

25th October, 2020

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भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 38] नई दिल्ली, रविवार, सितम्बर 20, 2020/ भाद्र 29, 1942 (शक)
No. 38] NEW DELHI, SUNDAY, SEPTEMBER 20, 2020/BHADRA 29, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 20th September, 2020/Bhadra 29, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 19th September, 2020, and is hereby published for general information:—

THE AIRCRAFT (AMENDMENT) ACT, 2020

No. 13 of 2020

[19th September, 2020.]

An Act further to amend the Aircraft Act, 1934.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. This Act may be called the Aircraft (Amendment) Act, 2020.

Short title.

2. In the Aircraft Act, 1934 (hereinafter referred to as the principal Act), in section 2,—

Amendment of section 2.

(a) after clause (I), the following clause shall be inserted, namely:—

'(1A) "Aircraft Accidents Investigation Bureau" means the Aircraft Accidents Investigation Bureau constituted under section 4C;'

(b) after clause (2A), the following clauses shall be inserted, namely:—

'(2B) "Bureau of Civil Aviation Security" means the Bureau of Civil Aviation Security constituted under section 4B;

(2C) "Directorate General of Civil Aviation" means the Directorate General of Civil Aviation constituted under section 4A;'

Substitution of new sections 4A, 4B, 4C and 4D for section 4A.

3. For section 4A of the principal Act, the following sections shall be substituted, namely:—

Directorate General of Civil Aviation.

"4A. (1) The Central Government may constitute a body to be known as the Directorate General of Civil Aviation, which shall be headed by an officer designated as the Director General of Civil Aviation to be appointed in this behalf by the Central Government by notification in the Official Gazette.

(2) The Directorate General of Civil Aviation shall be responsible for carrying out the safety oversight and regulatory functions in respect of matters specified in this Act or the rules made thereunder.

(3) The administration of the Directorate General of Civil Aviation shall vest in the Director General of Civil Aviation.

(4) The Central Government may, by an order published in the Official Gazette, direct that any power exercisable by the Director General of Civil Aviation may also be exercisable by any other officer or authority specially empowered in this behalf by the Central Government.

Bureau of Civil Aviation Security.

4B. (1) The Central Government may constitute a body to be known as the Bureau of Civil Aviation Security, which shall be headed by an officer designated as the Director General of Bureau of Civil Aviation Security to be appointed in this behalf by the Central Government by notification in the Official Gazette.

(2) The Bureau of Civil Aviation Security shall be responsible for carrying out the regulatory and oversight functions in respect of matters relating to civil aviation security specified in this Act or the rules made thereunder.

(3) The administration of the Bureau of Civil Aviation Security shall vest in the Director General of Bureau of Civil Aviation Security.

(4) The Central Government may, by an order published in the Official Gazette, direct that any power exercisable by the Director General of Bureau of Civil Aviation Security may also be exercisable by any other officer or authority specially empowered in this behalf by the Central Government.

Aircraft Accidents Investigation Bureau.

4C. (1) The Central Government may constitute a body to be known as the Aircraft Accidents Investigation Bureau, which shall be headed by an officer designated as the Director General of Aircraft Accidents Investigation Bureau to be appointed in this behalf by the Central Government by notification in the Official Gazette.

(2) The Aircraft Accidents Investigation Bureau shall be responsible for carrying out the functions in respect of matters relating to investigation of aircraft accidents or incidents specified in this Act or the rules made thereunder.

(3) The administration of the Aircraft Accidents Investigation Bureau shall vest in the Director General of Aircraft Accidents Investigation Bureau.

(4) The Central Government may, by an order published in the Official Gazette, direct that any power exercisable by the Director General of Aircraft Accidents Investigation Bureau may also be exercisable by any other officer or authority specially empowered in this behalf by the Central Government.

Superintendence of Central Government.

4D. The superintendence of the Directorate General of Civil Aviation, the Bureau of Civil Aviation Security and the Aircraft Accidents Investigation Bureau shall vest in the Central Government, which shall have the power to issue directions to each of these organisations, on any matters falling under sub-section (2) of sections 4A, 4B and 4C, respectively, if it considers necessary and expedient so to do in the public interest."

4. In section 5 of the principal Act, in sub-section (2),—

Amendment
of section 5.

(i) after clause (gc), the following clause shall be inserted, namely:—

"(gd) the regulation of air navigation services, that is, aeronautical information services, aeronautical charting and cartography services, aeronautical meteorological services, search and rescue services, procedure for air navigation services and aircraft operations other than those referred to in clause (gb) and any other matter relating to air navigation services;"

(ii) clause (qq) shall be relettered as clause (qa) thereof and in clause (qa) as so relettered, the word "and" occurring at the end shall be omitted;

(iii) after clause (qa), the following clauses shall be inserted, namely:—

"(qb) safety oversight and regulatory functions;

(qc) regulatory and oversight functions in respect of matters relating to civil aviation security; and".

5. In section 5A of the principal Act,—

Amendment
of section 5A.

(i) in sub-section (1), for the brackets, letters and word "(gc), (h), (i), (m) and (qq)", the brackets, letters and word "(gc), (gd), (h), (i), (m), (qa) and (qb)" shall be substituted;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) The Director General of Bureau of Civil Aviation Security or any other officer specially empowered in this behalf by the Central Government may, from time to time, by order, issue directions, consistent with the provisions of this Act and the rules made thereunder, with respect to any of the matters specified in clauses (e), (f), (gc) and (qc) of sub-section (2) of section 5, to any person or persons using any aerodrome, or engaged in the aircraft operations, air traffic control, maintenance and operation of aerodrome, or safeguarding civil aviation against acts of unlawful interference, in any case where the Director General of Bureau of Civil Aviation Security or such other officer is satisfied that in the interests of the security of India or to ensure security of civil aviation operations, it is necessary so to do.

(1B) On receipt of a representation from any person or otherwise, if it considers necessary and expedient to do so in the public interest, the Central Government may review any order passed under sub-section (1) or sub-section (1A) and issue directions to the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security, as the case may be, to rescind or modify such order.";

(iii) in sub-section (2), after the word, brackets and figure "sub-section (1)", the words, brackets, figures and letters "or sub-section (1A) or sub-section (1B)" shall be inserted.

6. In section 10 of the principal Act, in sub-section (1A),—

Amendment
of section 10.

(i) for the word, brackets and letters "clause (qq)", the word, brackets and letters "clause (qa)" shall be substituted;

(ii) for the words "ten lakh rupees" wherever they occur, the words "one crore rupees" shall be substituted.

7. After section 10 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections 10A
and 10B.

"10A. (1) Notwithstanding anything contained in sub-section (2) of section 10, the Central Government may, in making any rule under section 4, 5, 7, 8, 8A or section 8B,

Adjudication
of penalties.

provide for imposition of penalty not exceeding rupees one crore for the contravention of any rule for which no other punishment has been provided elsewhere in the Act, or in the rules made thereunder, for such contravention.

(2) The Central Government may, by an order published in the Official Gazette, appoint such number of officers not below the rank of Deputy Secretary to the Government of India or equivalent, as it considers necessary, to be designated officers for adjudging penalty under sub-section (1), in such manner as the Central Government may, by notification in the Official Gazette, make rules.

(3) The Central Government may, while appointing designated officers under sub-section (2), also specify their jurisdiction in that order.

(4) Where the designated officer is satisfied that any contravention of the provisions of the rules has been committed by any person, he may, by an order in writing, impose penalty on such person stating the nature of contravention, the provision of rules which has been contravened and the reasons for imposing such penalty:

Provided that the designated officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such person.

(5) Any person aggrieved by an order made under sub-section (4) may prefer an appeal to an appellate officer having jurisdiction in the matter who is next higher in rank to the designated officer who has passed such order.

(6) Every appeal under sub-section (5) shall be filed within thirty days from the date on which the copy of the order made by the designated officer is received by the aggrieved person and shall be in such form and manner, and be accompanied by such fees, as the Central Government may, by notification in the Official Gazette, make rules.

(7) The appellate officer may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

Cancellation of licence or certificate or approval.

10B. Notwithstanding anything contained in this Act, if any person contravenes any of the provisions of this Act or the rules made thereunder, the licence, certificate or approval issued to such person under this Act may be suspended or cancelled in such manner as the Central Government may, by notification in the Official Gazette, make rules."

Amendment of section 11.

8. In section 11 of the principal Act, for the words "ten lakh rupees", the words "one crore rupees" shall be substituted.

Amendment of section 11A.

9. In section 11A of the principal Act, for the words "ten lakh rupees", the words "one crore rupees" shall be substituted.

Amendment of section 11B.

10. In section 11B of the principal Act, in sub-section (1), for the words "ten lakh rupees", the words "one crore rupees" shall be substituted.

Insertion of new sections 12A and 12B.

11. After section 12 of the principal Act, the following sections shall be inserted, namely:—

Composition of offences.

"12A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under sections 10,11,11A,11B and section 12 or under any rules made thereunder, may be compounded, either before or after the institution of any prosecution, by the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security or Director General of Aircraft Accidents Investigation Bureau, as the case may be, in such manner as the Central Government may, by notification in the Official Gazette, make rules.

2 of 1974.

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date of commission of a similar offence which was earlier compounded or for which such person was earlier convicted.

