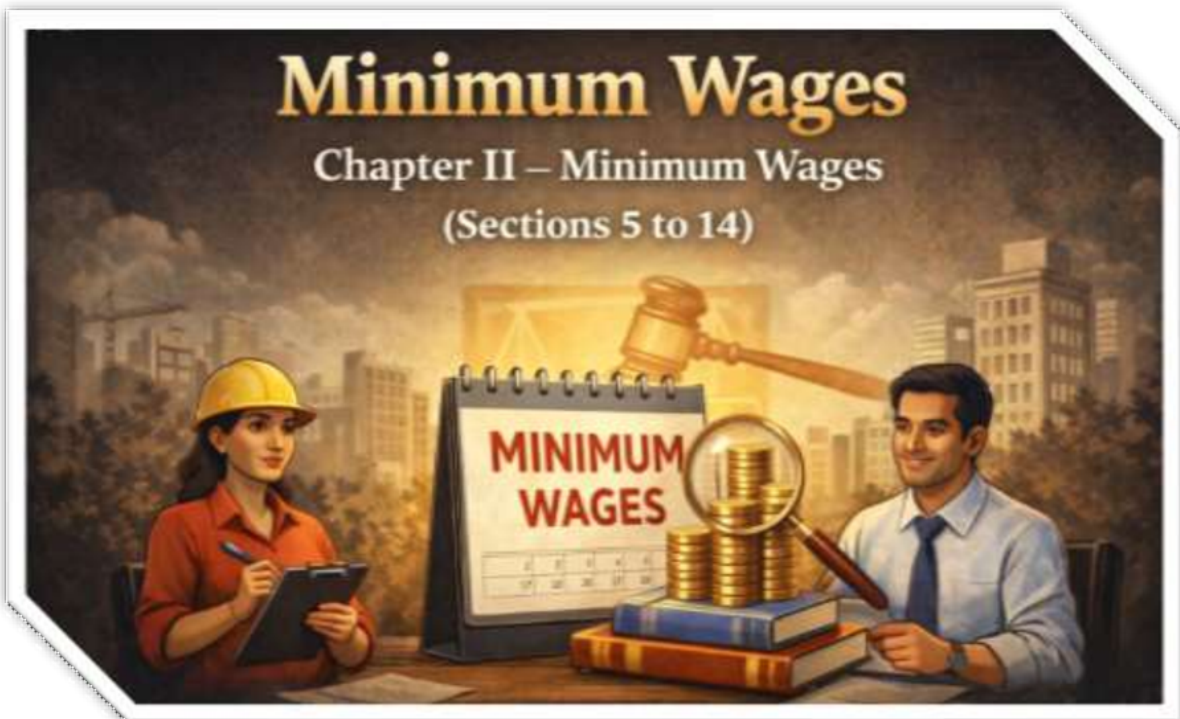
Illustration

A company is recruiting **machine operators**. If both **men and women are capable of performing the same work**, the employer **cannot refuse to hire women only because of their gender**.

Exception: If a law **prohibits or restricts women from working in a particular hazardous job**, the employer may follow that legal restriction.

Section 4 – Decision as to Disputes with Regard to Same or Similar Nature of Work Authority to decide disputes

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



Chapter II – Minimum Wages (Sections 5 to 14)

Introduction

The provisions relating to **minimum wages** aim to ensure that employees receive at least the **minimum level of wages for the work performed** and to prevent **exploitation of labour**.

In situations where workers may agree to work even at very low wages due to unemployment or economic necessity, the law ensures that employers pay **not less than the minimum wages fixed by the appropriate Government**.

These provisions empower the Government to **fix, regulate and revise minimum rates of wages** for the protection of employees.

Section 5 – Payment of Minimum Rate of Wages

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

Illustration

Where the minimum rate of wages for a security guard has been notified as **₹600 per day**, the employer shall not pay **less than ₹600 per day**.

Section 6 – Fixation of Minimum Wages

Section 6(1) – Power of appropriate Government

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

Section 6(2) – Types of minimum wages

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

- for **time work**, or
- for **piece work**.

Illustration

A **security guard** may be paid **₹600 per day** based on the **number of hours worked**. This is **time work**.

A **garment factory worker** may be paid **₹200 for each shirt stitched**. This is **piece work**.

Thus, minimum wages may be fixed **either based on time spent working or based on the quantity of work produced**.

Section 6(3) – Minimum wages for piece work employees

Where employees are employed on **piece work**, the appropriate Government shall fix a **minimum rate of wages to secure such employees a minimum rate of wages on a time work basis**.

Section 6(4) – Wage periods for time work

The minimum rate of wages on time work basis may be fixed—

- **by the hour**, or
- **by the day**, or
- **by the month**.

Section 6(5) – Calculation of wages

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

Section 6(6) – Criteria for fixation of minimum wages

For the purpose of fixation of minimum wages, the appropriate Government—

- shall take into account the **skill of workers**, whether unskilled, semi-skilled, skilled or highly skilled, and the **geographical area**, and
- may also consider the **arduous/difficult nature of work**, hazardous occupations, difficult climatic conditions or underground work, as may be prescribed.

Section 6(7) – Minimum number of wage categories

The appropriate Government shall, as far as possible, **keep the number of minimum rates of wages at the minimum**.

Section 7 – Components of Minimum Wages

Minimum wages fixed or revised by the appropriate Government may consist of different components.

The Code provides **three possible structures for determining minimum wages**.

1. Basic Rate of Wages + Cost of Living Allowance

The minimum wage may consist of a **basic rate of wages** together with an **allowance adjusted according to the variation in the cost of living index number applicable to such workers**.

This allowance is known as the **Cost of Living Allowance (Dearness Allowance)**.

(Section 7(1)(a))

Illustration

Basic Wage = ₹450

Cost of Living Allowance = ₹50

Total Minimum Wage = ₹500 per day

2. Basic Rate of Wages + Cash Value of Concessions

The minimum wage may consist of a **basic rate of wages with or without cost of living allowance**, together with the **cash value of concessions in respect of essential commodities supplied at concessional rates** (such as food grains or other essential items). *(Section 7(1)(b))*

Illustration

Basic Wage = ₹450

Concession in food grains = ₹50

Total Minimum Wage Value = ₹500 per day

3. All-Inclusive Rate

The minimum wage may also be fixed as an **all-inclusive rate**, which includes **basic wages, cost of living allowance and the value of concessions**, if any. *(Section 7(1)(c))*

Illustration

Minimum wage may be fixed directly as **₹500 per day**, including all components.

Computation of Cost of Living Allowance and Concessions

The **cost of living allowance and the cash value of concessions in respect of essential commodities** shall be computed by **such authority as the appropriate Government may appoint by notification**, at such intervals and according to such directions as may be specified by the Government. *(Section 7(2))*

Section 8 – Procedure for Fixing and Revising Minimum Wages

In fixing or revising minimum wages, **the appropriate Government may adopt either of the following methods—**

Committee method

The Government may **appoint committees to hold enquiries and recommend fixation or revision of wages.**

Notification method

The Government may **publish its proposals by notification for information of persons likely to be affected and invite objections or suggestions.**

Every committee appointed shall consist of—

- persons representing **employers**,
- persons representing **employees**, and
- **independent persons** not exceeding one-third of the total members.

After considering the recommendations or representations received, the appropriate Government shall notify the minimum rates of wages, which shall generally come into force after three months from the date of notification, unless otherwise provided. Minimum wages shall ordinarily be reviewed or revised at an interval not exceeding five years.

Section 9 – Power of Central Government to Fix Floor Wage

Introduction

To ensure a basic wage standard across the country, the Code empowers the Central Government to fix a floor wage. This serves as a national benchmark, ensuring that the minimum wages fixed by State Governments do not fall below a basic level necessary for the minimum living standards of workers.

Fixation of Floor Wage

The Central Government shall fix a floor wage, taking into account the minimum living standards of workers, in such manner as may be prescribed.

Different floor wages may be fixed for different geographical areas. (Section 9(1))

Minimum Wage Cannot Be Less Than Floor Wage

The minimum rates of wages fixed by the appropriate Government under section 6 shall not be less than the floor wage. (Section 9(2))

Existing Higher Minimum Wages Not to Be Reduced

Where the minimum wages fixed earlier by a State Government are higher than the floor wage, such wages shall not be reduced.

Consultation Before Fixing Floor Wage

Before fixing the floor wage, the Central Government may obtain the advice of the Central Advisory Board and consult the State Governments. (Section 9(3))

Illustration

Suppose the Central Government fixes a floor wage of ₹400 per day.

- State A fixes minimum wage at ₹450 per day → Valid (as it is above floor wage).
- State B fixes minimum wage at ₹350 per day → Not allowed (as below floor wage).

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

Where an employee whose minimum wages are fixed works for less than the normal working day, he shall be entitled to receive wages as if he had worked for the full day.

Exception

This shall not apply where the employee **fails to work due to his own unwillingness and not due to the employer's failure to provide work.**

Illustration

Where a worker reports for duty but the employer provides work only for **three hours**, the worker shall still be **entitled to wages for the full working day.**

Section 11 – Wages for Two or More Classes of Work

Where an employee performs **two or more classes of work**, each having a different minimum rate of wages, the employer shall **pay wages at not less than the minimum rate applicable to each class of work for the time spent in such work.**

Illustration

If a worker performs **four hours of helper work and four hours of machine operation**, wages shall be calculated **according to the minimum wage applicable to each type of work.**

Section 12 – Minimum Time Rate Wages for Piece Work

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

Illustration

If the minimum wage is **₹500 per day**, a piece-rate worker earning **₹420** shall still be **paid ₹500.**

Section 13 – Fixing Hours of Work for Normal Working Day

The appropriate Government may—

- fix the **number of hours constituting a normal working day**,
- provide for a **day of rest in every period of seven days**, and
- provide for **payment for work on the day of rest at a rate not less than the overtime rate.**

Different conditions may apply to employees engaged in **emergency work, preparatory work, intermittent work or work dependent on natural forces.**

Illustration

The Government may prescribe that a **normal working day shall consist of eight hours with one day of rest every week.**

Section 14 – Wages for Overtime Work

Where an employee works **in excess of the normal working hours**, the employer shall pay **wages for such overtime work at a rate not less than twice the normal rate of wages**.

Illustration

If the normal wage is ₹100 per hour, the overtime wage shall be at least ₹200 per hour.



Chapter III – Payment of Wages (Sections 15–25)

Introduction

The provisions relating to **payment of wages** regulate the **time, mode and manner of payment of wages** to employees and provide a **speedy and effective remedy against unauthorised deductions and delayed payment of wages**.

The object of these provisions is to ensure that employees receive their wages **regularly, within the prescribed time, and without arbitrary or unauthorised deductions**.

Section 15 – Mode of Payment of Wages

Permissible modes of payment

All wages shall be paid in

- **current coin or currency notes or**
- **by cheque or by crediting the wages in the bank account of the employee or**
- **by electronic mode.**

Payment through cheque or bank account in specified establishments

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

Illustration

A company may pay wages to its employees **by crediting the wages directly in their bank accounts**.

Section 16 – Fixation of Wage Period

Wage period to be fixed by employer

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

Different wage periods for different establishments

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

Illustration

An employer may fix the wage period of factory workers as **weekly** and that of office staff as **monthly**.

Section 17 – Time Limit for Payment of Wages

Basis of Employment

Time Limit for Payment of Wages

Daily basis

Wages shall be paid **at the end of the shift.**

Weekly basis

Wages shall be paid **on the last working day of the week, before the weekly holiday.**

Fortnightly basis

Wages shall be paid **before the end of the second day after the end of the fortnight.**

Monthly basis

Wages shall be paid **before the expiry of the seventh day of the succeeding month.**

Removal, dismissal, retrenchment, resignation or closure

Wages payable to the employee shall be **paid within two working days.**

Illustration

If an employee resigns on **10th June**, the wages payable to him shall be **paid within two working days of his resignation.**

Section 18 – Deductions Which May Be Made from Wages

Only authorised deductions permitted

There shall be **no deductions from the wages of the employee**, except those as are **authorised under this Code.**

What is deemed to be deduction

Any payment made by an employee to the employer or his agent shall be **deemed to be a deduction from wages.**

What is not deemed to be deduction

Loss of wages resulting from—

- withholding of increment or promotion, including stoppage of increment;
- reduction to a lower post or time-scale; or
- suspension,

shall not be deemed to be a deduction from wages where the provisions made by the employer satisfy the prescribed requirements.

Permissible deductions

Deductions may be made only for the following purposes:

- fines imposed on the employee;
- absence from duty;
- damage to or loss of goods entrusted to the employee or loss of money attributable to his neglect or default;

- house-accommodation supplied by the employer or specified authority;
- authorised amenities and services supplied by the employer;
- recovery of advances or adjustment of overpayment of wages;
- recovery of loans from welfare funds;
- recovery of loans for house-building or other approved purposes;
- income-tax or any other statutory levy;
- subscription to social security fund or scheme;
- payment to co-operative society;
- trade union membership fees with written authorisation;
- railway-related losses in specified cases;
- contribution to the Prime Minister's National Relief Fund or such other fund, with written authorisation.

Maximum limit of deductions

The total amount of deductions in any wage period shall **not exceed fifty per cent of the wages.**

Recovery of excess deductions

Where total authorised deductions exceed **fifty per cent**, the excess may be recovered in such manner as may be prescribed.

Employer not responsible for employer's default

Where any deduction has been made by the employer but not deposited in the required fund or account, the employee shall **not be held responsible** for such default of the employer.

Illustration

If the wages of an employee for a wage period are **₹12,000**, the total deductions in that wage period shall **not exceed ₹6,000.**

Section 19 – Fines

Fine only for approved acts and omissions

No fine shall be imposed on any employee except in respect of such acts and omissions as the employer, with the **previous approval of the appropriate Government or prescribed authority**, may have specified by notice.

Display of notice

A notice specifying such acts and omissions shall be **exhibited on the premises** in the prescribed manner.