(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

(4) Every application for the compounding of an offence shall be made in such manner as the Central Government may, by notification in the Official Gazette, make rules.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence by an officer referred to in sub-section (1) against the offender in relation to whom the offence is so compounded.

(6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought to the notice of the court in which the prosecution is pending, in writing, by the officer referred to in sub-section (1), and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(7) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(8) No offence specified in sub-section (1) shall be compounded except as provided in this section.

12B. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by or with the previous sanction in writing by the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security or Director General of Aircraft Accidents Investigation Bureau, as the case may be.

Cognizance of offences.

(2) The complaint referred to in sub-section (1) shall be made within a period of one year from the date on which the offence came to the knowledge of the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security or Director General of Aircraft Accidents Investigation Bureau, as the case may be.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try the offences under this Act."

2 of 1974.

12. In section 19 of the principal Act, in sub-section (1),—

Amendment of section 19.

(a) after the words "or air forces of the Union", the words "or other armed forces of the Union constituted by any law for the time being in force" shall be inserted;

(b) the following proviso shall be inserted, namely:—

"Provided that any aircraft belonging to an armed force of the Union other than naval, military or air forces of the Union, for which the provisions of this Act and the rules made thereunder are applicable on the date of commencement of the Aircraft (Amendment) Act, 2020, shall continue to be so governed by this Act and the rules made thereunder till such date as the Central Government may, by notification in the Official Gazette, specify."

Transitional provisions relating to existing authorities.

13. Anything done, or any action or decision taken, or any order or direction issued, by any authority set up pursuant to the provisions of the principal Act or rules made thereunder, prior to the date of coming into force of this Act, shall, insofar as such action or decision or direction are relatable to the functions of the Directorate General of Civil Aviation or the Bureau of Civil Aviation Security or the Aircraft Accidents Investigation Bureau, as the case may be, shall be deemed to have been done or taken or issued by the Directorate General of Civil Aviation or the Bureau of Civil Aviation Security or the Aircraft Accidents Investigation Bureau, as the case may be, constituted under sections 4A, 4B and 4C, respectively, of this Act.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 40] नई दिल्ली, सोमवार, सितम्बर 21, 2020/ भाद्र 30, 1942 (शक)
No. 40] NEW DELHI, MONDAY, SEPTEMBER 21, 2020/BHADRA 30, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 21st September, 2020/Bhadra 30, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 20th September, 2020 and is hereby published for general information:—

THE NATIONAL COMMISSION FOR HOMOEOPATHY ACT, 2020

No. 15 OF 2020

[20th September, 2020.]

An Act to provide for a medical education system that improves access to quality and affordable medical education, ensures availability of adequate and high quality Homoeopathy medical professionals in all parts of the country; that promotes equitable and universal healthcare that encourages community health perspective and makes services of Homoeopathy medical professionals accessible and affordable to all the citizens; that promotes national health goals; that encourages Homoeopathy medical professionals to adopt latest medical research in their work and to contribute to research; that has an objective periodic and transparent assessment of medical institutions and facilitates maintenance of a Homoeopathy medical register for India and enforces high ethical standards in all aspects of medical services; that is flexible to adapt to the changing needs and has an effective grievance redressal mechanism and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the National Commission for Homoeopathy Act, 2020.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Autonomous Board” means any of the Autonomous Boards constituted under section 18;

(b) “Board of Ethics and Registration for Homoeopathy” means the Board constituted under section 18;

(c) “Chairperson” means the Chairperson of the National Commission for Homoeopathy appointed under section 5;

(d) “Commission” means the National Commission for Homoeopathy constituted under section 3;

(e) “Council” means the Advisory Council for Homoeopathy constituted under section 11;

(f) “Homoeopathy” means the Homoeopathic System of Medicine and includes the use of biochemic remedies supplemented by such modern advances, scientific and technological development as the Commission may, in consultation with the Central Government, declare by notification from time to time;

(g) “Homoeopathy Education Board” means the Board constituted for Homoeopathy education under section 18;

(h) “licence” means a licence to practice Homoeopathy granted under sub-section (1) of section 33;

(i) “Medical Assessment and Rating Board for Homoeopathy” means the Board for assessment and rating of medical institutions constituted under section 18;

(j) “medical institution” means any institution within or outside India which, grants degrees, diplomas or licences in Homoeopathy and includes affiliated colleges and deemed to be Universities;

(k) “Member” means a Member of the Commission referred to in section 4 and includes the Chairperson thereof;

(l) “National Register” means a National Medical Register for Homoeopathy maintained by the Board of Ethics and Registration for Homoeopathy under section 32;

(m) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(n) “prescribed” means prescribed by rules made under this Act;

(o) “President” means the President of an Autonomous Board appointed under section 20;

(p) “regulations” means the regulations made by the Commission under this Act;

(q) “State Medical Council” means a State Medical Council of Homoeopathy constituted under any law for the time being in force in any State or Union territory for regulating the practice and registration of practitioners of Homoeopathy;

(r) "State Register" means a State register for Homoeopathy maintained under any law for the time being in force in any State or Union territory for registration of practitioners of Homoeopathy;

(s) "University" shall have the same meaning as assigned to it in clause (f) of section 2 of the University Grants Commission Act, 1956 and includes a health university.

3 of 1956.

CHAPTER II

NATIONAL COMMISSION FOR HOMOEOPATHY

3. (1) The Central Government shall, by notification, constitute a Commission, to be known as the National Commission for Homoeopathy, to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

Constitution
of National
Commission
for
Homoeopathy.

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Commission shall be at New Delhi.

4. (1) The Commission shall consist of the following persons, namely:—

Composition
of
Commission.

(a) a Chairperson;

(b) seven *ex officio* Members; and

(c) nineteen part-time Members.

(2) The Chairperson shall be a person of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in Homoeopathy from a recognised University and having experience of not less than twenty years in the field of Homoeopathy, out of which at least ten years shall be as a leader in the area of healthcare delivery, growth and development of Homoeopathy or its education.

(3) The following persons shall be appointed by the Central Government as *ex officio* Members of the Commission, namely:—

(a) the President of the Homoeopathy Education Board;

(b) the President of the Medical Assessment and Rating Board for Homoeopathy;

(c) the President of the Board of Ethics and Registration for Homoeopathy;

(d) Advisor (Homoeopathy) or Joint Secretary to the Government of India in-charge of Homoeopathy, in the Ministry of AYUSH;

(e) the Director, National Institute of Homoeopathy, Kolkata;

(f) the Director, North Eastern Institute of Ayurveda and Homoeopathy, Shillong; and

(g) the Director-General, Central Council for Research in Homoeopathy, Janakpuri, New Delhi.

(4) The following persons shall be appointed by the Central Government as part-time Members of the Commission, namely:—

(a) three Members to be appointed from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in the areas of Homoeopathy, management, law, health research, science and technology and economics;

(b) ten Members to be appointed on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council for a term of two years in such manner as may be prescribed.

(c) six members to be appointed from amongst the nominees of the States and Union territories, under clause (d) of sub-section (2) of section 11, of the Advisory Council for a term of two years in such manner as may be prescribed:

Provided that no Member shall either himself or through any of his family members, directly or indirectly, own or be associated with or have any dealings with the managing body of a private or non-government medical institution which is regulated under this Act.

Explanation.—For the purpose of this section and section 19, the term “leader” means the Head of a Department or the Head of an Organisation.

Search
committee
for
appointment
of
Chairperson
and Members.

5. (1) The Central Government shall appoint the Chairperson referred to in section 4 and the President of the Autonomous Boards referred to in section 20 on the recommendation of a Search Committee consisting of—

(a) the Cabinet Secretary—Chairperson;

(b) two experts, possessing outstanding qualifications and experience of not less than twenty-five years in the field of Homoeopathy, to be nominated by the Central Government—Members;

(c) one expert, from amongst the members as referred to in clause (c) of sub-section (4) of section 4, to be nominated by the Central Government in such manner as may be prescribed—Member;

(d) one person, possessing outstanding qualifications and experience of not less than twenty-five years in the field of health research, management, law, economics or science and technology, to be nominated by the Central Government—Member;

(e) the Secretary to the Government of India incharge of the AYUSH, to be the Convenor—Member:

Provided that for selection of part-time members of the Commission referred to in clause (a) of sub-section (4) of section 4, the Secretary referred to in section 8 and other Members of the Autonomous Boards referred to in section 20, the Search Committee shall consist of members specified in clauses (b) to (d) and Joint Secretary to the Government of India in the Ministry of AYUSH as Convenor—Member and chaired by Secretary to the Government of India in-charge of the Ministry of AYUSH.

(2) The Central Government shall, within one month from the date of occurrence of any vacancy, including by reason of death, resignation or removal of the Chairperson or a Member, or within three months before the end of tenure of the Chairperson or Member, make a reference to the Search Committee for filling up of the vacancy.

(3) The Search Committee shall recommend a panel of at least three names for every vacancy referred to it.

(4) Before recommending any person for appointment as the Chairperson or a Member of the Commission, the Search Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.

(5) No appointment of the Chairperson or Member shall be invalid merely by reason of any vacancy or absence of a Member in the Search Committee.

(6) Subject to the provisions of sub-sections (2) to (5), the Search Committee may regulate its own procedure.

Term of
office and
conditions of
service of
Chairperson
and Members.

6. (1) The Chairperson and Members (other than *ex officio* Members) and Members appointed under clause (b) of sub-section (4) of section 4 shall hold office for a term not exceeding four years and shall not be eligible for any extension or re-appointment:

Provided that such person shall cease to hold office after attaining the age of seventy years.

(2) The term of office of an *ex officio* Member shall continue as long as he holds the office by virtue of which he is such Member.

(3) Where a Member, other than an *ex officio* Member, is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to any valid reason in the opinion of the Commission, such Member shall be deemed to have vacated the seat.

(4) The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Member, other than an *ex officio* Member, shall be such as may be prescribed.

(5) The Chairperson or a Member may—

(a) relinquish his office by giving in writing a notice of not less than three months to the Central Government; or

(b) be removed from his office in accordance with the provisions of section 7:

Provided that such person may be relieved from duties earlier than three months or allowed to continue beyond three months until a successor is appointed, if the Central Government so decides.

(6) The Chairperson and every Member of the Commission shall make declaration of his assets and liabilities at the time of entering upon his office and at the time of demitting his office and also declare his professional and commercial engagement or involvement, in such form and manner as may be prescribed, and such declaration shall be published on the website of the Commission.

(7) The Chairperson or a Member, ceasing to hold office as such, shall not accept, for a period of two years from the date of demitting such office, any employment, in any capacity, including as a consultant or an expert, in any private Medical institution of Homoeopathy or, whose matter has been dealt with by such Chairperson or Member, directly or indirectly:

Provided that nothing contained herein shall be construed as preventing such person from accepting an employment in a body or institution including Medical institution of Homoeopathy, controlled or maintained by the Central Government or a State Government.

(8) Nothing in sub-section (7) shall prevent the Central Government from permitting the Chairperson or a Member to accept any employment in any capacity, including as a consultant or an expert, in any private Medical Institution of Homoeopathy, whose matter has been dealt with by such Chairperson or Member.

7. (1) The Central Government may, by order, remove from office the Chairperson or any other Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest.

(2) No Member shall be removed under clauses (e) and (f) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

8. (1) There shall be a Secretariat for the Commission to be headed by a Secretary, to be appointed by the Central Government in accordance with the provisions of section 5.

(2) The Secretary of the Commission shall be a person of proven administrative capacity and integrity, possessing such qualifications and experience as may be prescribed.

(3) The Secretary shall be appointed by the Central Government for a term of four years and he shall not be eligible for any extension or re-appointment.

Removal of
Chairperson
and Members
of
Commission.

Appointment
of secretary,
experts,
professionals,
officers and
employees of
Commission.

(4) The Secretary shall discharge such functions of the Commission as are assigned to him by the Commission and as may be specified by regulations made under this Act.

(5) The Commission may appoint such officers and other employees, as it considers necessary, against the posts created by the Central Government for the efficient discharge of its functions under this Act.

(6) The salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees of the Commission shall be such as may be prescribed.

(7) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of Homoeopathy and experience in fields including medical education in Homoeopathy, public health, management, economics, accreditation, patient advocacy, health research, science and technology, administration, finance, accounts or law as it deems necessary, to assist the Commission in the discharge of its functions under this Act.

Meetings of
Commission.

9. (1) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

(2) The Chairperson shall preside at the meeting of the Commission and if, for any reason, the Chairperson is unable to attend a meeting of the Commission, any Member being the President of the Autonomous Boards, nominated by the Chairperson shall preside at the meeting.

(3) Unless the procedure to be followed at the meetings of the Commission is otherwise provided by regulations, one-half of the total number of Members of the Commission including the Chairperson shall constitute the quorum and all decisions of the Commission shall be taken by a majority of the members, present and voting and in the event of equality of votes, the Chairperson or in his absence, the President of the Autonomous Board nominated under sub-section (2), shall have the casting vote.

(4) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson.

(5) No act or proceeding of the Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as a Chairperson or as a Member.

(6) A person who is aggrieved by any decision of the Commission, except the decision rendered under sub-section (4) of section 30, may prefer an appeal to the Central Government against such decision within fifteen days of the communication of such decision.

Power and
functions of
Commission.

10. (1) The Commission shall perform the following functions, namely:—

(a) lay down policies for maintaining a high quality and high standards in education of Homoeopathy and make necessary regulations in this behalf;

(b) lay down policies for regulating medical institutions, medical researches and medical professionals and make necessary regulations in this behalf;

(c) assess the requirements in healthcare, including human resources for health and healthcare infrastructure and develop a road map for meeting such requirements;

(d) frame guidelines and lay down policies by making such regulations as may be necessary for the proper functioning of the Commission, the Autonomous Boards and the State Medical Councils of Homoeopathy;

(e) ensure coordination among the Autonomous Boards;

(f) take such measures, as may be necessary, to ensure compliance by the State Medical Councils of Homoeopathy of the guidelines framed and regulations made under this Act for their effective functioning under this Act;

(g) exercise appellate jurisdiction with respect to decisions of the Autonomous Boards;

(h) make regulations to ensure observance of professional ethics in Medical profession and to promote ethical conduct during the provision of care by medical practitioners;

(i) frame guidelines for determination of fees and all other charges in respect of fifty per cent. of seats in private medical institutions and deemed to be Universities which are governed under the provisions of this Act.

(j) exercise such other powers and perform such other functions as may be prescribed.

(2) All orders and decisions of the Commission shall be authenticated by signature of the Secretary and the Commission may delegate such of its powers on administrative and financial matters, as it deems fit, to the Secretary.

(3) The Commission may constitute sub-committees and delegate such of its powers to them as may be necessary to enable them to accomplish specific tasks.

CHAPTER III

ADVISORY COUNCIL FOR HOMOEOPATHY

11. (1) The Central Government shall, by notification, constitute an advisory body to be known as the Advisory Council for Homoeopathy.

Constitution and composition of Advisory council for Homoeopathy.

(2) The Council shall consist of a Chairperson and the following Members, namely:—

(a) the Chairperson of the Commission shall be the *ex officio* Chairperson of the Council;

(b) every Member of the Commission shall be *ex officio* member of the Council;

(c) one Member, to represent each State, who is the Vice-Chancellor of a University in that State, possessing qualifications in Homoeopathy, to be nominated by that State Government, and one member to represent each Union territory, who is the Vice-Chancellor of a University in that Union territory, possessing qualifications in Homoeopathy, to be nominated by the Ministry of Home Affairs in the Government of India:

Provided that where the Vice-Chancellor possessing qualifications in Homoeopathy is not available, a Dean or Head of Faculty possessing qualifications in Homoeopathy shall be nominated;

(d) one member to represent each State and each Union territory from amongst elected members of the State Homoeopathy Medical Council, to be nominated by that State Medical Council;

(e) the Chairman, University Grants Commission;

(f) the Director, National Assessment and Accreditation Council;

(g) four Members to be nominated by the Central Government from amongst persons holding the post of Director in the Indian Institutes of Technology, Indian Institutes of Management and the Indian Institute of Science;

(h) the terms of non-*ex officio* Members in the Council shall be four years.

Functions of
Advisory
Council for
Homoeopathy.

12. (1) The Council shall be the primary platform through which the States and Union territories may put forth their views and concerns before the Commission and help in shaping the overall agenda, policy and action relating to medical education, training, research and development of Homoeopathy.

(2) The Council shall advise the Commission on measures to determine and maintain, and to coordinate maintenance of the minimum standards in all matters relating to medical education, training, research and development.

(3) The Council shall advise the Commission on measures to enhance equitable access to medical education.

Meetings of
Advisory
Council for
Homoeopathy.

13. (1) The Council shall meet at least twice in a year at such time and place as may be decided by the Chairperson.

(2) The Chairperson shall preside at the meeting of the Council and if for any reason the Chairperson is unable to attend a meeting of the Council, such other member as nominated by the Chairperson shall preside over the meeting.

(3) Unless the procedure is otherwise provided by regulations, one-half of the Members of the Council including the Chairperson shall form the quorum and all acts of the Council shall be decided by a majority of the Members present and voting.

CHAPTER IV

NATIONAL EXAMINATION

National
Eligibility-
cum-Entrance
Test.

14. (1) There shall be a uniform National Eligibility-cum-Entrance Test, for admission to the undergraduate in Homoeopathy in all medical institutions governed under this Act.

(2) The Commission shall conduct the National Eligibility-cum-Entrance Test in English and in such other languages, through such designated authority and in such manner, as may be specified by regulations.

(3) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to all the medical institutions governed under this Act:

Provided that the common counselling shall be conducted by the designated authority of—

(i) the Central Government, for All India seats; and

(ii) the State Government, for the remaining seats at the State level.

National Exit
Test.

15. (1) A common final year undergraduate medical examination, to be known as the National Exit Test, shall be held for granting licence to practice as medical practitioner of Homoeopathy and for enrolment in the State Register or National Register, as the case may be.

(2) The Commission shall conduct the National Exit Test for Homoeopathy in English and in such other languages, through such designated authority and in such manner as may be specified by regulations.

(3) The National Exit Test shall become operational on such date, within three years from the date on which this Act comes into force, as may be appointed by the Central Government, by notification.