Opportunity of showing cause

No fine shall be imposed until the employee has been given an **opportunity of showing cause against the fine.**

Maximum amount of fine

The total amount of fine in any one wage period shall **not exceed three per cent of the wages payable** in respect of that wage period.

No fine on employee below fifteen years

No fine shall be imposed on any employee who is **under the age of fifteen years**.

Recovery of fine

No fine shall be recovered by **instalments** or **after the expiry of ninety days** from the day on which it was imposed.

Register of fines and utilisation

All fines and realisations thereof shall be **recorded in a register**, and all such realisations shall be applied only to such purposes beneficial to the persons employed in the establishment as are approved by the prescribed authority.

Illustration

If the wages payable to an employee for a wage period are **₹15,000**, the fine imposed shall **not exceed ₹450**.

Section 20 – Deductions for Absence from Duty**Deduction for absence from place of work**

• Deduction may be made where an employee is **absent from the place where he is required to work**, for the whole or any part of the working period.

Proportionate deduction

• The deduction shall be **proportionate to the period of absence** and shall not exceed the wages corresponding to the period for which the employee was absent.

Collective absence without notice

• Where **ten or more employees acting together** absent themselves **without due notice and without reasonable cause**,

deduction may include an amount **not exceeding wages for eight days**, as may be due to the employer in lieu of notice.

Deemed absence

• An employee shall be **deemed to be absent** if, although present at the workplace, he **refuses to perform his work in pursuance of a stay-in strike or for any other unreasonable cause**.

Illustration

If an employee is required to work for **8 hours** in a day and remains absent for **2 hours**, deduction may be made in proportion to those **2 hours**.

Section 21 – Deductions for Damage or Loss

Limit of deduction

A deduction for damage or loss shall **not exceed the amount of the damage or loss caused to the employer by the negligence or default of the employee.**

Opportunity of showing cause

A deduction shall not be made until the employee has been given an **opportunity of showing cause against the deduction.**

Register of deductions

All such deductions and realisations shall be **recorded in a register** in the prescribed form.

Illustration

If an employee, by negligence, causes a loss of **₹800** to the employer, the deduction shall **not exceed ₹800.**

Section 22 – Deductions for Services Rendered

Conditions for deduction

A deduction for **house-accommodation, amenity or service** shall not be made unless such house-accommodation, amenity or service has been **accepted by the employee as a term of employment or otherwise.**

Limit of deduction

Such deduction shall **not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied** and shall be subject to such conditions as the appropriate Government may impose.

Illustration

If the employer provides accommodation valued at **₹2,500 per month** and the employee has accepted it, deduction may be made **up to ₹2,500.**

Section 23 – Deductions for Recovery of Advances

Advance given before employment began

- Recovery of advance given to an employee **before the commencement of employment shall be made from the first payment of wages for a complete wage period.**
- However, **any advance given for travelling expenses shall not be recovered.**

Advance given after employment began

- Recovery of advance given to an employee **after the commencement of employment shall be made subject to the conditions as may be prescribed.**

Illustration

If an employee is given a **salary advance of ₹4,000**, the employer may recover it from future wages subject to the prescribed conditions.

Section 24 – Deductions for Recovery of Loans**Recovery of loans**

Deductions for recovery of **loans granted to an employee for house-building or other approved purposes**, and the rate of interest payable thereon, shall be such as may be prescribed.

Illustration

If an employee takes a **house-building loan** from the employer, deductions may be made from wages towards repayment in the prescribed manner.

Section 25 – Chapter Not to Apply to Government Establishments**Non-application to Government establishments**

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





Chapter IV – Payment of Bonus (Sections 26 to 41)

Introduction

This Chapter deals with the **payment of bonus** to employees.

It lays down the provisions relating to eligibility for bonus, time limit for payment of bonus, minimum and maximum bonus, allocable surplus, set on and set off, adjustment and deduction of bonus.

Object of the Chapter

The **object** of this Chapter is to ensure that eligible employees receive a **minimum statutory bonus**, whether or not the employer has allocable surplus, and that where the establishment earns sufficient surplus, the employees receive **bonus in proportion to wages**, subject to the **maximum limit prescribed under the Code**.

Section 26 – Eligibility for Bonus, etc.

Eligibility for bonus

Under section 26(1), bonus shall be paid by the employer to every employee who satisfies the following conditions:

- the employee is **drawing wages not exceeding such amount per mensem as may be determined by notification by the appropriate Government**; and
- the employee has **put in at least thirty days' work in an accounting year**.

Thus, only such employee who satisfies both these conditions is eligible to receive bonus under this section.

Illustration

If an employee has worked for **35 days** in the accounting year and his wages are within the **notified wage limit**, he shall be eligible to receive bonus.

Minimum bonus

Section 26(1) further provides that **every eligible employee** shall be paid an **annual minimum bonus** calculated

at the rate of **8.33% of the wages earned by the employee or one hundred rupees, whichever is higher.**

This minimum bonus is payable **whether or not the employer has any allocable surplus during the previous accounting year.**

Illustration

If the wages earned by the employee during the accounting year are **₹60,000**, the minimum bonus shall be **8.33% of such wages**, even if the employer has no allocable surplus.

Maximum bonus

Section 26(3) provides that where the **allocable surplus exceeds the amount of minimum bonus payable**,

the employer shall be bound to pay bonus in proportion to the wages earned by the employee during the accounting year, subject to a **maximum of 20% of such wages.**

Thus, bonus may rise above the minimum bonus where the allocable surplus is sufficient, but it **cannot exceed 20% of the wages earned.**

Illustration

If the allocable surplus is high, an employee may receive bonus at **12%, 15% or 18%**, but the bonus cannot exceed **20% of wages.**

Payment of bonus out of allocable surplus

Section 26(4) provides that while computing the allocable surplus, the **amount set on or set off under section 36** shall be taken into account.

Bonus based on production or productivity

Section 26(5) provides that any demand for bonus beyond the minimum bonus, either on the basis of **production or productivity**,

shall be determined by an **agreement or settlement between the employer and employees.**

However, the **total bonus including minimum bonus shall not exceed 20% of the wages earned by the employee** in the accounting year.

Illustration

If employees receive additional bonus for higher productivity, the **total bonus cannot exceed 20% of wages**.

Bonus in case of new establishment**First five accounting years**

In the first five accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services from such establishment,

bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment, and such bonus shall be calculated without applying section 36.

Illustration

If a new factory starts operations in **2025** but earns profit for the first time in **2027**, bonus shall be payable only for the accounting year **2027**.

Sixth and seventh accounting years

For the **sixth and seventh accounting years**, the provisions of **section 36 (set on and set off)** shall apply subject to the modifications provided in the Code.

Illustration

During the sixth and seventh accounting years, **set on and set off adjustments** begin to apply for computing bonus.

From the eighth accounting year

From the **eighth accounting year onwards**, the provisions of **section 36** shall apply in the same manner as they apply to any other establishment.

Illustration

From the eighth year, the establishment will follow the **normal bonus calculation system applicable to all establishments**.

Section 27 – Proportionate Reduction in Bonus

If an employee has **not worked for all the working days in an accounting year**, the **minimum bonus shall be reduced proportionately according to the number of days actually worked**.

Illustration

If an employee worked only **6 months in a year**, he will receive **bonus only for those 6 months**, not for the full year.

Section 28 – Computation of Number of Working Days

An employee shall be **deemed to have worked** in an establishment on the days on which:

- he has been **laid off** under applicable law;
- he has been on **leave with wages**;
- he has been absent due to **temporary disablement caused by accident in the course of employment**;
- he has been on **maternity leave with wages**.

Illustration

If an employee was on **paid maternity leave**, those days will still be counted as **working days for bonus calculation**.

Section 29 – Disqualification for Bonus

An employee shall be **disqualified from receiving bonus** if he is dismissed from service for:

- **fraud**
- **riotous or violent behaviour in the establishment**
- **theft, misappropriation or sabotage of property of the establishment**
- **conviction for sexual harassment**

Illustration

If an employee is dismissed for **theft of company property**, he will not be entitled to bonus.

Section 30 – Establishments to Include Departments, Undertakings and Branches

Where an establishment consists of **different departments, undertakings or branches**, whether situated in the **same place or different places**, all such units shall be **treated as part of the same establishment for the purpose of computation of bonus**.

However, where a **separate balance sheet and profit and loss account are prepared and maintained** for any department, undertaking or branch, such unit may be **treated as a separate establishment for that accounting year**.

Illustration

If a company has branches in **Mumbai and Delhi**, both will normally be treated as **one establishment for bonus calculation**. However, if the **Delhi branch maintains separate financial statements**, it may be treated as a **separate establishment for that year**.

Section 31 – Payment of Bonus out of Allocable Surplus

Bonus shall be paid out of the **allocable surplus**, which shall be:

- **60% of available surplus in case of a banking company**
- **67% of available surplus in case of any other establishment**

Illustration

If the available surplus is ₹10,00,000, the allocable surplus for a non-banking establishment will be ₹6,70,000.

Audited accounts of companies shall **not normally be questioned**, but where there is a dispute regarding the quantum of bonus, the authority may call for the **balance sheet**.

Section 32 – Computation of Gross Profits

The **gross profits derived by an employer** from an establishment during the accounting year shall be calculated in the **manner prescribed by the Central Government**.

Illustration

A banking company and a manufacturing company may follow **different prescribed methods** for computing gross profits.

Section 33 – Computation of Available Surplus

The **available surplus for an accounting year** shall be the **gross profits for that year after deducting the sums specified under section 34**.

Illustration

If the **gross profits are ₹20,00,000** and the **deductions under section 34 are ₹8,00,000**, the **available surplus will be ₹12,00,000**.

Section 34 – Sums Deductible from Gross Profits**Introduction:**

Before calculating the **available surplus for bonus**, certain **prior charges of the current accounting year** must first be deducted from the **gross profits of the establishment**.

Bonus is calculated **only after deducting compulsory expenses such as depreciation and direct taxes of the current year from gross profits**.

Prior Charges Deductible from Gross Profits:

The following amounts shall be deducted from **gross profits of the current accounting year** before determining the available surplus:

- **Depreciation** admissible under the Income-tax Act or agricultural income-tax law.
- **Direct taxes payable** by the employer for that accounting year.
- **Other prescribed sums**, if any.

Illustration:

If an establishment has **gross profits of ₹10,00,000 in the current accounting year**, depreciation of **₹2,00,000**, and tax liability of **₹1,00,000**, these prior charges will first be deducted.

Therefore, the **available surplus will be ₹7,00,000**.

Section 35 – Calculation of Direct Tax Payable by Employer**Introduction:**

For the purpose of computing bonus, the **direct tax payable by the employer is calculated on the profits of the current accounting year** at the applicable tax rates.

Computation Rule:

While calculating such tax for bonus purposes, the following shall **not be taken into account**:

- **Carried forward losses** from previous years.
- **Arrears or unabsorbed depreciation** of previous years.

Past losses and depreciation are ignored so that **bonus is calculated on the basis of the current year's profits**, and employees are **not deprived of bonus due to earlier years' losses**.

Illustration:

If a company has **losses carried forward from previous years**, those losses will **not be deducted while calculating direct tax for bonus computation**, and tax will be calculated based only on the **current year's profits**.

Formula

Available Surplus = Gross Profit (Current Year) – Depreciation (Current Year) – Direct Tax (Current Year) – Other Prescribed Charges

Note:

Past years' losses and past years' depreciation are **ignored** while calculating direct tax and available surplus for bonus purposes.

Section 36 – Set On and Set Off of Allocable Surplus**Introduction:**

Under the Code on Wages, the **minimum bonus payable to employees is 8.33% of wages and the maximum bonus is 20% of wages**.

Since profits of an establishment may fluctuate from year to year, Section 36 provides a system of **“Set On” and “Set Off”** to adjust **excess or deficiency of allocable surplus across different accounting years**, ensuring fairness in bonus payment.

Set On (Excess Allocable Surplus)

Where the **allocable surplus in an accounting year exceeds the amount required to pay the maximum bonus (20%)**, the **excess amount shall be carried forward for being set on in the succeeding accounting years**, subject to a limit of **20% of the total wages**.

Such excess may be **utilised for payment of bonus in the next four accounting years**.

Illustration

If an establishment pays the **maximum bonus of 20% in the current year** and additional surplus still remains, that excess will be **carried forward for up to four years** and may be used in those years if the surplus is not sufficient to pay higher bonus.

Set Off (Deficiency of Allocable Surplus)

Where the **allocable surplus in an accounting year is insufficient to pay the minimum bonus (8.33%)**, the **deficiency shall be carried forward and set off against the surplus of the succeeding accounting years**.

Even in such a situation, the employer **must still pay the minimum bonus of 8.33%** to employees.

Illustration

If an establishment has **very low surplus in a year**, the employer will still pay **8.33% bonus**, and the **shortfall between surplus and minimum bonus will be carried forward** and adjusted from the surplus of future years.

Adjustment Rule

While calculating bonus in subsequent years:

- The **amount carried forward from the earliest accounting year shall be adjusted first**.
 - If the **amount carried forward is not adjusted within four accounting years**, it **lapses and cannot be carried forward further**.
-

Section 37 – Adjustment of Customary or Interim Bonus

Where the employer has already paid:

- **puja bonus or customary bonus, or**
- **interim bonus before the final bonus becomes payable,**

such amount may be **deducted from the statutory bonus payable.**

Illustration

If the employer paid **₹3,000 interim bonus**, and the total bonus payable is **₹8,000**, the employee will receive **₹5,000 balance.**

Thus, Customary or interim bonus is treated as part of the statutory bonus and is adjusted against the final bonus payable.