(4) Any person with a foreign medical qualification shall have to qualify National Exit Test for the purpose of obtaining licence to practice Homoeopathy as medical practitioner of Homoeopathy and for enrolment in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.

16. (1) A uniform Post-Graduate National Entrance Test shall be conducted for admission to post-graduate courses in Homoeopathy in all medical institutions governed under this Act.

Post-Graduate
National
Entrance
Test.

(2) The Commission shall conduct the National Entrance Test for admission to post-graduate courses in English and in such other languages, through such designated authority and in such manner, as may be specified by regulations.

(3) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to the post-graduate seats in all medical institutions governed under this Act.

17. (1) A National Teachers' Eligibility Test shall be conducted separately for the post-graduates of Homoeopathy who desire to take up teaching profession in that discipline.

National
Teachers'
Eligibility
Test for
Homoeopathy.

(2) The Commission shall conduct the National Teachers' Eligibility Test for Homoeopathy through such designated authority and in such manner as may be specified by regulations.

(3) The National Teachers' Eligibility Test for Homoeopathy shall become operational on such date, within three years from the date on which this Act comes into force, as may be notified by the Central Government:

Provided that nothing contained in this section shall apply to the teachers appointed prior to the date notified under sub-section (3).

CHAPTER V

AUTONOMOUS BOARDS

18. (1) The Central Government shall, by notification, constitute the following Autonomous Boards, under the overall supervision of the Commission, to perform the functions assigned to such Boards under this Act, namely:—

Constitution
of
Autonomous
Boards.

(a) the Homoeopathy Education Board;

(b) the Medical Assessment and Rating Board for Homoeopathy; and

(c) the Board of Ethics and Registration for Homoeopathy.

(2) Each Board referred to in sub-section (1) shall be an autonomous body which shall carry out its functions under this Act in accordance with the regulations made by the Commission.

19. (1) The composition of the Autonomous Boards shall be as under, namely:—

Composition
of
Autonomous
Boards.

(a) the Homoeopathy Education Board shall consist of a President and four Members from the discipline of Homoeopathy;

(b) the Medical Assessment and Rating Board for Homoeopathy shall consist of a President from the discipline of Homoeopathy and two Members, out of whom one Member shall be from the discipline of Homoeopathy and the other Member shall be an accreditation expert;

(c) the Board of Ethics and Registration for Homoeopathy shall consist of a President from the discipline of Homoeopathy and two Members, out of whom one Member shall be from the discipline of Homoeopathy and the other Member shall be a person who has demonstrated public record of work on medical ethics or chosen from any of the disciplines of quality assurance, public health, law or patient advocacy.

(2) The President and Members of the Autonomous Boards to be chosen under sub-section (1) shall be persons of outstanding ability, proven administrative capacity and integrity, possessing post-graduate degree in respective disciplines from a recognised University and having experience of not less than fifteen years in respective fields, out of which at least seven years shall be as a leader:

Provided that seven years as leader in the case of the President and Member from Homoeopathy shall be in the area of health, growth and development of education in Homoeopathy.

Search Committee for appointment of President and Members.

20. The Central Government shall appoint the President and Members of the Autonomous Boards on the basis of the recommendations made in accordance with the procedure specified in section 5 by the Search Committee constituted thereunder.

Term of office and conditions of service of President and Members.

21. (1) The President and Members of each Autonomous Board shall hold the office for a term not exceeding four years and shall not be eligible for any extension or re-appointment:

Provided that such person shall cease to hold office after attaining the age of seventy years.

(2) The salary and allowances payable to, and other terms and conditions of service of the President and Members of an Autonomous Board shall be such as may be prescribed.

(3) The provisions contained in sub-sections (3), (5), (6), (7) and (8) of section 6 relating to other terms and conditions of service of, and in section 7 relating to removal from office, the Chairperson and Members of the Commission shall also be applicable to the President and Members of the Autonomous Boards.

Advisory committees of experts.

22. (1) Each Autonomous Board, except the Board of Ethics and Registration for Homoeopathy, shall be assisted by such advisory committees of experts, as may be constituted by the Commission, for the efficient discharge of the functions of such Boards under this Act.

(2) The Board of Ethics and Registration for Homoeopathy shall be assisted by such ethics committees of experts, as may be constituted by the Commission, for the efficient discharge of the functions of that Board under this Act.

Staff of Autonomous Boards.

23. The experts, professionals, officers and other employees appointed under section 8 shall be made available to the Autonomous Boards in such number and in such manner, as may be specified by regulations made by the Commission.

Meetings of Autonomous Boards.

24. (1) Every Autonomous Board shall meet at least once a month at such time and place as it may appoint.

(2) Subject to such regulations as may be made in this behalf, all decisions of the Autonomous Boards shall be made by consensus and if consensus is not possible, decision shall be made by majority of votes of the President and Members.

(3) A person who is aggrieved by any decision of an Autonomous Board may prefer an appeal to the Commission against such decision within thirty days of the communication of such decision.

Delegation of powers.

25. (1) The Commission may delegate all or any of its administrative and financial powers to the President of each Autonomous Board to enable such Board to function smoothly and efficiently.

(2) The President of an Autonomous Board may further delegate any of his powers to a Member or officer of that Board.

Powers and functions of Homoeopathy Education Board.

26. (1) The Homoeopathy Education Board shall perform the following functions, namely:—

(a) determine the standards of education at the undergraduate, post-graduate and super-speciality levels and oversee all aspects of relating thereto;

(b) develop a competency based dynamic curriculum for Homoeopathy at all levels in accordance with the regulations made under this Act, in such manner that it

develops appropriate skill, knowledge, attitude, values and ethics among the post-graduate and super-speciality students and enables them to provide healthcare, to impart medical education and to conduct medical research;

(c) frame guidelines on setting up of medical institutions for imparting undergraduate, post-graduate and super-speciality courses in Homoeopathy, having regard to the needs of the country, the global norms and the regulations made under this Act;

(d) determine minimum requirements and standards for conducting of courses and examinations in medical institutions, having regard to the needs of creativity at local levels and the regulations made under this Act;

(e) determine standards and norms for infrastructure, faculty and quality of education and research in medical institutions of Homoeopathy, in accordance with the regulations made under this Act;

(f) specify norms for compulsory annual disclosure, electronically and otherwise, by medical institutions of Homoeopathy in respect of their functions that has a bearing on the interest of various stakeholders including students, faculty, the Commission and the Government;

(g) facilitate development and training of faculty Members;

(h) facilitate research programmes;

(i) grant recognition to medical qualifications of Homoeopathy at all levels.

(2) The Homoeopathy Education Board may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

27. (1) The Board of Ethics and Registration for Homoeopathy shall perform the following functions, namely:—

(a) maintain a National Register of all licensed practitioners of Homoeopathy in accordance with the provisions of section 32;

(b) regulate professional conduct and promote medical ethics in accordance with the regulations made under this Act;

Provided that the Board of Ethics and Registration for Homoeopathy shall ensure compliance with the code of professional and ethical conduct through the State Medical Council, in a case where such State Medical Council has been conferred power to take disciplinary actions in respect of professional or ethical misconduct by medical practitioners under respective State Acts;

(c) develop mechanisms to have continuous interaction with State Medical Councils of Homoeopathy to effectively promote and regulate the conduct of medical practitioners of Homoeopathy;

(d) exercise appellate jurisdiction with respect to the actions taken by a State Medical Council under section 31.

(2) The Board of Ethics and Registration for Homoeopathy may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

28. (1) The Medical Assessment and Rating Board for Homoeopathy shall perform the following functions, namely:—

(a) determine the process of assessment and rating of medical institutions on the basis of their compliance with the standards laid down by the Homoeopathy Education Board, in accordance with the regulations made under this Act;

Powers and functions of Board of Ethics and Registration for Homoeopathy.

Powers and functions of Medical Assessment and Rating Board for Homoeopathy.

(b) grant permission for establishment of a new medical institution or to start any post-graduate course or to increase number of seats, in accordance with the provisions of section 29;

(c) carry out inspections of medical institutions for assessing and rating such institutions in accordance with the regulations made under this Act:

Provided that the Medical Assessment and Rating Board for Homoeopathy may, if it deems necessary, hire and authorise any other third party agency or persons for carrying out inspections of medical institutions for assessing and rating such institutions:

Provided further that where inspection of medical institutions is carried out by such third party agency or persons authorised by the Medical Assessment and Rating Board for Homoeopathy, it shall be obligatory on such institutions to provide access to such agency or person;

(d) conduct, or where it deems necessary, empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by regulations;

(e) make available on its website or in public domain, the assessment and ratings of medical institutions at regular intervals, in accordance with the regulations made under this Act;

(f) take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a medical institution for its failure to maintain the minimum essential standards specified by the Homoeopathy Education Board, in accordance with the regulations made under this Act.

(2) The Medical Assessment and Rating Board for Homoeopathy may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

Permission
for
establishment
of new
medical
institution.

29. (1) No person shall establish a new medical institution or start any post-graduate course or increase number of seats without obtaining prior permission of the Medical Assessment and Rating Board for Homoeopathy.

Explanation.—For the purpose of this sub-section, the term “person” includes any University or a trust or any other body but does not include the Central Government.

(2) For the purpose of obtaining permission under sub-section (1), a person may submit a scheme to the Medical Assessment and Rating Board for Homoeopathy in such form, containing such particulars, accompanied by such fee, and in such manner, as may be specified by regulations.

(3) While considering the scheme received under sub-section (2), the Medical Assessment and Rating Board for Homoeopathy shall have regard to the standards of education and research, the standards and norms for infrastructure and faculty, the guidelines on setting up of medical institutions and other requirements determined by the Homoeopathy Education Board, and pass an order either approving or disapproving the scheme within three months from the date of receipt of such scheme:

Provided that before disapproving such scheme, an opportunity to rectify the defects, if any, shall be given to the person concerned.

(4) Where a scheme is approved under sub-section (3), such approval shall be the permission under sub-section (1) to establish a new medical institution.

(5) Where a scheme is disapproved under sub-section (3) or where no order is passed within three months of submitting a scheme under sub-section (2), the person concerned may prefer an appeal to the Commission within fifteen days of such disapproval or, as the case may be, after lapse of three months, in such manner as may be specified by regulations.

(6) Where the Commission has disapproved the scheme or no order has been passed within fifteen days from the date of preferring appeal under sub-section (5), the person concerned may prefer a second appeal to the Central Government within seven days of communication of such disapproval or, as the case may be, lapse of specified period of fifteen days.

(7) The Medical Assessment and Rating Board for Homoeopathy may conduct evaluation and assessment of any University or medical institution at any time, either directly or through any other expert, having integrity and experience in medical profession without any prior notice and assess and evaluate the performance, standards and benchmarks of such University or medical institution.

30. While approving or disapproving a scheme under section 29, the Medical Assessment and Rating Board for Homoeopathy, or the Commission, as the case may be, shall take into consideration the following criteria, namely:—

Criteria for approving or disapproving scheme.

(a) adequacy of infrastructure and financial resources;

(b) whether adequate academic faculty, non-teaching staff and other necessary facilities have been provided to ensure proper functioning of medical institution or would be provided within the time-limit specified in the scheme;

(c) whether adequate hospital facilities have been provided or would be provided within the time-limit specified in the scheme;

(d) such other factors as may be prescribed:

Provided that, subject to the previous approval of the Central Government, the criteria may be relaxed for the medical institutions which are set up in such areas as may be specified by the regulations.

31. (1) The State Government shall, by notification, within three years of the commencement of this Act, establish a State Medical Council for Homoeopathy in that State if no such Council exists in that State.

State Medical Councils.

(2) Where a State Act confers power upon the State Medical Council to take disciplinary actions in respect of any professional or ethical misconduct by a registered practitioner of Homoeopathy, the State Medical Council shall act in accordance with the regulations made, and the guidelines framed, under this Act:

Provided that till such time as a State Medical Council for Homoeopathy is established in a State, the Board of Ethics and Registration for Homoeopathy shall receive the complaints and grievances relating to any professional or ethical misconduct against a registered practitioner of Homoeopathy in that State in accordance with such procedure as may be specified by regulations:

Provided further that the Board of Ethics and Registration for Homoeopathy or, as the case may be, the State Medical Council shall give an opportunity of hearing to such practitioner before passing any order or taking any action, including imposition of any monetary penalty, against such person.

(3) A practitioner of Homoeopathy who is aggrieved by the order passed or the action taken by—

(a) the State Medical Council under sub-section (2) may prefer an appeal to the Board of Ethics and Registration for Homoeopathy and the decision, if any, of the

Board of Ethics and Registration for Homoeopathy thereupon shall be binding on such State Medical Council, unless a second appeal is preferred under sub-section (4);

(b) the Board of Ethics and Registration for Homoeopathy under the first proviso to sub-section (2) may prefer an appeal to the Commission.

(4) A medical practitioner of Homoeopathy who is aggrieved by the decision of the Board of Ethics and Registration for Homoeopathy, may prefer an appeal to the Commission within sixty days of communication of such decision.

Explanation.—For the purposes of this Act:—

(a) “State” includes Union territory and the expressions “State Government” and “State Medical Council for Homoeopathy”, in relation to a Union territory, shall respectively mean the “Central Government” and “Union Territory Medical Council for Homoeopathy”;

(b) the expression “professional or ethical misconduct” includes any act of commission or omission, as may be specified by regulations;

National Register and State Register of Homoeopathy.

32. (1) The Board of Ethics and Registration for Homoeopathy shall maintain a National Register containing the name, address, all recognised qualifications possessed by a licensed medical practitioner of Homoeopathy and such other particulars as may be specified by regulations.

(2) The National Register shall be maintained in such form, including in electronic form and in such manner as may be specified by regulations.

(3) The manner in which any name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, shall be such as may be specified by the regulations.

(4) The National Register shall be made available in the public by placing it on the website of the Board of Ethics and Registration for Homoeopathy.

(5) Every State Medical Council shall maintain and regularly update the State Register in the specified electronic format and supply a physical copy of the same to the Board of Ethics and Registration for Homoeopathy within three months of the commencement of this Act.

(6) The Board of Ethics and Registration for Homoeopathy shall ensure electronic synchronisation of the National Register and the State Register in such a manner that any change in one such register is automatically reflected in the other register.

Rights of persons to be enrolled in National Register and their obligations thereto.

33. (1) Any person who has a recognised medical qualification in Homoeopathy under this Act and qualifies the National Exit Test held under section 15 shall have a licence to practice Homoeopathy and shall have his name and qualifications enrolled in the National Register or a State Register, as the case may be:

Provided that a person who has been registered in the Central Register of Homoeopathy maintained under the Homoeopathy Central Council Act, 1973 prior to the coming into force of this Act and before the National Exit Test becomes operational under sub-section (3) of section 15, shall be deemed to have been registered under this Act and be enrolled first in the State Register and subsequently in the National Register maintained under this Act.

59 of 1973.

(2) No person who has obtained a qualification in Homoeopathy from a medical institution established in any country outside India and is recognised as a medical practitioner of Homoeopathy in that country, shall, after the commencement of this Act and the National Exit Test for Homoeopathy becomes operational under sub-section (3) of section 15, be enrolled in the National Register for Homoeopathy, unless he qualifies the National Exit Test for Homoeopathy.

(3) When a person whose name is entered in the State Register or the National Register, as the case may be, obtains any title, diploma or qualification for proficiency in sciences or medicine which is a recognised qualification under section 34 or section 35, as the case may be, he shall be entitled to have such title, diploma or qualification entered against his name in the State Register or the National Register, in such manner as may be specified by regulations.

34. (1) No person other than a person who is enrolled in the State Register or the National Register, as the case may be, shall—

Rights of persons to practice.

(a) be allowed to practice Homoeopathy as a qualified practitioner;

(b) hold office as a physician or a surgeon or any other office, by whatever name called, which is meant to be held by a physician or surgeon, as the case may be;

(c) be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner;

(d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 on any matter relating to Homoeopathy:

1 of 1872.

Provided that the Commission shall submit a list of such practitioners to the Central Government in such manner as may be prescribed:

Provided further that a foreign citizen who is enrolled in his country as a practitioner of Homoeopathy in accordance with the law regulating the registration of such practitioners in that country may be permitted temporary registration in India for such period and in such manner as may be specified by regulations.

(2) Any person who acts in contravention of the provisions of this section shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both.

(3) Nothing contained in sub-section (2) shall affect,—

(a) the right of a person enrolled on a State Register as practitioner of Homoeopathy to practice in any State merely on the ground that he does not possess, as on the date of commencement of this Act, a recognised medical qualification in Homoeopathy;

(b) the right of a person who has been practicing Homoeopathy for not less than five years in a State, to continue to practice in that State in which a State Register of Homoeopathy is not maintained as on the date of commencement of this Act.

CHAPTER VI

RECOGNITION OF QUALIFICATIONS OF HOMOEOPATHY

35. (1) The medical qualifications in Homoeopathy at undergraduate or postgraduate or super-speciality level granted by any University or medical institution in India shall be listed and maintained by the Homoeopathy Education Board, in such manner as may be specified by regulations and such medical qualification shall be a recognised qualification for the purposes of this Act.

Recognition of qualifications granted by Universities or medical institutions in India.

(2) Any University or medical institution in India which grants an undergraduate or postgraduate or super-speciality qualification in Homoeopathy not included in the list maintained by the Homoeopathy Education Board, may apply to that Board for granting recognition to such qualification.

(3) The Homoeopathy Education Board shall examine the application for grant of recognition within period of six months in such manner as may be specified by regulations.

(4) Where the Homoeopathy Education Board decides to grant recognition to the qualification in Homoeopathy, it shall include such qualification in the list maintained by it

and shall also specify therein the date of effect of such recognition, otherwise it shall communicate its decision not to grant recognition to the concerned University or medical institution.

(5) The aggrieved University or the medical institution may prefer an appeal to the Commission within a period of sixty days from the date of communication of the decision of Homoeopathy Education Board in such manner as may be specified by regulations.

(6) The Commission shall examine the appeal received under sub-section (5) within a period of two months and if it decides that recognition may be granted to such medical qualification, it may direct the concerned Board to include such qualification in the list maintained by that Board in such manner as may be specified by regulations.