Section 38 – Deduction from Bonus for Misconduct

Where an employee's misconduct causes **financial loss to the employer**, the employer may **deduct such loss from the bonus payable.**

Illustration

If the employee caused **₹2,000 loss** and the bonus payable is **₹7,000**, the employer may deduct **₹2,000**, and the employee receives **₹5,000.**

Section 39 – Time Limit for Payment of Bonus

The employer shall pay bonus by **crediting it to the employee's bank account within eight months from the close of the accounting year.**

The appropriate Government may extend this period **up to a maximum of two years.**

Where there is a dispute regarding payment of bonus, such bonus shall be paid **within one month from the date on which the award becomes enforceable.**

Section 40 – Application to Public Sector Establishments

The provisions of **bonus under this Chapter apply to a public sector establishment only when:**

- **it competes with private sector establishments, and**
- **the income from such commercial activity is at least 20% of its gross income.**

If these conditions are satisfied, the **bonus provisions will apply to its employees.**

Illustration

If a public sector company earns **20% or more of its income from commercial activities**, employees will be **eligible for bonus under this Chapter.**

If the income is **less than 20%**, the **bonus provisions will not apply.**

Section 41 – Non-Applicability of this Chapter

This Chapter shall not apply to employees employed by:

- **Life Insurance Corporation of India**
- **seamen under the Merchant Shipping Act**
- certain **dock workers**
- establishments under **Central or State Government departments**
- **universities and educational institutions**
- institutions such as **hospitals and social welfare organisations established not for profit**
- **Reserve Bank of India**
- certain **public sector financial institutions**
- inland water transport establishments operating through other countries

However, subject to these exclusions, the provisions of this Chapter apply to **establishments employing 20 or more persons during an accounting year.**

Illustration

If an establishment employed **20 employees during the accounting year**, this Chapter will apply unless it falls within the exempted categories.





Chapter V – Advisory Board (Section 42)

Introduction

To effectively implement the **Code on Wages**, the Government requires expert advice from different stakeholders. Therefore, the Code provides for the constitution of **Central Advisory Board and State Advisory Boards**. These Boards assist the Government mainly in **fixation and revision of minimum wages and promoting employment opportunities for women**.

Section 42 – Central Advisory Board and State Advisory Boards

Central Advisory Board

Constitution

The **Central Government shall constitute a Central Advisory Board** consisting of the following members:

- **Representatives of employers**
- **Representatives of employees**, equal in number to employer representatives
- **Independent persons**, not exceeding **one-third of total members**
- **Five representatives of State Governments**

Women Representation and Chairperson

- **One-third of the members must be women.**
- One of the **independent members shall be appointed as the Chairperson** by the Central Government.

Functions

The Board **advises the Central Government** on matters such as:

- Fixation or revision of minimum wages
- Increasing employment opportunities for women
- Extent to which women may be employed in certain establishments
- Any other matter relating to the Code

Based on this advice, the **Central Government may issue directions to State Governments.**

State Advisory Board

Constitution and Purpose

Every **State Government shall constitute a State Advisory Board** to advise it on matters relating to:

- **Fixation or revision of minimum wages**
- **Increasing employment opportunities for women**
- **Extent to which women may be employed in certain establishments**
- **Other matters under the Code**

The Board may also **create committees or sub-committees** to study specific issues.

Composition of State Advisory Board

The Board and its committees shall consist of:

- **Representatives of employers**
- **Representatives of employees**, equal in number to employer representatives
- **Independent persons**, not exceeding **one-third of the total members**

Women Representation and Chairperson

- **One-third of the members must be women.**
 - **One of the independent members shall be appointed as Chairperson.**
-

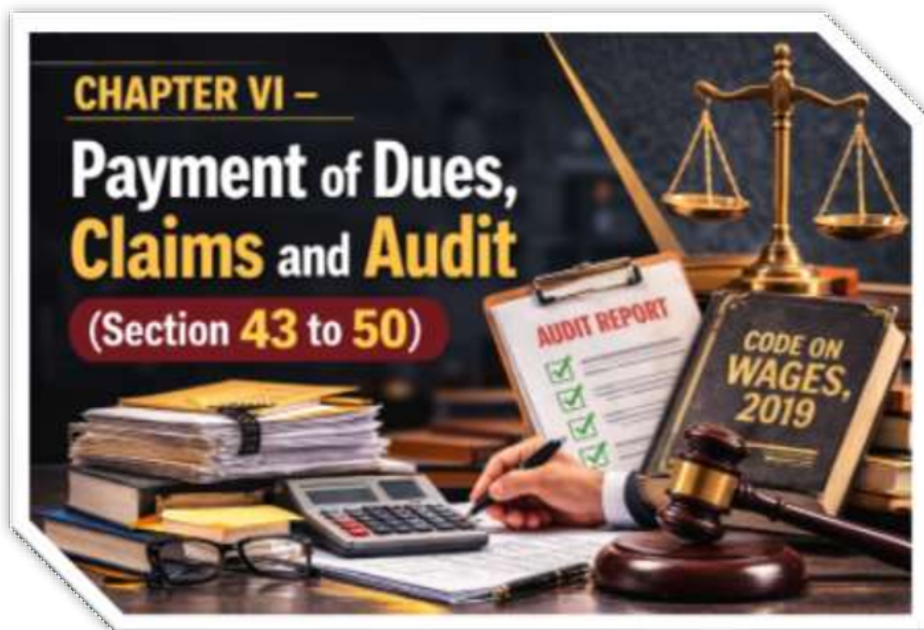
Factors Considered for Women Employment

While advising the Government, the Board considers:

- Number of women employed
- Nature and hours of work
- Suitability of women for the work
- Need to increase employment opportunities for women

Conclusion

Advisory Boards help the Central and State Governments decide matters relating to minimum wages and employment opportunities under the Code on Wages.



Chapter VI – Payment of Dues, Claims and Audit (Section 43 to 50)

Introduction

This Chapter deals with the **payment of dues under the Code, claim mechanism, reference of bonus disputes, audit of accounts, appeal, and maintenance of records by employers**. In simple terms, it explains **who is responsible to pay wages and bonus, how employees can recover unpaid dues, how disputes are decided, and what records employers must maintain**.

Section 43 – Responsibility for Payment of Various Dues

Every employer shall pay all amounts required to be paid under this Code to every employee employed by him. If the employer fails to make such payment, the **company, firm, association, or proprietor of the establishment** shall be responsible for such payment.

Illustration

If wages are not paid by the manager, the **owner or company running the establishment** will still be responsible to pay them.

Section 44 – Payment of Undisbursed Dues in Case of Death of Employee

Where any amount payable to an employee cannot be paid on account of his **death** or because his **whereabouts are not known**, such amount shall be paid to the **person nominated by him**. Where no nomination has been made, the amount shall be **deposited with the prescribed authority**.

Once the employer makes such payment or deposit, the employer shall be **discharged of his liability**.

Section 45 – Claims under the Code and Procedure Thereof

The appropriate Government may appoint one or more authorities to hear and determine claims under this Code.

The authority may:

- determine the **amount of claim**;
- award **compensation in addition to the claim**, up to **ten times of the claim determined**; and
- endeavour to decide the claim **within three months**.

A claim may be filed by:

- the **employee**;
- a **registered Trade Union** of which the employee is a member; or
- the **Inspector-cum-Facilitator**.

A **single application** may also be filed on behalf of multiple employees. The claim should normally be filed **within three years**.

If the employer fails to pay the amount ordered, the authority may issue a **certificate to the Collector or District Magistrate**, who shall recover it as **arrears of land revenue**.

Illustration

If minimum wages are not paid, the employee may file a **claim before the authority** for recovery of wages and compensation.

Section 46 – Reference of Disputes under this Code

Where a dispute arises between an employer and employees regarding:

- **fixation of bonus or eligibility for payment of bonus**; or
 - **application of bonus provisions to a public sector establishment**,
- such dispute shall be deemed to be **an Industrial Disputes**.

Illustration

If employees dispute whether they are entitled to bonus, the matter may be treated as an **industrial dispute**.

Section 47 – Presumption about Accuracy of Balance Sheet and Profit and Loss Account

Where, in proceedings relating to claims, bonus disputes, or appeal, the **balance sheet and profit and loss account of a corporation or company** are produced and are **duly audited**, the authority may presume them to be **accurate**.

However, if the authority is satisfied that such statements are not accurate, it may take steps to verify them.

The Trade Union or employees may also seek **clarification regarding any item** in the balance sheet or profit and loss account.

Illustration

If a company produces its **audited accounts** in a bonus dispute, the authority may generally accept them as correct.

Section 48 – Audit of Account of Employers not being Corporations or Companies

Where the employer is **not a company or corporation**, and a claim, dispute, or appeal regarding bonus is pending, the authority may rely on the **audited accounts** of such employer if they are audited by a qualified auditor.

If such accounts are not audited and the authority considers audit necessary, it may direct the employer to **get the accounts audited**.

If the employer fails to do so, the authority may get the accounts audited and the **expenses shall be borne by the employer**.

Illustration

If a partnership firm is involved in a bonus dispute and its accounts are not audited, the authority may order an **audit of accounts**.

Section 49 – Appeal

Any person aggrieved by an order passed under section 45 **may prefer an appeal to the appellate authority within ninety days from the date of the order**.

The appellate authority may entertain the appeal even after ninety days if there is **sufficient cause for delay**.

The appellate authority shall be an officer of the appropriate Government holding a post at least **one rank higher** than the authority under section 45.

Section 50 – Records, Returns and Notices

Every employer shall:

- maintain a **register** containing details of persons employed, muster roll, wages, and other prescribed details;
- display a **notice** at a prominent place containing the abstract of this Code, wage rates, wage period, date and time of payment of wages, and the name and address of the Inspector-cum-Facilitator; and
- issue **wage slips** to employees.

These provisions do not apply to an employer who employs **not more than five persons for agriculture or domestic purpose**, but such employer must still produce **reasonable proof of payment of wages** if required.



Chapter VII – Inspector-cum-Facilitator (Section 51)

Introduction

For effective implementation of the **Code on Wages, 2019**, the law provides for the appointment of **Inspector-cum-Facilitators**. Their role is not only to **inspect establishments and detect violations**, but also to **guide employers and workers to ensure compliance with the provisions of the Code**. Thus, the system combines **inspection with facilitation and enforcement**.

Section 51 – Appointment of Inspector-cum-Facilitators and Their Powers

Appointment

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

Such Inspector-cum-Facilitators may exercise their powers:

- throughout the **entire State**, or
- within **specific geographical limits**, or
- in respect of **one or more establishments**, as assigned by the Government.

Inspection Scheme

The appropriate Government may prescribe an **inspection scheme**, which may provide for:

- **web-based inspections**, and
- **electronic submission of information** relating to inspections.

The Government may also provide for **randomised selection of establishments for inspection**.

Status of Inspector

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

Role of Inspector-cum-Facilitator

The Inspector-cum-Facilitator may:

- **advise employers and workers regarding compliance** with the provisions of the Code; and
- **inspect establishments assigned to him** by the appropriate Government in accordance with prescribed guidelines.

Powers of Inspector-cum-Facilitator

The Inspector-cum-Facilitator may:

- **examine any person present in the premises of an establishment** whom he has reasonable cause to believe is a worker of that establishment;
- **require any person to provide information** relating to the names and addresses of workers employed in the establishment;
- **search, seize, or take copies of registers, wage records, or notices** which may be relevant for investigating an offence under this Code;
- **bring to the notice of the appropriate Government any defects or abuses** that are not covered by any existing law; and
- **exercise such other powers as may be prescribed.**

Obligation to Provide Information

Any person who is required by the Inspector-cum-Facilitator to **produce documents or provide information** shall be legally bound to do so within the meaning of **sections 204 and 205 of the Bharatiya Nyaya Sanhita, 2023**, which deal with **non-production of documents and failure to provide information when legally required.**

Search and Seizure Procedure

Search or seizure conducted by the Inspector-cum-Facilitator shall be carried out in accordance with the provisions of the **Bharatiya Nagarik Suraksha Sanhita, 2023**, which governs criminal procedure relating to search and seizure.

Illustration

If an establishment is suspected of **not paying minimum wages**, the Inspector-cum-Facilitator may visit the establishment, examine workers, inspect wage registers, and take copies of relevant records to verify compliance with the provisions of the Code.

Offences by Companies

Introduction

The **Code on Wages, 2019** recognises that offences may be committed not only by individuals but also by **companies and other business entities**. Therefore, the Code provides rules for **fixing responsibility on companies as well as the persons managing them**.

Section 55 – Offences by Companies

Liability of Company and Persons in Charge

Where an offence under this Code is committed by a **company**, both of the following shall be deemed to be guilty:

- the **company itself**, and
- **every person who was in charge of and responsible for the conduct of the business** of the company at the time the offence was committed.

Such persons shall be **liable to be proceeded against and punished accordingly**.

Defence Available

A person in charge of the company will **not be liable** if he proves that:

- the offence was committed **without his knowledge**, or
- he had **exercised all due diligence to prevent the commission of the offence**.

Liability for Consent, Connivance or Negligence

Even if a person was not directly responsible for the business operations, a **director, manager, secretary or other officer** of the company shall also be deemed guilty where it is proved that the offence was committed:

- with his **consent**,
- with his **connivance**, or
- due to his **negligence**.

Meaning of Company

For the purposes of this section:

- “**Company**” includes a body corporate, **firm, limited liability partnership (LLP), or association of individuals**.
- In the case of a **firm**, the term “**director**” means a **partner of the firm**.

Section 56 – Composition of Offences

Meaning of Compounding

Compounding means **settling an offence by paying a specified monetary amount instead of undergoing prosecution**.

When Compounding is Allowed

An offence under this Code may be compounded if:

- it is **not punishable with imprisonment only**, or
- it is **not punishable with both imprisonment and fine**.

The accused person may apply for compounding **before or after prosecution is initiated**.

The application must be made to a **Gazetted Officer notified by the appropriate Government**.

Amount Payable for Compounding

The offence may be compounded on payment of **50% of the maximum fine prescribed for that offence**.

When Compounding is Not Allowed

Compounding is **not permitted** where the offender commits the **same offence again within five years** from the date:

- on which the earlier offence was compounded, or
- on which the person was earlier convicted for a similar offence.