(7) Where the Commission decides not to grant recognition under sub-section (6) or fails to decide within the specified period, the aggrieved University or medical institution concerned may prefer a second appeal to the Central Government within a period of thirty days of the communication of such decision or lapse of specified period, as the case may be.

(8) All medical qualifications which have been recognised before the date of commencement of this Act and are included in the Second Schedule to the Homoeopathy Central Council Act, 1973, shall also be listed and maintained by the Homoeopathy Education Board, in such manner as may be specified by regulations. 59 of 1973.

Recognition of medical qualifications granted by medical institutions outside India.

36. (1) Where an authority in any country outside India which, by the law of that country, is entrusted with the recognition of qualifications of Homoeopathy in that country, makes an application to the Commission for granting recognition to such qualification in India, the Commission may, subject to such verification as it deems necessary, either grant or refuse to grant recognition to that medical qualification.

(2) Where the Commission grants recognition to any medical qualification under sub-section (1), such qualification shall be a recognised qualification for the purposes of this Act and shall be included in the list maintained by the Commission in such manner as may be specified:

Provided that in case the Commission decides not to grant recognition to any qualification, the Commission shall give a reasonable opportunity of being heard to such authority before refusing to grant such recognition.

(3) Where the Commission refuses to grant recognition to a medical qualification under sub-section (2), the authority concerned may prefer an appeal to the Central Government for grant of recognition.

(4) All qualifications which have been recognised before the date of commencement of this Act and are included in the Third Schedule to the Homoeopathy Central Council, Act, 1973 shall also be recognised medical qualifications for the purposes of this Act and shall be listed and maintained by the Commission in such manner as may be specified by regulations. 59 of 1973.

Withdrawal of recognition or de-recognition of qualification.

37. (1) Where, upon a report received from the Medical Assessment and Rating Board for Homoeopathy or otherwise, it appears to the Commission that—

(a) the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by, a University or medical institution do not conform to the standards specified by Homoeopathy Education Board; or

(b) the standards and norms for infrastructure, faculty and quality of education in medical institutions as determined by the Homoeopathy Education Board are not adhered to by any University or medical institution, and such University or medical institution has failed to take necessary corrective action to maintain specified minimum standards,

the Commission may initiate action in accordance with the provisions of sub-section (2) :

Provided that the Commission shall, before, taking any action for *suo motu* withdrawal of recognition granted to the medical qualification awarded by a University or medical institution, impose penalty in accordance with the provisions of clause (f) of sub-section (l) of section 28.

(2) The Commission shall, after making such further inquiry as it deems fit, and after holding consultations with the State Government and the authority of the concerned University or medical institution, comes to the conclusion that the recognition granted to a medical qualification ought to be withdrawn, it may, by order, withdraw recognition granted to such medical qualification and direct the Homoeopathy Education Board to amend the entries against the University or medical institution concerned in the list maintained by that Board to the effect that the recognition granted to such qualification is withdrawn with effect from the date specified in that order.

(3) If the Commission, after verification with the authority in any country outside India, is of the opinion that a recognised medical qualification which is included in the list maintained by it is to be de-recognised, it may, by order, de-recognise such medical qualification and remove it from the list maintained by the Commission with effect from the date of such order.

38. Where the Commission deems it necessary so to do, it may, by notification, direct that any qualification in Homoeopathy granted by a medical institution outside India, after such date, as may be specified in that notification, shall be recognised qualification for the purposes of this Act:

Special provision in certain cases for recognition of qualifications.

Provided that medical practice by a person possessing such qualification shall be permitted only if such person has been enrolled as a medical practitioner in accordance with the law regulating the registration of medical practitioner for the time being in force in that country:

Provided further that medical practice by a person possessing such qualification shall be limited to such period as may be specified in that order:

Provided also that medical practice by a person possessing such qualification shall be permitted only if such person qualifies National Exit Test.

CHAPTER VII

GRANTS, AUDIT AND ACCOUNTS

39. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit.

Grants by Central Government.

40. (1) There shall be constituted a fund to be called "the National Commission Fund for Homoeopathy" and there shall be credited thereto—

National Commission Fund for Homoeopathy.

(a) all Government grants, fees, penalties and charges received by the Commission and the Autonomous Boards;

(b) all sums received by the Commission from such other source as may be decided by it.

(2) The fund shall be applied for making payment towards—

(a) The salaries and allowances payable to the Chairperson and Members of the Commission, Presidents and Members of the Autonomous Boards and administrative expenses including the salaries and allowances payable to the officers and other employees of the Commission and the Autonomous Boards;

(b) the expenses incurred or to be incurred in carrying out the provisions of this Act including in connection with the discharge of the functions of the Commission and the Autonomous Boards.

Audit and accounts.

41. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other persons appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of, and complete access to, records, books, accounts, connected vouchers and other documents and papers and to inspect the office of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Commission to the Central Government which shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

Furnishing of returns and reports to Central Government.

42. (1) The Commission shall furnish to the Central Government, at such time, in such form and in such manner, as may be prescribed or as the Central Government may direct, such reports and statements and such particulars in regard to any matter under the jurisdiction of the Commission, as the Central Government may, from time to time, require.

(2) The Commission shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VIII

MISCELLANEOUS

Power of Central Government to give directions to Commission and Autonomous Boards.

43. (1) Without prejudice to the foregoing provisions of this Act, the Commission and the Autonomous Boards shall, in exercise of their powers and discharge of their functions under this Act be bound by such directions on questions of policy as the Central Government may give in writing to them from time to time:

Provided that the Commission and the Autonomous Boards shall, as far as practicable, be given an opportunity to express their views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to give directions to State Governments.

44. The Central Government may give such directions, as it may deem necessary, to a State Government for carrying out all or any of the provisions of this Act and the State Government shall comply with such directions.

Information to be furnished by Commission and publication thereof.

45. (1) The Commission shall furnish such reports, copies of its minutes, abstracts of its accounts and other information to the Central Government as that Government may require.

(2) The Central Government may publish, in such manner as it may think fit, the reports, minutes, abstracts of accounts and other information furnished to it under sub-section (1).

46. Every University and medical institutions covered under this Act shall maintain a website at all times and display in its website all such information as may be required by the Commission or an Autonomous Board, as the case may be.

Obligation of Universities and medical institutions.

47. (1) Notwithstanding anything contained in this Act, any student who was studying for a degree or diploma in any medical institution immediately before the commencement of this Act shall continue to so study and complete his course for such degree or diploma, and such institution shall continue to provide instructions and hold examination for such student in accordance with the syllabus and studies as existed before such commencement, and such student shall be deemed to have completed his course of study under this Act and shall be awarded degree or diploma under this Act.

Completion of courses of studies in medical institutions.

(2) Notwithstanding anything contained in this Act, where recognition granted to a medical institution has lapsed, whether by efflux of time or by its voluntary surrender or for any other reason whatsoever, such medical institution shall continue to maintain and provide the minimum standards as approved by the Commission till such time as all the candidates are able to complete their study in that institution.

48. The Chairperson, Members, officers and other employees of the Commission, President and Members of Autonomous Boards shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson, Members, officers of Commission, Autonomous Boards to be public servants.

45 of 1860.

49. No suit, prosecution or other legal proceeding shall lie against the Government, the Commission or any Autonomous Board or a State Medical Council or any Committee thereof, or any officer or other employee of the Government or of the Commission acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

50. No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made in this behalf by an officer authorised by the Commission or the Ethics and Registration Board or a State Medical Council, as the case may be.

Cognizance of offences.

51. (1) If, at any time, the Central Government is of opinion that—

(a) the Commission is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) the Commission has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act,

Power of Central Government to supersede Commission.

the Central Government may, by notification in the Official Gazette, supersede the Commission for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Commission to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Commission.

(2) Upon the publication of a notification under sub-section (1) superseding the Commission,—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission, shall, until the Commission is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Commission shall, until the Commission is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Commission by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Joint sittings of Commission, National Commission for Indian Systems of Medicine and National Medical Commission.

52. (1) There shall be a joint sitting of the Commission, the National Commission for Indian System of Medicine and the National Medical Commission, at least once a year, at such time and place as they mutually appoint, to enhance the interface between Homoeopathy, Indian System of Medicine and modern system of medicine.

(2) The Agenda for the joint sitting may be placed with mutual agreement by the Chairpersons of the Commissions concerned.

(3) The joint sitting may, by an affirmative vote of all members present and voting, decide on approving specific educational and medical modules or programmes that could be introduced in the undergraduate and postgraduate courses across medical systems, and promote medical pluralism.

State Government to promote public health.

53. Every State Government may, for the purposes of addressing or promoting public health, take necessary measures to enhance the capacity of the healthcare professionals.

Power to make rules.

54. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of appointing five Members of the Commission on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council under clause (b) of sub-section (4) of section 4;

(b) the manner of appointing members under clause (c) of sub-section (4) of section 4;

(c) the manner of nominating one expert by the Central Government under clause (c) of sub-section (1) of section 5;

(d) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members under sub-section (4) of section 6;

(e) the form and the manner of making declaration under sub-section (6) of section 6;

(f) the qualifications and experience to be possessed by Secretary under sub-section (2) of section 8;

(g) the salaries and allowances payable to, and other terms and conditions of the Secretary, officers and other employees of the Commission under sub-section (6) of section 8;

(h) the other powers to be exercised and other functions to be performed by the Commission under clause (i) of sub-section (1) of section 10;

(i) the salary and allowances payable to, and other terms and conditions of service of, the President and Members of an Autonomous Board under sub-section (2) of section 21;

(j) the other factors under clause (d) of section 30;

(k) the manner of submitting list of practitioners under the second proviso to sub-section (1) of section 33;

(l) the form for preparing annual statement of accounts under sub-section (1) of section 41;

(m) the time within which, and the form and the manner in which, the reports and statements shall be furnished by the Commission and the particulars with regard to any matter as may be required by the Central Government under sub-section (1) of section 42;

(n) the form and the time for preparing annual report under sub-section (2) of section 43;

(o) the compensation for the premature termination of employment under the second proviso to sub-section (3) of section 58;

(p) any other matter in respect of which provision is to be made by rules.

55. (1) The Commission may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the functions to be discharged by the Secretary of the Commission under sub-section (4) of section 8;

(b) the procedure in accordance with which experts and professionals may be engaged and the number of such experts and professionals under sub-section (7) of section 8;

(c) the procedure to be followed at the meetings of Commission, including the quorum at its meetings under sub-section (3) of section 9;

(d) the quality and standards to be maintained in education of Homoeopathy under clause (a) of sub-section (1) of section 10;

(e) the manner of regulating medical institutions, medical researches and medical professionals under clause (b) of sub-section (1) of section 10;

(f) the manner of regulating functioning of the Commission, the Autonomous Boards and the State Medical Councils under clause (d) of sub-section (1) of section 10;

(g) the procedure to be followed at the meetings of the Medical Advisory Council, including the quorum at its meetings under sub-section (3) of section 13;

(h) the other languages in which, the designated authority through which, and the manner in which the National Eligibility-cum-Entrance Test shall be conducted under sub-section (2) of section 14;

(i) the manner of conducting common counselling by the designated authority for admission to medical institutions under sub-section (3) of section 14;

(j) the other languages in which, the designated authority through which, and the manner in which, the National Exit Test shall be conducted under sub-section (2) of section 15;

(k) the manner in which a person with foreign medical qualification shall qualify National Exit Test under sub-section (4) of section 15;

(l) the other languages in which, the designated authority through which, and the manner in which admission to postgraduate courses shall be conducted under sub-section (2) of section 16;

(m) the manner of conducting common counselling by the designated authority for admission to the postgraduate seats in all medical institutions under sub-section (3) of section 16;

(n) the manner of conducting the National Teachers' Eligibility Test for Homoeopathy and the designated authority through whom such test shall be conducted under sub-section (2) of section 17;

(o) the number of, and the manner in which, experts, professionals, officers and other employees shall be made available by the Commission to the Autonomous Boards under section 23;

(p) the manner in which decisions of the Autonomous Boards shall be made under sub-section (2) of section 24;

(q) the competency based dynamic curriculum at all levels under clause (b) of sub-section (1) of section 26;

(r) the manner of setting up of medical institutions for imparting undergraduate, postgraduate and super-speciality courses in Homoeopathy under clause (c) of sub-section (1) of section 26;

(s) the minimum requirements and standards for conducting courses and examinations in medical institutions under clause (d) of sub-section (1) of section 26;

(t) the standards and norms for infrastructure, faculty and quality of education and research in medical institutions of Homoeopathy under clause (e) of sub-section (1) of section 26;

(u) the manner of regulating professional conduct and promoting medical ethics under clause (b) of sub-section (1) of section 27;

(v) the procedure for assessment and rating of the medical institutions under clause (a) of sub-section (1) of section 28;

(w) the manner of carrying out inspections of medical institutions for assessing and rating under clause (c) of sub-section (1) of section 28;

(x) the manner of conducting, and the manner of empanelling independent rating agencies to conduct, assess and rate all medical institutions under clause (d) of sub-section (1) of section 28;

(y) the manner of making available on website or in public domain the assessment and ratings of medical institutions under clause (e) of sub-section (1) of section 28;

(z) the measures to be taken against a medical institution for failure to maintain the minimum essential standards under clause (f) of sub-section (1) of section 28;

(za) the form of scheme, the particulars thereof, the fee to be accompanied and the manner of submitting scheme for establishing new medical college under sub-section (2) of section 29;

(zb) the manner of preferring an appeal to the Commission for approval of the scheme under sub-section (5) of section 29;

(zc) the areas in respect of which criteria may be relaxed under the proviso to section 30;

(zd) the manner of taking disciplinary action by a State Medical Council for professional or ethical misconduct of registered medical practitioner and the procedure for receiving complaints and grievances by the Board of Ethics and Registration for Homoeopathy, under sub-section (2) of section 31;

(ze) the act of commission or omission which amounts to professional or ethical misconduct under clause (b) of the *Explanation* to section 31;

(zf) other particulars to be contained in a National Register under sub-section (1) of section 32;

(zg) the form, including the electronic form and the manner of maintaining the National Register under sub-section (2) of section 33;

(zh) the manner in which any name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, under sub-section (3) of section 34;

(zi) the manner of entering the title, diploma or qualification in the State Register or the National Register under sub-section (3) of section 35;

(zj) the manner in which, and the period for which temporary registration may be permitted to a foreign citizen under the third proviso to sub-section (1) of section 34;

(zk) the manner of listing and maintaining medical qualifications granted by a University or medical institution in India under sub-section (1) of section 35;

(zl) the manner of examining the application for grant of recognition under sub-section (3) of section 35;

(zm) the manner of preferring an appeal to the Commission for grant of recognition under sub-section (5) of section 35;

(zn) the manner of including a medical qualification in the list maintained by the Board under sub-section (6) of section 36;

(zo) the manner in which the Homoeopathy Education Board shall list and maintain the medical qualifications which have been granted recognition before the date of commencement of this Act, under sub-section (8) of section 35;

(zp) the manner in which the Commission shall list and maintain the medical qualifications which have been granted recognition before the date of commencement of this Act, under sub-section (4) of section 36.

56. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation

Rules and regulations to be laid before Parliament.

shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to
remove
difficulties.

57. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary, for the removing of the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

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

Repeal and
saving.

58. (1) With effect from such date as the Central Government may, by notification, appoint in this behalf, the Homoeopathy Central Council Act, 1973 shall stand repealed and the Central Council of Homoeopathy constituted under section 3 of the said Act shall stand dissolved.

59 of 1973.

(2) Notwithstanding the repeal of the Act referred to in sub-section (1), it shall not affect,—

(a) the previous operation of the Acts so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty incurred in respect of any contravention under the Act so repealed; or

(d) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Act had not been repealed.

(3) On the dissolution of the Central Council of Homoeopathy, the person appointed as the Chairman of that Council and every other person appointed as the Member and any officer and other employees of the Council and holding office as such immediately before such dissolution shall vacate their respective offices and such Chairman and other Members shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service:

Provided that any officer or other employee who has been, immediately before the dissolution of the Central Council of Homoeopathy appointed on deputation basis to the Central Council of Homoeopathy, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be:

Provided further that any officer, expert, professional or other employee who has been, immediately before the dissolution of the Central Council of Homoeopathy employed on regular basis or on contractual basis by the Council, shall cease to be such officer, expert, professional or other employees of the Central Council and shall be entitled to such compensation for the premature termination of his employment, which shall not be less than three months' pay and allowances, as may be prescribed.

(4) Notwithstanding the repeal of the aforesaid enactment, any order made, any licence to practice issued, any registration made, any permission to start new medical institution or to start higher course of studies or to increase in the admission capacity granted, any recognition of medical qualifications granted, under the Homoeopathy Central Council Act, 1973 which are in force as on the date of commencement of this Act shall continue to be in force till the date of their expiry for all purposes, as if they had been issued or granted under the provisions of this Act or the rules or regulations made thereunder.

59 of 1973.

59. (1) The Commission shall be the successor in interest to the Central Council of Homoeopathy including its subsidiaries or owned trusts and all the assets and liabilities of the Central Council of Homoeopathy shall be deemed to have been transferred to the Commission.

Transitory provisions.

59 of 1973.

(2) Notwithstanding the repeal of the Homoeopathy Central Council Act 1973, the educational and medical standards, requirements and other provisions of the Homoeopathy Central Council Act, 1973 and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under this Act or the rules and regulations made thereunder:

Provided that anything done or any action taken as regards the educational and medical standards and requirements under the enactment under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue in force accordingly unless and until superseded by anything or by any action taken under this Act.

(3) The Central Government may take such measures, as may be necessary, for the smooth transition of the dissolved Central Council of Homoeopathy to the corresponding to new Commission under this Act.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 39] नई दिल्ली, सोमवार, सितम्बर 21, 2020/ भाद्र 30, 1942 (शक)
No. 39] NEW DELHI, MONDAY, SEPTEMBER 21, 2020/BHADRA 30, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 21st September, 2020/Bhadra 30, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 20th September, 2020 and is hereby published for general information:—

THE NATIONAL COMMISSION FOR INDIAN SYSTEM OF MEDICINE ACT, 2020

No. 14 OF 2020

[20th September, 2020.]