Effect of Compounding

- If the offence is compounded **before prosecution**, no prosecution shall be instituted.
- If the offence is compounded **after prosecution has begun**, the court shall be informed and the accused shall be **discharged**.

Failure to Comply with Compounding Order

If a person fails to comply with the compounding order, he shall be liable to pay an **additional amount equal to 20% of the maximum fine** prescribed for the offence.

Conclusion: Section 55 deals with **offences by companies**, and section 56 deals with **compounding of offences**.



CODE ON SOCIAL SECURITY, 2020

INTRODUCTION

The **Code on Social Security, 2020** consolidates and rationalises the law relating to **social security and labour welfare** in India. It integrates **nine existing social security legislations** into a single comprehensive framework.

The Code incorporates the following Acts:

1. **Employees' Compensation Act, 1923**
2. **Employees' State Insurance Act, 1948**
3. **Employees' Provident Funds and Miscellaneous Provisions Act, 1952**
4. **Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959**
5. **Maternity Benefit Act, 1961**
6. **Payment of Gratuity Act, 1972**
7. **Cine-Workers Welfare Fund Act, 1981**
8. **Building and Other Construction Workers' Welfare Cess Act, 1996**
9. **Unorganised Workers' Social Security Act, 2008**

The Code aims to **extend social security coverage to all categories of workers**, including:

- **Organised sector workers**
- **Unorganised workers**

It provides protection through benefits such as **life and disability cover, health care, maternity benefits, provident fund, and gratuity**.

Legislative Framework – Code on Social Security, 2020

Chapter	Title	Section Range
Chapter I	Preliminary	section 1 – section 3
Chapter II	Social Security Organisations	section 4 – section 13
Chapter III	Employees' Provident Fund	section 14 – section 23
Chapter IV	Employees' State Insurance Corporation	section 24 – section 52
Chapter V	Gratuity	section 53 – section 58
Chapter VI	Maternity Benefit	section 59 – section 72
Chapter VII	Employees' Compensation	section 73 – section 99
Chapter VIII	Social Security and Cess in respect of Building and Other Construction Workers	section 100 – section 108
Chapter IX	Social Security for Unorganised Workers, Gig Workers and Platform Workers	section 109 – section 114
Chapter X	Finance and Accounts	section 115 – section 121
Chapter XI	Authorities, Assessment, Compliance and Recovery	section 122 – section 132
Chapter XII	Offences and Penalties	section 133 – section 138
Chapter XIII	Employment Information and Monitoring	section 139 – section 140
Chapter XIV	Miscellaneous	section 141 – section 164

CHAPTER I – PRELIMINARY

Section 1 – Short title, extent, commencement and application

- The Act shall be called the **Code on Social Security, 2020**.
- It **extends to the whole of India**.

Section 2 - Key Definitions

Aggregator [Section 2(2)]

An **aggregator** means a **digital intermediary or platform** that connects customers with **service providers** working independently.

Examples: **Uber, Ola, Zomato, Swiggy**.

Appropriate Government [Section 2(3)]

The **Central Government** is the appropriate Government for establishments such as **railways, mines, major ports, banking, insurance companies, central public sector undertakings, and establishments operating in more than one State.**

For **all other establishments**, the **State Government** is the appropriate Government.

Building Worker [Section 2(7)]

A **building worker** means a person employed to perform **skilled, semi-skilled or unskilled, manual, technical or clerical work** in connection with **building or construction work** for wages.

Employee [Section 2(26)]

An **employee** means any person employed on **wages in an establishment**, directly or through a contractor, to perform **manual, supervisory, managerial, administrative, technical or clerical work**, excluding members of the **Armed Forces of the Union.**

Employer [Section 2(27)]

An **employer** means a person who **employs one or more employees** in an establishment and includes **occupier of a factory, owner or manager of a mine, manager or managing director of an establishment, contractor, and legal representative of a deceased employer.**

Employment Injury [Section 2(28)]

An **employment injury** means a **personal injury caused by accident or occupational disease arising out of and in the course of employment.**

Establishment [Section 2(29)]

An **establishment** means a place where **industry, trade, business, manufacture or occupation** is carried on and includes **factory, mine, plantation, transport undertaking and construction work.**

Factory [Section 2(32)]

A **factory** means premises where a **manufacturing process** is carried on and where **10 or more workers are employed with power or 20 or more workers without power.**

Family [Section 2(33)]

Family includes **spouse, dependent children, dependent parents (including parents-in-law of a woman employee), and other dependents** as specified under the Code.

Fixed Term Employment [Section 2(34)]

Fixed term employment means engagement of an employee **through a written contract for a fixed period**, with wages and benefits not less than those of permanent employees performing similar work.

Gig Worker [Section 2(35)]

A **gig worker** means a person who performs work **outside the traditional employer-employee relationship**, usually on a **task-based or short-term basis**.

Inter-State Migrant Worker [Section 2(41)]

A worker who **moves from one State to another for employment** and is employed in an establishment in another State, either **directly by the employer or through a contractor**.

Manufacturing Process [Section 2(42)]

A **manufacturing process** includes activities such as **making, altering, repairing, finishing, packing, printing, generating power, pumping substances, or storing goods in cold storage**.

Occupier [Section 2(52)]

An **occupier** of a factory is the **person who has ultimate control over the affairs of the factory**.

In case of a **company**, any **one of the directors** shall be deemed to be the occupier.

Platform Worker [Section 2(61)]

A **platform worker** means a person engaged in **platform work**, where services are provided through **online platforms connecting organisations or individuals with customers**.

Superannuation [Section 2(82)]

Superannuation means the **age fixed in the contract or conditions of service at which an employee retires from employment**.

For **Employees' Provident Fund purposes**, the age is **58 years**.

Unorganised Sector [Section 2(85)]

The **unorganised sector** means enterprises owned by individuals or self-employed workers where **less than ten workers are employed**.

Unorganised Worker [Section 2(86)]

An **unorganised worker** includes a **home-based worker, self-employed worker, or wage worker working in the unorganised sector.**

Wages [Section 2(88)]

Wages include **basic pay, dearness allowance and retaining allowance**, but exclude **bonus, house rent allowance, overtime allowance, commission, gratuity, employer's contribution to provident fund or pension fund, and certain other payments.**

Section 3 – Registration and Cancellation of an Establishment

The Code requires **every establishment covered under the Social Security Code** to obtain **registration** in the prescribed manner.

Registration of Establishment

- Every establishment to which the Code applies must **register electronically or through the prescribed mode** within the time specified by the **Central Government.**
- The purpose of registration is to ensure that the establishment becomes part of the **national social security framework** and is covered under schemes such as **Provident Fund, Employees' State Insurance, Gratuity and other benefits.**

Deemed Registration

- If an establishment is **already registered under any other Central labour law**, it **need not obtain fresh registration** under this Code.
- Such existing registration shall be **deemed to be registration under the Social Security Code.**

Cancellation of Registration

- Where an establishment covered under **Chapter III (Provident Fund)** or **Chapter IV (Employees' State Insurance)** is **closing its business**, it may apply for **cancellation of registration.**
- The **procedure, conditions and manner of cancellation** are prescribed by the **Central Government.**

CHAPTER II – SOCIAL SECURITY ORGANISATIONS

The Code establishes **various statutory bodies** responsible for administering social security schemes for different categories of workers.

Section 4 – Board of Trustees of Employees’ Provident Fund

To administer **Provident Fund schemes**, the Central Government constitutes the **Board of Trustees of the Employees’ Provident Fund**, commonly known as the **Central Board**.

Composition

The Central Board consists of:

- **Chairperson and Vice-Chairperson** appointed by the Central Government
- Up to **five representatives of the Central Government**
- Up to **fifteen representatives of State Governments**
- **Ten representatives of employers**
- **Ten representatives of employees**
- **Central Provident Fund Commissioner (ex-officio member)**

Legal Status

The Central Board is a **body corporate**, meaning it has:

- **Perpetual succession**
- **Common seal**
- The power to **sue and be sued in its own name**

Committees under ESI

Under the Employees’ State Insurance (ESI) system, there are **two important committees**:

1. Standing Committee

The **Standing Committee** manages the **day-to-day administration of the Corporation** and exercises the **powers delegated to it by the Corporation**. It ensures effective implementation of decisions and smooth functioning.

2. Medical Benefit Committee

The **Medical Benefit Committee** assists the Corporation in the **administration of medical benefits** for insured persons. It advises on healthcare matters and ensures proper medical facilities and treatment.

Section 5 – Employees’ State Insurance Corporation

For the administration of **Employees’ State Insurance (ESI) schemes**, the Central Government constitutes the **Employees’ State Insurance Corporation (ESIC)**.

Composition

The Corporation includes:

- **Chairperson and Vice-Chairperson**
- Up to **five representatives of the Central Government**
- **Representatives of State Governments**
- **One representative of Union Territories**

- **Ten employer representatives**
- **Ten employee representatives**
- **Two representatives from the medical profession**
- **Three Members of Parliament**
- **Director General of ESIC (ex-officio)**

Legal Status

The Corporation is a **body corporate** with:

- **Perpetual succession**
- **Common seal**
- **Authority to sue and be sued**

Standing Committee

A **Standing Committee** is constituted to:

- **Administer the affairs of the Corporation**
- **Exercise powers delegated by the Corporation.**

Medical Benefit Committee

A **Medical Benefit Committee** assists the Corporation in administering **medical benefits for insured persons.**

Section 6 – National Social Security Board and State Unorganised Workers’ Board

The Code recognises the need for **social security for unorganised workers**, gig workers and platform workers. Therefore, it establishes boards at both **national and state levels.**

National Social Security Board

The **Central Government** constitutes the **National Social Security Board.**

Composition

- **Union Minister for Labour and Employment – Chairperson**
- **Secretary, Ministry of Labour – Vice-Chairperson**
- **Representatives of:**
 - **Unorganised workers**
 - **Employers**
 - **Civil society**
 - **Members of Parliament**
 - **Central Government Ministries**
 - **State Governments**
 - **Union Territories**

Term

The **term of the Board is three years.**

Functions

The Board performs the following functions:

- Recommends **social security schemes for unorganised, gig and platform workers**
- Advises the **Central Government** on implementation of the Code
- **Monitors welfare schemes**
- Reviews **record-keeping and expenditure from social security funds**

State Unorganised Workers' Social Security Board

Each **State Government** constitutes a **State Unorganised Workers' Board**.

Composition

- **State Labour Minister – Chairperson**
- **Principal Secretary/Secretary (Labour) – Vice-Chairperson**
- Representatives of:
 - **Unorganised workers**
 - **Employers**
 - **State Government departments**
 - **Members of State Legislature**
 - **Civil society**

Term

The **term of the State Board** is three years.

Functions

The State Board:

- Recommends **welfare schemes for unorganised workers**
- Monitors **implementation of state social security schemes**
- Reviews **registration of unorganised workers**
- Reviews **expenditure of welfare funds**

Section 7 – State Building and Other Construction Workers' Welfare Board

Every **State Government** must establish a **Building and Other Construction Workers' Welfare Board**.

Composition

The Board consists of:

- **Chairperson nominated by the State Government**
- **One representative of the Central Government**
- Other members (maximum **15**) representing:
 - **State Government**
 - **Employers**
 - **Building workers**

At least **one member must be a woman.**

Functions

The Board implements **welfare schemes for building workers**, including:

- **Death and disability benefits**
- **Pension after the age of 60 years**
- **Group insurance schemes**
- **Educational assistance for children**
- **Medical treatment for major illnesses**
- **Maternity benefits**
- **Skill development programmes**
- **Hostel or transit accommodation**
- **Other welfare schemes prescribed by the Government.**

Social Security Organisations under the Code on Social Security, 2020

Social Security Organisation	Section	Purpose / Function
Board of Trustees of Employees' Provident Fund (Central Board)	Section 4	Administers the provisions of Chapter III relating to Employees' Provident Fund and manages the PF funds .
Employees' State Insurance Corporation (ESIC)	Section 5	Administers the provisions of Chapter IV relating to Employees' State Insurance and provides insurance and medical benefits .
National Social Security Board for Unorganised Workers	Section 6	Recommends and monitors social security schemes for unorganised workers, gig workers and platform workers at the national level .
State Unorganised Workers' Social Security Board	Section 6	Recommends and monitors social security schemes for unorganised workers at the State level .
State Building and Other Construction Workers' Welfare Board	Section 7	Administers welfare measures and benefits for building and other construction workers .

Section 8 – Disqualification and Removal of Members

A person **cannot become or continue as a member** of a Social Security Organisation if he:

- Is **insolvent**
- Is of **unsound mind**
- Has been **convicted of an offence involving moral turpitude**
- Has **defaulted in payment of dues** under the Code
- Ceases to hold the **public office by virtue of which he was appointed**

The **Central or State Government** may remove a member if:

- He becomes **disqualified**
- He **remains absent for three consecutive meetings without permission**
- He **misuses his position** or acts against **public interest**

Members may also **resign by submitting written resignation** to the Government.

Section 9 – Procedure for Transaction of Business

Social Security Organisations and their committees must:

- Hold meetings at **prescribed intervals**
- Follow **prescribed procedures**, including **quorum requirements**

Orders and decisions must be **authenticated by authorised officers**, such as:

- **Central Provident Fund Commissioner**
- **Director General of ESIC**
- **Director General Labour Welfare**
- **State Labour Secretary**

Actions of these organisations **remain valid even if vacancies exist in the organisation**.

Section 10 – Executive Heads

The **Central Provident Fund Commissioner** and the **Director General of ESIC** act as the **full-time executive heads** of the respective organisations.

They **cannot undertake any other work unrelated to their office** without the **prior approval of the Central Government**.

Section 11 – Supersession of Social Security Organisations

If the **Central or State Government** believes that a Social Security Organisation:

- Is **unable to perform its functions**, or
- **Persistently delays** in performing duties, or
- **Abuses its powers**

the Government may **supersede the organisation** by notification.

Before supersession, the organisation must be **given an opportunity to explain its position.**

During the period of supersession:

- The Government will **make alternative arrangements** to administer the provisions of the Code.
- **A report of the action taken must be placed before Parliament or the State Legislature.**

CHAPTER III – EMPLOYEES’ PROVIDENT FUND

Introduction

Chapter III establishes the **Employees’ Provident Fund (EPF) system**, which provides **financial security to employees** through **compulsory savings, pension and insurance benefits.**

Under this system, both the **employer and employee contribute a prescribed percentage of wages**, and the accumulated funds are used to provide **retirement, pension and insurance benefits.**

The schemes under this Chapter are administered by the **Central Board of Trustees through the Employees’ Provident Fund Organisation (EPFO).**

Section 14 – Appointment of Officers

Employees’ Provident Fund Organisation (EPFO)

The **Employees’ Provident Fund Organisation (EPFO)** is a statutory body responsible for administering the **Provident Fund, Pension and Insurance Schemes** for employees. For its administration, the Central Government appoints a **Central Provident Fund Commissioner (CPFC)**, who acts as the **Chief Executive Officer of the Central Board** and functions under its control and supervision.

To assist in financial matters, a **Financial Adviser and Chief Accounts Officer** is appointed.

For efficient implementation of the schemes, the Central Board may appoint:

- **Additional, Deputy, Regional and Assistant Provident Fund Commissioners,**
and
- **Other necessary officers and employees.**

Section 15 – Schemes

Section 15 empowers the **Central Government to frame social security schemes** for employees covered under Chapter III. These schemes form the **core structure of the Employees’ Provident Fund system.**

The Government may frame the following three schemes:

1. Employees' Provident Fund Scheme (EPF)

This scheme establishes a **Provident Fund for employees**, where both **employer and employee contribute a prescribed percentage of wages**. The accumulated amount serves as **retirement savings** and may also be withdrawn in certain circumstances such as retirement, resignation, illness, or housing needs.

2. Employees' Pension Scheme (EPS)

This scheme provides **pension benefits** to employees and their dependants. The benefits include:

- **Superannuation pension** on attaining retirement age
- **Retiring pension**
- **Permanent total disablement pension**
- **Widow or widower pension**
- **Children pension**
- **Orphan pension**
- **Nominee pension**

Thus, the scheme ensures **regular income security after retirement or disability and financial support to the family after the employee's death**.

3. Employees' Deposit Linked Insurance Scheme (EDLI)

This scheme provides **life insurance benefits** to employees covered under the Provident Fund system. If an employee **dies during service**, the **nominee or dependants receive insurance benefits** from the Insurance Fund.

The Central Government may also **modify these schemes or introduce additional schemes** for providing social security benefits to other categories of persons.

Section 16 – Funds

Section 16 provides for the **creation of three separate statutory funds** to implement the schemes framed under Section 15.

These funds are:

1. **Provident Fund**
2. **Pension Fund**
3. **Deposit Linked Insurance Fund**

All these funds are **vested in and administered by the Central Board of Trustees of the EPFO**.

Contribution Structure under EPF System

The Provident Fund system is based on **mandatory contributions from both employer and employee.**

Employee Contribution

- The employee contributes **10% of wages** (or 12% in specified establishments).

Employer Contribution

- The employer also contributes **10% of wages** (or 12% where applicable).

However, the employer's contribution is **split between the Provident Fund and Pension Fund**, while the employee's contribution goes **entirely to the Provident Fund.**

Distribution of Contributions

Assuming the **contribution rate is 12% of wages**, the contributions are distributed as follows:

Contribution Source	Percentage of Wages	Fund
Employee contribution	12%	Provident Fund
Employer contribution to Pension Scheme	8.33%	Pension Fund
Employer contribution to Provident Fund	3.67%	Provident Fund
Employer contribution to Insurance Scheme	Up to 1%	Deposit Linked Insurance Fund

Illustration

Suppose an employee earns **₹20,000 as wages per month** and the applicable contribution rate is **12%**.

Employee Contribution

12% of ₹20,000 = **₹2,400**

This entire amount goes to the **Provident Fund.**

Employer Contribution

Total employer contribution = **₹2,400**

Distribution:

- **₹1,666 (8.33%) → Pension Fund**
- **₹734 (3.67%) → Provident Fund**

Additionally, the employer contributes **up to 1% of wages (₹200)** towards the **Insurance Fund (EDLI).**

Final Distribution of Contributions

Fund	Employee Contribution	Employer Contribution	Total
Provident Fund	₹2,400	₹734	₹3,134
Pension Fund	–	₹1,666	₹1,666
Insurance Fund	–	₹200	₹200

Summary

The EPF system therefore creates **three layers of social security protection**:

- **Provident Fund** → retirement savings
- **Pension Scheme** → monthly pension after retirement or disability
- **Insurance Scheme** → life insurance protection for family

Together, these schemes ensure **long-term financial stability and social security for employees**.

Section 17 – Contribution in respect of Employees and Contractors

Where employees are **hired through a contractor**, the **principal employer is responsible for depositing PF contributions**.

The employer may **recover the amount from the contractor**, but the contractor can **deduct only the employee's share from wages**, not the employer's share.

Illustration:

If workers are supplied by a contractor to a factory, the **factory (principal employer) must deposit PF**, and may later **recover it from the contractor**.

Section 18 – Provident Fund recognised under the Income-tax Act

The Provident Fund established under this chapter is deemed to be a **recognised provident fund under the Income-tax Act, 1961**.

This ensures that employees receive the **tax benefits applicable to recognised provident funds**.

Section 19 – Priority of payment of contributions

Any amount due under this chapter becomes a **charge on the assets of the establishment**.

Such dues must be paid **in priority over other debts**, subject to the provisions of the **Insolvency and Bankruptcy Code, 2016**.

Section 20 – Chapter III not to apply to certain establishments

Chapter III does **not apply** to certain establishments, such as:

- **Co-operative societies employing fewer than 50 persons and working without power.**
- Establishments belonging to the **Central or State Government where employees already receive provident fund or pension benefits.**
- Establishments created under other laws where employees are already entitled to similar **provident fund or pension benefits.**

The **Central Government** may also exempt certain classes of establishments if necessary.

Section 21 – Authorising Certain Employers to Maintain Provident Fund Accounts

The **Central Government** may permit establishments employing **100 or more employees** to maintain their own **Provident Fund** accounts, instead of depositing funds with EPFO, if the employer has **not defaulted in PF contributions during the previous 3 years.**

If the employer **violates conditions or commits any offence**, the **authorisation may be cancelled after giving an opportunity of being heard.**

Illustration

An establishment with **120 employees** and **no PF default for 3 years** may be allowed to **maintain its own PF trust.** If it later **fails to deposit PF contributions**, the Government may **cancel the permission.**

Section 22 – Transfer of accounts

When an employee **changes employment**, the **accumulated balance in the Provident Fund or Pension account must be transferred** to the new employment account in accordance with the scheme.

This ensures **continuity of social security benefits.**

Section 23 – Appeal to Tribunal

Any person aggrieved by an order relating to:

- **determination of dues**, or
- **levy of damages**

may file an **appeal before the Tribunal constituted by the Central Government.**

However, an employer filing such an appeal must first **deposit 25% of the amount determined as due.**

The Tribunal should endeavour to **dispose of the appeal within one year** from the date of filing.



CHAPTER IV – EMPLOYEES’ STATE INSURANCE

Introduction

Chapter IV establishes the **Employees’ State Insurance (ESI) scheme**, which is a **social insurance system providing protection to employees against risks such as sickness, maternity, employment injury, disablement and death due to employment injury**. The scheme operates through the **Employees’ State Insurance Corporation (ESIC)**. Under this framework, employees working in covered establishments become **insured persons** and receive **medical treatment as well as financial benefits** when the specified contingencies occur.

The chapter regulates the **ESI Fund, contributions, benefits, medical facilities, employer liability, dispute resolution and appeals**.

ESI FUND AND ADMINISTRATION

Section 25 – Employees’ State Insurance Fund

All **contributions paid by employers and employees**, along with other receipts such as **user charges, grants, donations and Corporate Social Responsibility funds**, are credited to a fund known as the **Employees’ State Insurance Fund**.

This Fund is **held and administered by the Employees’ State Insurance Corporation** for implementing the ESI scheme.

The amounts standing in the Fund must be **deposited in banks approved by the Central Government** and invested in the prescribed manner.

Section 26 – Purposes for which the Fund may be used

The Employees' State Insurance Fund can be utilised only for purposes authorised under the Code. The major purposes include:

- payment of **sickness, maternity, disablement and dependants' benefits**
- provision of **medical treatment and attendance**
- establishment and maintenance of **hospitals, dispensaries and medical institutions**
- payment of **salaries, pensions and allowances of officers and staff of the Corporation**
- payment of **fees and allowances of members of the Corporation and its committees**
- expenses relating to **audit, valuation and administration**
- expenditure for **health improvement, welfare measures and rehabilitation of disabled insured persons**

Thus, the Fund ensures that employees receive **medical support and financial protection** during periods when their earning capacity is affected.

INSURANCE AND CONTRIBUTION

Section 28 – All employees to be insured

Every employee working in an establishment to which this chapter applies must be **insured in the manner prescribed by the Central Government**.

An employee in respect of whom contributions are payable and who becomes entitled to benefits under the ESI scheme is called an **Insured Person**.

This provision makes insurance under the ESI scheme **mandatory for covered employees**.

Section 29 – Contributions

The contribution payable under the ESI scheme consists of two components:

- **Employer's contribution**
- **Employee's contribution**

Both contributions must be paid to the **Employees' State Insurance Corporation**.

The Code does not specify the exact percentage of contribution in the section itself. Instead, it authorises the **Central Government to prescribe the contribution rates through rules or notifications**.

Contributions are calculated with reference to the **wage period**, and they generally become due on the **last day of the wage period**.

Section 31 – Payment of contributions by employer

The **employer bears the primary responsibility for payment of contribution.**

The employer must pay both the **employer's contribution and the employee's contribution** in respect of every employee, including employees engaged through a contractor.

The employer is permitted to **deduct only the employee's contribution from the employee's wages.** The employer or contractor **cannot deduct the employer's contribution from the employee's wages.**

If employees are engaged through a contractor, the employer may recover the contribution paid from the contractor. The contractor may in turn recover only the **employee's share of contribution from the employee's wages.**

Illustration

A factory engages 20 workers through a contractor. The factory owner must first deposit the ESI contribution for those workers. The owner may later recover the amount from the contractor, but the contractor cannot deduct the employer's share from the workers' wages.

BENEFITS UNDER ESI**Section 32 – Benefits available**

The ESI scheme provides the following benefits to insured persons and their families:

- **Sickness benefit** – cash payment during certified illness
- **Maternity benefit** – payment to insured women during pregnancy and childbirth
- **Disablement benefit** – payment when employment injury results in disability
- **Dependants' benefit** – payment to family members where death occurs due to employment injury
- **Medical benefit** – medical treatment and attendance
- **Funeral expenses** – assistance towards funeral expenditure

These benefits ensure **medical security and income protection.**

Section 33 – Promotion of health and welfare

The Corporation may undertake programmes for **health improvement, welfare measures and rehabilitation of insured persons who have suffered injury or disability.**

Expenditure for such measures is paid from the **Employees' State Insurance Fund.**

EMPLOYMENT INJURY AND LEGAL PRESUMPTION

Section 34 – Presumption as to accident arising in the course of employment

- When an accident occurs **in the course of employment**, the law presumes that the accident **also arose out of employment**, unless evidence proves otherwise.

Arising out of Employment and Notional Extension

- The expression “**arising out of employment**” refers to the **cause of the accident**. An accident arises out of employment when there is a **direct nexus between the work and the injury**, that is, the employment itself creates the risk.
- The concept of notional extension of time and place means that employment is not strictly confined to working hours or the workplace. It may extend beyond them where there is a **reasonable connection with employment**, such as while entering or leaving the premises or any work related movement.

Illustration

A worker slips and is injured while leaving the factory after duty hours. Although he has finished his work, the accident is treated as employment-related due to **notional extension**, as it is connected with his employment.

Conclusion

The rule ensures that employees are not denied benefits merely because the accident occurred **slightly outside the exact workplace or working time**, as long as the accident has a **reasonable connection with employment**.

Section 35 – Accidents occurring while acting in breach of law

An accident may still be treated as arising out of employment even if the employee was **acting in violation of a law, disobeying instructions or acting without instructions**, provided the act was done **in connection with the employer’s business**.

This rule ensures that employees are not deprived of protection merely because of minor breaches while performing work-related activities.

Section 36 – Occupational disease

Certain diseases caused by the nature of work are recognised as **occupational diseases**. If an employee working in employments listed in the **Third Schedule** contracts a specified disease associated with that employment, the disease is treated as an **employment injury**.

Thus, the law recognises that employment risks include **long-term health hazards and not only accidents**.

MEDICAL ASSESSMENT AND DISPUTES

Section 37 – Medical Board

Questions relating to **permanent disablement and loss of earning capacity** are determined by a **Medical Board constituted under the regulations**.

The Medical Board determines:

- whether an accident has resulted in permanent disablement
- the extent of loss of earning capacity
- whether the assessment is provisional or final
- the duration of provisional assessment

Where the insured person or the Corporation is dissatisfied with the decision, an appeal may be made to the **Medical Appeal Tribunal or the Employees' Insurance Court**.

Section 38 – Dependants' benefit

When an insured person dies as a result of **employment injury**, his dependants are entitled to receive **dependants' benefit**.

The benefit is paid at the rates and for the periods prescribed by the Central Government.

Section 39 – Medical benefit

An insured person and, where applicable, members of his family are entitled to **medical treatment and medical attendance**.

Medical care may be provided through:

- hospitals
- dispensaries
- clinics
- other medical institutions
- home visits where required

Medical benefits may also continue in certain cases after retirement or disablement, subject to the prescribed conditions.

MEDICAL FACILITIES

Section 40 – Provision of medical treatment

The **State Government is generally responsible for providing medical treatment** to insured persons and their families.

The Corporation and State Governments may enter into agreements regarding the **nature of medical facilities, infrastructure, staff and sharing of expenses**.

The Corporation may also establish hospitals, enter into agreements with private bodies or undertake direct responsibility for providing medical facilities in certain situations.

GENERAL RULES REGARDING BENEFITS

Section 41 – General provisions relating to benefits

Certain general rules apply to the receipt of benefits:

- disablement benefit is generally **not payable as a lump sum unless allowed by regulations**
- sickness or temporary disablement benefit is not payable on days when the employee **works or receives wages**
- a person receiving benefit must **follow medical instructions and remain under treatment**
- a person cannot receive certain **multiple benefits for the same period**

For example, the same person cannot simultaneously receive:

- sickness benefit and maternity benefit
- sickness benefit and temporary disablement benefit

If a person qualifies for more than one benefit, he must **choose one**.

LIABILITY AND RECOVERY

Section 42 – Employer’s failure to insure

If an employer fails to insure an employee or fails to pay contributions and the employee becomes disentitled to benefit, the Corporation may still **pay the benefit to the employee**.

The Corporation may then **recover the amount from the employer**.

Section 43 – Liability for excessive sickness

If excessive sickness among employees occurs due to **unsanitary working or living conditions**, the Corporation may recover from the owner or occupier the **extra expenditure incurred on sickness benefits**.

SPECIAL SCHEMES AND EXEMPTIONS

Section 44 – Scheme for other beneficiaries

The Central Government may allow **non-insured persons to receive treatment in underutilised ESI hospitals** on payment of user charges.

Section 45 – Schemes for gig and platform workers

The Central Government may introduce schemes for **unorganised workers, gig workers and platform workers**, providing benefits similar to those available under ESI.

Section 46 – Exemption of Government establishments

Factories or establishments belonging to the Government or local authorities may be exempted if employees already receive **benefits similar or superior to ESI benefits**.

RECOVERY AND ADJUDICATION**Section 47 – Priority of ESI dues**

Amounts payable to the Corporation become a **charge on the assets of the establishment** and have priority under the **Insolvency and Bankruptcy Code, 2016**.

Section 48 – Employees’ Insurance Court

The State Government must establish an **Employees’ Insurance Court** for adjudicating disputes arising under the ESI scheme.

A person who is or has been a **judicial officer** or a **legal practitioner with five years’ standing** may be appointed as a Judge.

Section 49 – Matters decided by the Court

The Employees’ Insurance Court decides disputes relating to:

- contribution liability
 - employee status
 - rate of wages
 - entitlement to benefits
 - recovery of contributions
 - disputes between employer, employee, contractor and Corporation
-

Section 50 – Powers of the Court

The Court has powers similar to those of a **Civil Court**, including summoning witnesses, examining evidence and enforcing its orders as a decree.

Section 51 – Proceedings before the Court

Proceedings must generally be initiated within **three years from the date of the cause of action**. A party may appear personally, through a legal practitioner or through an authorised trade union representative.

Section 52 – Appeal to High Court

An appeal lies to the **High Court** only when the decision of the Employees’ Insurance Court involves a **substantial question of law**. The appeal must be filed within **sixty days from the date of the order**.

CHAPTER V – GRATUITY

Introduction

Gratuity is a **statutory retirement benefit** paid by an employer to an employee as a reward for **long and continuous service**. It provides financial security to employees when their employment comes to an end due to retirement, resignation, death, disablement, or other prescribed circumstances.

This Chapter regulates **eligibility, calculation, nomination, payment procedure, insurance, and dispute resolution relating to gratuity**.

Section 53 – Payment of Gratuity

Introduction

Gratuity is payable when an employee's employment **terminates after completing at least five years of continuous service**, subject to certain exceptions.

When Gratuity Becomes Payable

Gratuity is payable on termination of employment in the following situations:

1. **Superannuation**
When an employee reaches the prescribed retirement age.
2. **Retirement or Resignation**
3. **Death of the Employee**
4. **Disablement due to accident or disease**
5. **Completion of fixed-term employment**
6. **Any other event notified by the Central Government**

Exception to the Five-Year Requirement

Completion of **five years of continuous service is not required** when employment ends due to:

- Death
- Disablement
- Expiry of fixed-term employment
- Other notified event

Special Provision for Working Journalists

For working journalists, gratuity becomes payable after **three years of service** instead of five.

Payment in Case of Death

If the employee dies:

- Gratuity is paid to the **nominee**.
- If no nomination exists, it is paid to the **legal heirs**.
- If the nominee or heir is a **minor**, the amount is deposited with the competent authority until the minor attains majority.

Calculation of Gratuity

Gratuity is calculated as:

15 days' wages for every completed year of service or part exceeding six months.

For monthly rated employees:

Gratuity Calculation Formula

$$\text{Gratuity} = \frac{\text{Last Drawn Monthly Wages}}{26} \times \text{Years of Service}$$

Explanation

- **Last Drawn Monthly Wages** = Basic salary + Dearness Allowance (last drawn)
- **26** = Number of working days in a month
- **15** = 15 days wages for every completed year of service
- **Years of Service** = Completed years of service (Service exceeding 6 months counted as full year)

Explanation:

- 26 represents working days in a month (excluding weekly holidays).

Illustration – Gratuity Calculation

Mr. A worked in a company for **10 years** and his **last drawn monthly wages** were **₹26,000**.

Step 1: Calculate daily wage

$$26,000 \div 26 = \text{₹1,000}$$

Step 2: Calculate 15 days' wages

$$1,000 \times 15 = \text{₹15,000}$$

Step 3: Multiply by years of service

$$15,000 \times 10 = \text{₹}1,50,000$$

Gratuity payable = ₹1,50,000.

Special Situations in Gratuity Calculation

Situation	Short Meaning
Piece-rated Employees	Daily wage = average wages of last 3 months (excluding overtime).
Seasonal Establishments	Gratuity = 7 days' wages for each season worked (not 15 days per year).
Fixed-Term / Death of Employee	Gratuity paid for actual service , even if less than 5 years .
Reduced Wages after Disablement	Calculate gratuity separately for before and after salary reduction , then added.

Maximum Limit

The amount of gratuity **cannot exceed the limit notified by the Central Government.**

Better Gratuity Terms

If an employee is entitled to **better gratuity benefits under any contract, award, or agreement**, such benefits will continue.

Forfeiture of Gratuity

Gratuity may be **forfeited in certain cases.**

1. **Damage to Employer's Property**

If termination occurs due to negligence causing damage to employer's property, gratuity can be forfeited **to the extent of the loss.**

2. **Riotous or Violent Conduct**

3. **Offence involving Moral Turpitude committed during employment**

In such cases gratuity may be **partially or fully forfeited.**

Section 54 – Continuous Service

Concept

Continuous service means **uninterrupted service with the employer**, including interruptions caused by circumstances beyond the employee's control.

Periods Included in Continuous Service

An employee is considered in continuous service even if the service is interrupted due to:

- sickness
- accident
- leave
- lay-off
- strike
- lock-out
- cessation of work not due to employee's fault

Deemed Continuous Service

If uninterrupted service is not proved, the law presumes continuous service if the employee has actually worked for the following minimum days:

Period Minimum days worked

1 year 240 days

6 months 120 days

For employees working **below ground in mines or establishments operating less than six days a week:**

Period Minimum days worked

1 year 190 days

6 months 95 days

Days Counted as “Actually Worked”

The following days are treated as days worked:

- Lay-off period
- Paid leave
- Temporary disablement due to employment accident
- Maternity leave (up to 26 weeks)

Section 55 – Nomination

Introduction

Nomination ensures that gratuity is paid to a **designated person after the employee's death**.

Provisions

1. Every employee must make a **nomination after completing one year of service**.
2. Gratuity may be distributed **among multiple nominees**.
3. If the employee has a **family**, nomination must be made **in favour of family members only**.
4. If the employee initially has **no family**, nomination may be made in favour of any person, but it becomes invalid once the employee acquires a family.
5. The employee may **modify the nomination anytime** by written notice.
6. If a nominee dies before the employee, a **fresh nomination must be made**.
7. The employer must **safely keep the nomination records**.

Section 56 – Determination and Payment of Gratuity

Application for Gratuity

An employee or authorised person must **apply to the employer** for gratuity payment. However, the employer must determine the gratuity **even if no application is made**.

Employer's Duty

The employer must:

1. Determine the gratuity amount.
2. Issue written notice to the employee and the competent authority.
3. Pay gratuity **within 30 days** from the date it becomes payable.

Interest on Delayed Payment

If gratuity is not paid within 30 days:

- The employer must pay **simple interest** for the delay.
- Interest is not payable if the delay is due to the **employee's fault**.

Disputes Regarding Gratuity

Disputes may arise regarding:

- amount of gratuity
- eligibility
- person entitled to receive it.

In such cases:

1. The employer must deposit the **admitted gratuity amount** with the competent authority.
2. Either party may apply to the competent authority.
3. The authority conducts an **inquiry similar to a civil court proceeding**.
4. The authority determines the correct amount payable.

Appeal

Any person aggrieved by the decision may file an **appeal within 60 days**.

An employer must **deposit the gratuity amount** before filing the appeal.

Section 57 – Compulsory Insurance for Gratuity Liability

Concept

Employers must secure funds to ensure gratuity payment.

Requirement

Every employer (other than government establishments) must:

- obtain **insurance from an approved insurance company**, or
 - create an **approved gratuity fund**.
-

Exception

Employers employing **500 or more employees** may establish their own **approved gratuity fund** instead of taking insurance.

Employer's Default

If the employer fails to:

- pay insurance premium, or
- contribute to the gratuity fund,

the employer becomes **immediately liable to pay the gratuity with interest**.

Section 58 – Competent Authority

Introduction

The competent authority is appointed by the government to **implement and enforce gratuity provisions**.

Functions

The competent authority:

- decides disputes relating to gratuity,
 - conducts inquiries,
 - ensures payment of gratuity,
 - may appoint experts to assist in inquiries.
-

Legal Powers

While conducting an inquiry, the competent authority has powers similar to a **civil court**, including:

- summoning witnesses,
- examining persons under oath,
- requiring production of documents,
- issuing commissions for examination of witnesses.

Conclusion

Chapter V ensures that employees receive **financial security after long service**.

The law provides a complete framework for:

- eligibility and calculation of gratuity,
- protection of employee rights,
- nomination and payment procedures,
- dispute resolution mechanisms, and
- compulsory insurance to secure gratuity payments.

Thus, gratuity operates as a **statutory retirement benefit that rewards loyalty and protects employees at the end of their service**.

CHAPTER VI – MATERNITY BENEFIT

Introduction

The maternity benefit provisions ensure **financial support, health protection and job security for women employees during pregnancy, childbirth and the post-natal period**.

These provisions regulate maternity leave, payment of wages during absence, nursing breaks, medical bonus, protection from dismissal and other welfare measures.

Section 59 – Prohibition of Employment During Certain Period

Introduction

Section 59 protects the **health of pregnant women employees**. It ensures two things:

1. **Complete rest after childbirth**, and
 2. **Protection from heavy or harmful work during the late stage of pregnancy**.
-

Section 59(1) – Employer Prohibited from Employing Woman After Delivery

No employer shall knowingly employ a woman in any establishment during the **six weeks immediately following**:

- delivery,
- miscarriage, or
- medical termination of pregnancy.

This ensures that the woman gets **sufficient recovery time after childbirth or pregnancy termination**.

Illustration

If a woman delivers a child on **1 June**, she cannot be employed until **six weeks are completed**.

Section 59(2) – Woman Also Prohibited from Working

A woman herself **shall not work in any establishment** during the **six weeks immediately following**:

- delivery,
- miscarriage, or
- medical termination of pregnancy.

Thus, both **the employer and the woman are legally prohibited from employment during this period**.

Section 59(3) – No Arduous Work During Pregnancy

Without prejudice to section 62, if a **pregnant woman makes a request**, the employer cannot require her to perform work that:

- is **arduous or physically demanding**,
- involves **long hours of standing**, or
- may **interfere with pregnancy, harm the foetus, cause miscarriage, or adversely affect her health**.

This provision protects the woman from **dangerous or exhausting work during pregnancy**.

Illustration

If a pregnant employee working in a factory requests lighter duties, the employer cannot require her to **lift heavy goods or stand continuously for long hours**.

Section 59(4) – Period During Which Such Protection Applies**Section 59(4)(a)**

The protection from strenuous work applies during **one month before the six weeks preceding the expected delivery date**.

Section 59(4)(b)

The protection also applies during **any part of the six weeks before delivery** if the woman continues to work instead of taking maternity leave under section 62.

Summary

Period	Rule
Early pregnancy period	Normal work allowed.
Last stage of pregnancy (about 10 weeks before expected delivery)	Work allowed, but no arduous or strenuous work if the pregnant woman requests.
Delivery to 6 weeks after delivery	Work completely prohibited for the woman.

Explanation – Meaning of Arduous Work

For the purpose of this section, “**work of arduous nature**” means work that:

- requires **strenuous physical effort**, or
- is **difficult and tiring in nature**.

Examples include heavy lifting, physically demanding labour, or continuous standing for long hours.

Section 60 – Right to Payment of Maternity Benefit**Introduction**

Section 60 provides that a **woman employee is entitled to maternity benefit (paid leave)** during her absence from work due to pregnancy and childbirth.

The employer is **legally liable to pay this benefit**, subject to certain eligibility conditions.

Section 60(1) – Right to Maternity Benefit

A woman employee is entitled to **maternity benefit (paid leave)** for the period when she is **absent from work due to pregnancy and childbirth**.

During this period, the employer must pay her **wages at the rate of her average daily wage**.

The payment covers:

- the **period before delivery**, and
- the **period after delivery**.

Thus, maternity leave is **paid leave**, not unpaid leave.

Explanation – Meaning of Average Daily Wage

“Average daily wage” means the **average wages the woman earned during the three calendar months** before she stopped working due to pregnancy.

Section 60(2) – Eligibility Condition

A woman will receive maternity benefit only if she has **worked for at least 80 days** in the establishment **during the 12 months immediately preceding the expected delivery date**.

Explanation

While calculating these 80 days, the following are also included:

- days actually worked,
- days of **lay-off**, and
- **paid holidays** declared under law.

Section 60(3) – Duration of Maternity Benefit

The law specifies the **maximum period of paid maternity leave** depending on the number of children a woman has.

Situation	Maximum Maternity Leave	Leave Allowed Before Delivery
Woman with less than two surviving children	26 weeks	Up to 8 weeks before delivery
Woman with two or more surviving children	12 weeks	Up to 6 weeks before delivery
Adoption of child below 3 months	12 weeks	From the date the child is handed over
Commissioning mother (surrogacy)	12 weeks	From the date the child is handed over

Thus,

- A woman gets **26 weeks of maternity leave**.
- Out of these **26 weeks, a maximum of 8 weeks can be taken before delivery**.
- If the woman already has **two or more children**, maternity leave is reduced to **12 weeks**.
- In case of **adoption or surrogacy**, maternity leave is **12 weeks from the date the child is received**.

Illustration

If a woman with **one child** is expecting another baby:

- She may take **8 weeks leave before delivery**, and
- the remaining **18 weeks after delivery**.

Special Situations

- If the **woman dies during this period**, maternity benefit is paid **up to the date of her death**.
- If the **woman dies after delivery but the child survives**, the employer must pay maternity benefit **for the entire period**.
- If **both the woman and child die**, the benefit is paid **up to the date of the child's death**.

Explanation: The term “child” includes a child born without signs of life (stillborn).

Section 60(4) – Maternity Benefit in Case of Adoption or Surrogacy

A woman who:

- **legally adopts a child below 3 months**, or
- is a **commissioning mother (surrogacy)**

is entitled to **12 weeks of maternity benefit** from the date the child is handed over to her.

Section 60(5) – Work from Home

If the nature of work allows it, the employer may permit the woman to **work from home after the maternity leave period**, based on **mutual agreement between the employer and the employee**.

Section 61 – Continuance of Maternity Benefit

A woman will **continue receiving maternity benefit from the employer** until she becomes **eligible under another scheme (e.g., ESI)**. After that, **the other scheme will pay the benefit**.

Illustration:

If a factory later comes under **ESI**, the employer pays maternity benefit **until the woman becomes eligible under ESI**. After that, **ESI pays the benefit**.

Section 62 – Notice of Claim for Maternity Benefit

A woman entitled to maternity benefit must give **written notice to the employer** stating:

- the date from which she will be absent, and
- the person to whom maternity benefit may be paid.

The absence cannot start **earlier than 8 weeks before expected delivery**.

Payment Rules

- Benefit for the **period before delivery** must be paid **in advance**.
- Benefit for the **period after delivery** must be paid **within 48 hours of proof of childbirth**.

Failure to give notice **does not remove the woman's right to maternity benefit.**

Illustration

If a woman submits a notice for maternity leave beginning **1 July**, the employer must pay the pre-delivery benefit **before that date.**

Section 62 – Notice of Claim for Maternity Benefit and Payment

Section 62(1) – Notice to Employer

A woman entitled to maternity benefit may **give a written notice to her employer** stating that:

- maternity benefit and other amounts payable under this Chapter may be **paid to her or to a person nominated by her**, and
- she **will not work in any establishment during the period for which she receives maternity benefit.**

Section 62(2) – Date of Absence from Work

If the woman is pregnant, the notice must **state the date from which she will be absent from work**, which cannot be earlier than 8 weeks before the expected date of delivery.

Section 62(3) – Notice After Delivery

If the woman **did not give notice during pregnancy**, she may **give the notice as soon as possible after delivery.**

Section 62(4) – Employer Must Allow Leave

After receiving the notice, the employer must **permit the woman to remain absent from work during the maternity benefit period.**

Section 62(5) – Payment of Maternity Benefit

- The **amount for the period before delivery** shall be **paid in advance** on proof of pregnancy.
- The **amount for the period after delivery** shall be **paid within 48 hours after proof of delivery of the child.**

Period	Payment Rule
Before delivery	Maternity benefit paid in advance on proof of pregnancy
After delivery	Maternity benefit paid within 48 hours on proof of delivery

Example

Maximum maternity leave = **26 weeks**

- She may take **8 weeks before delivery** and **18 weeks after**, or
- She may **work until delivery** and take **almost the entire leave after delivery**.

Section 62(6) – Failure to Give Notice

Failure to give notice **does not deprive the woman of maternity benefit**.

Section 63 – Payment of Maternity Benefit in Case of Death

If a woman dies before receiving maternity benefit:

- the benefit is paid to the **nominee**, or
- if no nominee exists, to the **legal representative**.

Section 64 – Medical Bonus

Every woman entitled to maternity benefit shall also receive a **medical bonus of ₹3,500 or such higher amount as may be notified by the Central Government**, if the employer **does not provide free pre-natal and post-natal medical care**.

Illustration:

If a company does not provide **free medical facilities during pregnancy and after childbirth**, the employer must pay the woman a **medical bonus of ₹3,500**.

Section 65 – Leave for Miscarriage and Related Cases

Situation	Leave Entitlement
Miscarriage or medical termination of pregnancy	6 weeks leave with wages
Tubectomy operation	2 weeks leave with wages
Illness arising from pregnancy or delivery	Additional leave up to 1 month

Illustration

If a woman undergoes a **tubectomy operation**, she is entitled to **two weeks paid leave immediately after the operation**.

Section 66 – Nursing Breaks

After returning to work, a woman who has delivered a child is entitled to **two nursing breaks during working hours**.

These breaks are allowed **until the child reaches 15 months of age**.

Section 67 – Creche Facility

Every establishment employing **50 or more employees** must provide a **crèche facility**. The woman is allowed **four visits per day** to the crèche, including rest intervals. Employers may also use **common crèche facilities** established by government or other organisations.

Section 68 – Protection Against Dismissal

An employer **cannot dismiss or discharge a woman** during maternity leave or because of her absence under maternity provisions.

If such dismissal occurs, the woman **still remains entitled to maternity benefit and medical bonus**, unless dismissal is due to **gross misconduct**.

A woman may **appeal within 60 days** to the competent authority.

Section 69 – No Deduction of Wages

The employer **cannot reduce wages** because:

- the woman is assigned lighter work under maternity protection, or
 - she takes nursing breaks.
-

Section 70 – Forfeiture of Maternity Benefit

If a woman **works for remuneration during her maternity leave**, she **loses entitlement to maternity benefit for that period**.

Section 71 – Duties of Employer

The employer must **display the provisions of maternity benefits and related rules in a conspicuous place** in the establishment.

Section 72 – Power of Inspector-cum-Facilitator

If maternity benefit is **wrongfully withheld or the woman is dismissed illegally**, she may complain to the **Inspector-cum-Facilitator**.

The Inspector may:

- order payment of maternity benefits, or
- issue appropriate directions in case of wrongful dismissal.

An appeal against the order can be filed **within 30 days**.

Summary Table – Key Maternity Benefits

Provision	Benefit
Maternity leave	Up to 26 weeks
Leave before delivery	Maximum 8 weeks
Leave for miscarriage	6 weeks
Leave for tubectomy	2 weeks
Additional illness leave	Up to 1 month
Nursing breaks	2 breaks daily until child is 15 months old
Medical bonus	₹3,500 or amount notified
Creche facility	Mandatory if 50+ employees

Conclusion

The maternity benefit provisions ensure that women employees receive **paid leave, health protection, job security and child-care support during maternity**. These provisions promote **maternal health, child welfare and gender equality in the workplace**.

CHAPTER VII – EMPLOYEES’ COMPENSATION**Introduction**

Chapter VII provides for **compensation to employees or their dependants** where **injury, disablement, or death** arises out of and in the course of employment, including **occupational diseases**.

Its object is to ensure **financial relief and medical support** in employment-related harm.

The Chapter covers:

- Employer’s liability
- Amount and payment of compensation
- Notice and claim procedure
- Role of competent authority
- Contractor liability and insolvency
- Appeals

Section 73 – Reports of Fatal Accidents and Serious Bodily Injuries

Where any law requires notice of an accident causing **death or serious bodily injury** to be given to an authority, the person required to give that notice must also send a **report to the competent authority within 7 days**.

For this purpose, **serious bodily injury** means an injury involving:

- permanent loss of use of any limb,
- permanent injury to sight or hearing,
- fracture of any limb, or
- absence from work for more than **20 days**.

Illustration

If a worker suffers a fracture in a factory accident and remains absent from work for more than twenty days, a report must be sent to the competent authority within 7 days.

Section 74 – Employer’s Liability for Compensation

General Rule

An employer is liable to pay compensation where **personal injury is caused to an employee by accident or occupational disease arising out of and in the course of employment**.

When employer is not liable

The employer is not liable:

- where the injury does not result in total or partial disablement for more than 3 days; or
- where **the injury does not result in death or permanent total disablement** and is **directly attributable to**:
 - drink or drugs,
 - wilful disobedience of safety orders or rules, or
 - wilful removal or disregard of safety guards.

Work-related disobedience still covered

Even if the employee was acting in contravention of law or instructions, compensation may still be payable if:

- the act was done **for the purpose of and in connection with the employer’s business**, and
- the accident would otherwise have been employment-related.

Occupational disease

If an employee employed in a specified employment contracts an occupational disease mentioned in the Schedule, that disease is treated as an **injury by accident**.

Commuting accident

An accident while travelling from **home to workplace or workplace to home** is also treated as employment-related if a clear **nexus of time, place and circumstances** with employment is established.

Conclusion

Section 74 forms the **foundation of employee's compensation law**. It makes the employer liable where employment causes injury, but it also excludes cases where the injury is too minor or is caused by serious misconduct of the employee.

Section 75 – Compensation in Case of Death of or Injury in Plantation

Introduction

A **plantation** refers to an establishment engaged in activities such as **tea, coffee, rubber or similar cultivation**, where workers are often provided **residential accommodation by the employer**.

The **collapse of a house** means the failure or falling down of such employer-provided accommodation due to reasons like **poor construction or lack of maintenance**, resulting in injury or death.

Provision

If **death or injury** is caused to a plantation worker or a member of his family due to the **collapse of a house provided by the employer**, the employer shall be liable to pay compensation.

Exception

The employer shall not be liable where the collapse is solely due to:

- the **fault of the occupant**, or
- a **natural calamity**.

Principle

Employer-provided housing in plantations is treated as part of the **conditions of employment**, and therefore risks arising from such housing are considered **employment-related**.

Illustration

If a house provided by the plantation owner collapses due to poor maintenance and a worker dies, the employer shall be liable to pay compensation

Section 76 – Amount of Compensation

Section 76 lays down the amount of compensation payable in different cases.

1. Death

Where death results from injury, compensation is:

- **50% of monthly wages × relevant factor**, or
- such notified minimum amount, whichever is more.

2. Permanent Total Disablement

Where permanent total disablement results, compensation is:

- **60% of monthly wages × relevant factor**, or
- such notified minimum amount, whichever is more.

3. Permanent Partial Disablement

Where permanent partial disablement results:

- for injuries listed in **Part II of the Fourth Schedule**, compensation is the prescribed percentage of the amount payable for permanent total disablement;
- for injuries not listed, compensation is proportionate to the **loss of earning capacity assessed by the medical practitioner**.

4. Temporary Disablement

Where temporary disablement results from the injury, the employee shall be entitled to a **half-monthly payment equal to 25% of the monthly wages**, payable during the period of disablement.

This means that the employee receives **25% of his monthly wages every 15 days** until the period of disablement continues.

Illustration

If an employee earns ₹20,000 per month, he shall be entitled to **₹5,000 as half-monthly payment**, payable every 15 days during the period of disablement.

5. Medical Expenditure

The employee must also be **reimbursed the actual medical expenditure incurred for treatment of employment injury**.

6. Funeral Expenses

If injury results in death, the employer must also deposit **funeral expenses of not less than ₹15,000 or such higher amount as prescribed**.

Meaning of relevant factor

The **relevant factor** is taken from the **Sixth Schedule** and **depends upon the age** of the employee on his last birthday before compensation became due.

Conclusion

The law links compensation to **wages, age and nature of injury**, so that more serious injury leads to greater compensation.

Section 77 – Compensation to be Paid When Due and Damages for Default**Provision**

Compensation shall be paid **as soon as it falls due**. Where the employer disputes the full claim, he shall make **provisional payment to the extent of liability admitted by him**.

Consequence of Default

If compensation is not paid within **one month** from the date it fell due, the competent authority shall direct the employer to pay:

- **interest on the amount due**, and
- **damages up to 50% of the arrears**, where the delay is unjustified.

Such interest and damages shall be payable to the **employee or his dependants**.

Illustration

If compensation became due on 1 January and the employer does not pay by 1 February, interest becomes payable. If there is no valid reason for delay, damages may also be imposed.

Section 78 – Method of Calculating Monthly Wages**Provision**

For the purposes of compensation, monthly wages shall be calculated in the following manner:

Where the Employee Worked for at least 12 Months

- Monthly wages shall be **one-twelfth of the total wages earned during the last 12 months**.

Where the Employee Worked for Less than One Month

- Monthly wages shall be the **average monthly amount earned by another employee doing similar work** in the same establishment or locality.

Other Cases

- Monthly wages shall be calculated as **30 times the total wages earned during the last continuous period of service divided by the number of days worked**.
- A period of service shall be treated as continuous if it has not been interrupted by absence from work exceeding **14 days**.

Illustration

If an employee worked for twelve months and earned ₹2,40,000 during that period, the monthly wages shall be ₹20,000.

Section 79 – Review**Provision**

Any **half-monthly payment**, that is, payment made every **15 days**, may be reviewed by the competent authority on application of the employer or the employee.

Such review shall be based on a **medical certificate showing change in the employee's condition**.

Powers of Authority

On review, the competent authority may:

- continue the payment,
- increase or decrease the payment,
- end the payment, or
- convert it into a **lump sum** where permanent disablement is established.

Purpose

This provision ensures that compensation remains **fair and appropriate** in light of changes in the employee's medical condition.

Section 80 – Commutation of Half-Monthly Payments**Provision**

A right to receive **half-monthly payments**, that is, payments made every **15 days**, may be converted into a **lump sum**:

- by agreement between the parties, or
- where there is no agreement and payments have continued for at least **six months**, by order of the competent authority.

Purpose

This provision allows periodic compensation to be **redeemed by a one-time payment**, providing final settlement.

Section 81 – Distribution of Compensation**Provision**

Where injury results in death, compensation shall not be paid directly to dependants but shall be **deposited with the competent authority**.

Role of Authority

The competent authority shall decide:

- who the dependants are, and
- the proportion in which compensation is to be distributed.

Where compensation is payable to a woman or a person under legal disability, the authority may **invest or manage the amount** for their benefit.

The authority may also vary the distribution if circumstances change or if the payment was obtained by fraud.

Illustration

If a deceased employee leaves behind a widow, mother and minor child, the competent authority shall determine how the compensation is to be apportioned among them.

Section 82 – Notice and Claim**Provision**

No claim for compensation shall be entertained unless:

- notice of the accident is given **as soon as practicable**, and
- the claim is filed within **two years** from the date of accident or death.

Exception

Delay or defect in notice shall not defeat the claim where:

- the employer already had knowledge of the accident, or
- the competent authority is satisfied that there was sufficient cause.

Requirements of Notice

The notice shall contain:

- name and address of the injured person,
- cause of injury, and
- date of accident.

The notice may be served personally, by registered post, electronically, or by entry in a notice book.

Illustration

If the employer himself witnesses the accident, the claim may still be entertained even if formal notice was defective.

Section 83 – Accidents Occurring Outside Indian Territory**Scope**

This section applies to employees such as:

- masters and seamen of ships,
- captain and crew of aircraft,
- persons recruited by Indian companies for work abroad, and
- persons sent abroad with motor vehicles.

Provision

Special rules are provided regarding notice, limitation, admissibility of evidence and procedural matters. This ensures that employees are not deprived of compensation merely because the accident occurred outside India.

Section 84 – Medical Examination**Provision**

Where notice of accident is given, the employee shall submit himself for **medical examination**, if required by the employer within the prescribed time, free of charge.

Consequence of Refusal

If the employee refuses or obstructs the examination, his right to compensation may be **suspended**, unless there is sufficient cause.

If the employee unreasonably refuses treatment and aggravates the injury, compensation shall be assessed as if such aggravation had not occurred.

Illustration

If an injured worker refuses medical examination without valid reason, compensation may be suspended until he complies.

Section 85 – Contracting**Provision**

Where an **employer** contracts work which is ordinarily part of his business, he **shall** remain **liable to pay compensation** to workers engaged in that work as if they were directly employed.

Right of Indemnity

The employer may recover the amount from the contractor.

The employee is not prevented from claiming compensation directly from the contractor.

Illustration

If a factory outsources loading work and a worker is injured on the premises, the principal employer shall be liable.

Section 86 – Remedies of Employer Against Stranger

Where compensation has been paid for an injury caused by a third person, the employer may **recover the amount from such third person** responsible for the injury.

Section 87 – Insolvency of Employer

Where the employer has insured his liability and becomes insolvent, the employee shall have a **direct claim against the insurer**.

Compensation dues shall have **priority in insolvency and winding-up proceedings**, ensuring protection of the employee's rights.

Section 88 – Statements Regarding Fatal Accidents

The competent authority may require the employer to submit a statement within **30 days** stating:

- the circumstances of death, and
- whether liability is accepted or denied.

If liability is accepted, compensation shall be deposited within 30 days. If denied, reasons must be stated.

Section 89 – Registration of Agreements

Where compensation is settled by agreement, a memorandum shall be sent to the competent authority for **registration**.

The authority may refuse registration if the agreement is **inadequate, fraudulent or improper**.

A registered agreement becomes enforceable under the Code.

Section 90 – Reference to Competent Authority

All disputes relating to compensation shall be decided by the **competent authority**, and civil courts shall have **no jurisdiction** in such matters.

Section 91 – Appointment of Competent Authority

The State Government may appoint qualified persons, such as judicial officers, advocates or experienced officers, as competent authorities.

Section 92 – Venue of Proceedings and Transfer

Proceedings may be initiated where:

- the accident occurred,
- the employee resides, or
- the employer has his office.

Section 93 – Form of Application

Claims shall be made before the competent authority in the **prescribed form** after a dispute arises.

Section 94 – Further Deposit in Fatal Cases

Where the amount deposited is insufficient, the competent authority may require the employer to **deposit the balance amount**.

Section 99 – Appeal

An appeal shall lie to the **High Court** from specified orders of the competent authority.

Conditions

- A **substantial question of law** must be involved
- The amount in dispute must be at least ₹10,000
- The employer must deposit the amount before filing appeal in certain cases

Time Limit

The appeal shall be filed within **60 days**.

Conclusion

These provisions establish a **comprehensive framework for employee's compensation**, covering payment, calculation, procedure and adjudication. They ensure that where employment causes harm, the employee or his dependants receive **timely financial relief and effective legal remedy**.

CHAPTER IX – SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS

Introduction

Chapter IX of the Code on Social Security, 2020 provides a **comprehensive statutory framework to extend social security benefits to workers who are outside the formal employment system**, such as **unorganised workers, gig workers and platform workers**.

Traditionally, social security benefits like **Provident Fund, pension, insurance and medical benefits** were available mainly to organised sector employees. This Chapter recognises that a large section of the workforce is engaged in **informal, contract-based, or digital platform work**, and therefore introduces a system to bring such workers under the ambit of **social security protection**.

Under this Chapter, the law provides for:

- **Framing of welfare schemes** by Central and State Governments
- **Registration of workers** through a formal identification system
- **Extension of benefits** such as life cover, health protection, old age security and skill development

- **Creation of a contribution mechanism**, especially requiring **aggregators (digital platforms)** to contribute towards welfare schemes

Thus, this Chapter ensures that even workers without a traditional employer-employee relationship are provided **financial security, health protection and welfare support**.

Section 109 – Framing of Schemes for Unorganised Workers

The Central Government shall frame and notify welfare schemes for unorganised workers on matters relating to:

1. Life and disability cover
2. Health and maternity benefits
3. Old age protection
4. Education
5. Any other welfare benefit as determined by the Central Government

Schemes by State Governments

The State Governments shall also frame welfare schemes for unorganised workers including:

- Provident fund
- Employment injury benefits
- Housing
- Educational schemes for children
- Skill upgradation
- Funeral assistance
- Old age homes

Funding of Schemes

Schemes framed by the Central Government may be funded in any of the following ways:

1. Entirely by the Central Government
2. Jointly by Central and State Governments
3. By Central Government, State Governments and contributions from beneficiaries or employers
4. From any source including Corporate Social Responsibility (CSR) funds under the Companies Act, 2013

Implementation Framework

Each scheme must provide for:

- scope of the scheme
- implementing authority
- beneficiaries
- funding sources
- implementing agencies

- grievance redressal mechanism
- other necessary administrative matters

The Central Government may also establish a Special Purpose Vehicle for implementation of schemes.

Illustration

A national scheme providing health insurance and disability protection for street vendors, domestic workers and small construction workers may be introduced and funded jointly by the Central Government and State Governments.

Section 110 – Funding of State Government Schemes

Schemes framed by State Governments may be funded through:

1. Entire funding by the State Government
2. Joint funding by the State Government and contributions from beneficiaries or employers
3. Funding from other sources including CSR funds

State Governments may also seek financial assistance from the Central Government. The Central Government may provide such assistance subject to prescribed conditions.

Section 111 – Record Keeping

The Government framing the scheme must provide for:

- the form and manner of maintaining records,
- whether electronic or physical, and
- the authority responsible for maintaining such records.

Records shall carry continuous numbering to prevent duplication or overlapping.

Section 112 – Helpline and Facilitation Centres

The appropriate Government may establish toll-free helplines, call centres and facilitation centres to:

1. Provide information about social security schemes
2. Assist workers in filing registration applications
3. Facilitate registration of workers
4. Assist workers in enrolling under schemes

These centres improve accessibility of welfare schemes for informal workers.

Section 113 – Registration of Workers

Every unorganised worker, gig worker or platform worker must be registered under this Chapter.

Conditions for Registration

A worker is eligible if:

1. He has completed 16 years of age
2. He submits a self-declaration

Registration Process

The worker shall apply in the prescribed form along with required documents including Aadhaar number. Upon registration, a **unique identification number** is assigned.

Eligibility for Benefits

Only a **registered worker** can avail benefits under the schemes.

Illustration

A delivery partner working for an online food delivery platform can register on a government portal and obtain a unique identification number to access welfare schemes.

Section 114 – Schemes for Gig Workers and Platform Workers

Introduction

Section 114 provides a **framework for extending social security to gig workers and platform workers**, who operate outside the traditional employer–employee relationship. It recognises that workers associated with platforms such as **Swiggy, Zomato, Uber and Rapido** require **financial protection, health benefits and welfare support**, and therefore imposes a **statutory responsibility on aggregators** to contribute towards such schemes.

Scope of Schemes

The **Central Government** may frame **social security schemes** for gig workers and platform workers covering:

- **Life and disability cover**
- **Accident insurance**
- **Health and maternity benefits**
- **Old age protection**
- **Crèche facilities**
- **Any other prescribed welfare benefits**

Funding of Schemes

Such schemes may be funded through:

- **Government funds**
- **Contributions from aggregators**
- **Joint contributions**
- **CSR funds**
- **Other prescribed sources**

Contribution by Aggregators

Meaning of Aggregator

An **aggregator** is a **digital platform or intermediary** that connects **workers with customers** for providing services through technology.

Meaning of Gig Worker

A **gig worker** is a person who performs **work outside a traditional employer–employee relationship**, typically on a **task-based, short-term or flexible basis**, and is paid per assignment.

Types of Aggregators

The following categories of aggregators are recognised:

- **Ride-sharing platforms**
 - **Food and grocery delivery platforms**
 - **Logistics platforms**
 - **E-commerce marketplaces**
 - **Professional service platforms**
 - **Healthcare platforms**
 - **Travel and hospitality platforms**
 - **Media and content platforms**
-

Contribution Requirement

Aggregators are required to contribute towards **social security schemes**. The contribution shall be **not less than 1% and not more than 2% of the annual turnover** of the aggregator.

However, such contribution shall be **subject to a cap of 5% of the amount paid or payable to gig and platform workers**.

The **exact rate** is notified by the Central Government.

The amount collected is utilised for **funding welfare schemes**, including **insurance, health benefits, pension and other social security measures**.

This provision establishes a **shared responsibility framework**, ensuring that **platform-based businesses contribute financially** to the welfare of workers who generate value through their platforms.

Illustration

If a platform such as **Swiggy, Zomato, Uber or Rapido** has an annual turnover of ₹100 crore, it shall contribute **1% to 2% of its turnover** towards social security schemes. However, if **5% of the payments made to delivery partners or drivers** is lower than this amount, the contribution shall be restricted to that lower amount.

Examples

- **Swiggy / Zomato** contribute towards welfare schemes for **delivery partners**.
- **Uber / Rapido** contribute towards social security for **drivers**.
- **Amazon / Flipkart** contribute for workers engaged in **logistics and delivery services**.

Conclusion

Section 114 ensures that **gig workers and platform workers are brought within the social security framework**, and that aggregators bear **financial responsibility proportionate to their platform-based operations**.

Role of National Social Security Board

The National Social Security Board oversees welfare schemes for gig and platform workers. It includes representatives of:

- aggregators
- gig and platform workers
- Government authorities
- experts

Section 123 – Maintenance of Records

Every employer shall maintain records relating to:

- wages, work hours and attendance
- employee details
- accidents and compensation
- statutory deductions
- recruitment and employment details

The employer shall also:

- display notices
- issue wage slips
- file returns

Such records may be maintained electronically or physically.

Conclusion

Chapter IX creates a **modern social security framework** by extending protection to unorganised, gig and platform workers. It introduces **registration, welfare schemes and aggregator contributions**, ensuring that workers in the informal and digital economy are not deprived of **financial security, health protection and social welfare benefits**.

Section 135 – Offences by Companies

Where an offence under the Code is committed by a company:

- the company itself and
- every person in charge of and responsible for the conduct of business

shall be deemed guilty.

However, such person will not be liable if he proves:

- the offence was committed **without his knowledge**, or
- he exercised **due diligence to prevent the offence**.

If the offence occurred due to:

- consent
- connivance
- negligence

of any **director, secretary or officer**, such person is also liable.

Meaning of Company

For this section:

- company includes **body corporate, firm or association of persons**
- director includes **partner in a firm**

Section 138 – Compounding of Offences

Compounding of Offences means **settling an offence** by paying a prescribed sum of money instead of undergoing prosecution or punishment.

Certain offences under the Code may be **compounded (settled) without trial**.

Offences Eligible for Compounding

1. offences punishable **only with fine**
2. offences punishable with **imprisonment up to one year and fine**

Amount Payable for Compounding

- **50% of the maximum fine** where offence is punishable with fine only
- **75% of the maximum fine** where offence includes imprisonment up to one year

Restriction

Compounding is **not allowed** if the same offence is committed again within **three years** of:

- earlier compounding, or
- earlier conviction.

Effect of Compounding

- If compounded **before prosecution**, no prosecution is initiated.
- If compounded **after prosecution**, the court discharges the accused.

Failure to comply with the compounding order leads to a penalty of **20% of the maximum fine in addition to the fine.**

Conclusion

Chapter IX represents a **major reform in labour law**, as it extends social security protection beyond traditional employer-employee relationships.

The Chapter recognises the rise of:

- informal sector workers
- gig economy workers
- digital platform workers

and creates a system of **government welfare schemes, worker registration and aggregator contributions** to ensure that even workers outside formal employment receive **minimum social security protection.**

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