An Act to provide for a medical education system that improves access to quality and affordable medical education, ensures availability of adequate and high quality medical professionals of Indian System of Medicine in all parts of the country; that promotes equitable and universal healthcare that encourages community health perspective and makes services of such medical professionals accessible and affordable to all the citizens; that promotes national health goals; that encourages such medical professionals to adopt latest medical research in their work and to contribute to research; that has an objective periodic and transparent assessment of medical institutions and facilitates maintenance of a medical register of Indian System of Medicine for India and enforces high ethical standards in all aspects of medical services; that is flexible to adapt to the changing needs and has an effective grievance redressal mechanism and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the National Commission for Indian System of Medicine Act, 2020.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Autonomous Board” means any of the Autonomous Boards constituted under section 18;

(b) “Board of Ayurveda” means the Board constituted under section 18;

(c) “Board of Ethics and Registration for Indian System of Medicine” means the Board constituted under section 18;

(d) “Board of Unani, Siddha and Sowa-Rigpa” means the Board constituted under section 18;

(e) “Chairperson” means the Chairperson of the National Commission for Indian System of Medicine appointed under section 5;

(f) “Commission” means the National Commission for Indian System of Medicine constituted under section 3;

(g) “Council” means the Advisory Council for Indian System of Medicine constituted under section 11;

(h) “Indian System of Medicine” means the Ashtang Ayurveda, Unani, Siddha and Sowa-Rigpa Systems of Medicine supplemented by such modern advances, scientific and technological development as the Commission may, in consultation with the Central Government, declare by notification from time to time;

(i) “licence” means a licence to practice any of the Indian System of Medicine granted under sub-section (1) of section 33;

(j) “Medical Assessment and Rating Board for Indian System of Medicine” means the Board constituted under section 18;

(k) “medical institution” means any institution within or outside India which, grants degrees, diplomas or licences in Indian System of Medicine and includes affiliated colleges and deemed to be Universities;

(l) “Member” means a Member of the Commission referred to in section 4 and includes the Chairperson thereof;

(m) “National Register” means a National Medical Register for Indian System of Medicine maintained by the Board of Ethics and Registration for Indian System of Medicine under section 32;

(n) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(o) “prescribed” means prescribed by rules made under this Act;

(p) “President” means the President of an Autonomous Board appointed under section 20;

(q) “regulations” means the regulations made by the Commission under this Act;

(r) "State Medical Council" means a State Medical Council of Indian System of Medicine constituted under any law for the time being in force in any State or Union territory for regulating the practice and registration of practitioners of Indian System of Medicine in that State or Union territory;

(s) "State Register" means a State Register for Indian System of Medicine maintained under any law for the time being in force in any State or Union territory for registration of practitioners of Indian System of Medicine;

(t) "University" shall have the same meaning as assigned to it in clause (f) of section 2 of the University Grants Commission Act, 1956 and includes a health university.

3 of 1956.

CHAPTER II

NATIONAL COMMISSION FOR INDIAN SYSTEM OF MEDICINE

3. (1) The Central Government shall, by notification, constitute a Commission, to be known as the National Commission for Indian System of Medicine, to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

Constitution of National Commission for Indian System of Medicine.

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Commission shall be at New Delhi.

4. (1) The Commission shall consist of the following persons, namely:—

Composition of Commission.

- (a) a Chairperson;
- (b) fifteen *ex officio* Members; and
- (c) twenty-three part-time Members.

(2) The Chairperson shall be a person of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in any of the disciplines of Indian System of Medicine from a recognised University and having experience of not less than twenty years in any field of Indian System of Medicine, out of which at least ten years shall be as a leader in the area of healthcare delivery, growth and development of Indian System of Medicine or its education.

(3) The following persons shall be appointed by the Central Government as *ex officio* Members of the Commission, namely:—

- (a) the President of the Board of Ayurveda;
- (b) the President of the Board of Unani, Siddha and Sowa-Rigpa;
- (c) the President of the Medical Assessment and Rating Board for Indian System of Medicine;
- (d) the President of the Board of Ethics and Registration for Indian System of Medicine;
- (e) Advisor (Ayurveda) or Joint Secretary to the Government of India in-charge of Ayurveda and Advisor (Unani) or Joint Secretary to the Government of India in-charge of Unani, in the Ministry of AYUSH;
- (f) the Director, All India Institute of Ayurveda, New Delhi;
- (g) the Director General, Central Council for Research in Ayurvedic Sciences, New Delhi;
- (h) the Director General, Central Council for Research in Unani Medicine, New Delhi;
- (i) the Director General, Central Council for Research in Siddha, Chennai;
- (j) the Director, National Institute of Siddha, Chennai;
- (k) the Director, National Institute of Unani, Bengaluru;
- (l) the Director, North Eastern Institute on Ayurveda and Homoeopathy, Shillong;
- (m) the Director, Institute of Post Graduate Teaching and Research in Ayurveda, Jamnagar; and
- (n) the Director, National Institute of Ayurveda, Jaipur.

(4) The following persons shall be appointed by the Central Government as part-time Members of the Commission, namely:—

(a) four Members to be appointed from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in any of the disciplines of Indian System of Medicine, Sanskrit, Urdu, Tamil, management, law, health research, science and technology and economics;

(b) ten Members to be appointed on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council for Indian System of Medicine for a term of two years in such manner as may be prescribed;

(c) six members from Ayurveda, one member each from Siddha, Unani and Sowa-Rigpa, to be appointed from amongst the nominees of the States and Union territories, under clause (d) of sub-section (2) of section 11, in the Advisory Council for Indian System of Medicine, for a term of two years in such manner as may be prescribed:

Provided that no Member shall either himself or through any of his family members, directly or indirectly, own or be associated with or have any dealings with the managing body of a private or non-government medical institution which is regulated under this Act.

Explanation.—For the purpose of this section and section 19, the term “leader” means the Head of a Department or the Head of an Organisation.

5. (1) The Central Government shall appoint the Chairperson, referred to in section 4 and the President of the Autonomous Boards referred to in section 20 on the recommendation of a Search Committee consisting of —

(a) the Cabinet Secretary—Chairperson;

(b) two experts, possessing outstanding qualifications and experience of not less than twenty-five years in any of the fields of Indian System of Medicine, to be nominated by the Central Government—Members;

(c) one expert, from amongst the Members referred to in clause (c) of sub-section (4) of section 4, to be nominated by the Central Government in such manner as may be prescribed—Member;

(d) one person, possessing outstanding qualifications and experience of not less than twenty-five years in the field of Sanskrit, Urdu, Tamil, health research, management, law, economics or science and technology, to be nominated by the Central Government—Member;

(e) the Secretary to the Government of India in charge of the Ministry of AYUSH, to be the Convenor—Member:

Provided that for selection of part-time Members of the Commission referred to in clause (a) of sub-section (4) of section 4, the Secretary referred to in section 8 and other Members of the Autonomous Boards referred to in section 20, the Search Committee shall consist of Members specified in the clauses (b) to (d) and Joint Secretary to the Government of India in the Ministry of AYUSH as Convenor-Member and chaired by Secretary to the Government of India in charge of the Ministry of AYUSH.

(2) The Central Government shall, within one month from the date of occurrence of any vacancy, including by reason of death, resignation or removal of the Chairperson or a Member, or within three months before the end of tenure of the Chairperson or Member, make a reference to the Search Committee for filling up of the vacancy.

(3) The Search Committee shall recommend a panel of at least three names for every vacancy referred to it.

(4) Before recommending any person for appointment as the Chairperson or a Member of the Commission, the Search Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.

(5) No appointment of the Chairperson or Member shall be invalid merely by reason of any vacancy or absence of a Member in the Search Committee.

Search
Committee
for
appointment
of
Chairperson
and Members.

(6) Subject to the provisions of sub-sections (2) to (5), the Search Committee may regulate its own procedure.

6. (1) The Chairperson and Members (other than *ex officio* Members) and Members appointed under clause (b) of sub-section (4) of section 4 shall hold office for a term not exceeding four years and shall not be eligible for any extension or re-appointment:

Term of office and conditions of service of Chairperson and Members.

Provided that such person shall cease to hold office after attaining the age of seventy years.

(2) The term of office of an *ex officio* Member shall continue as long as he holds the office by virtue of which he is such Member.

(3) Where a Member, other than an *ex officio* Member, is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to any valid reason in the opinion of the Commission, such Member shall be deemed to have vacated the seat.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson and Member, other than an *ex officio* Member, shall be such as may be prescribed.

(5) The Chairperson or a Member may,—

(a) relinquish his office by giving in writing a notice of not less than three months to the Central Government; or

(b) be removed from his office in accordance with the provisions of section 7:

Provided that such person may be relieved from duties earlier than three months or allowed to continue beyond three months until a successor is appointed, if the Central Government so decides.

(6) The Chairperson and every Member of the Commission shall make declaration of his assets and liabilities at the time of entering upon his office and at the time of demitting his office and also declare his professional and commercial engagement or involvement, in such form and manner as may be prescribed, and such declaration shall be published on the website of the Commission.

(7) The Chairperson or a Member, ceasing to hold office as such, shall not accept, for a period of two years from the date of demitting such office, any employment, in any capacity, including as a consultant or an expert, in any private Medical institution of Indian System of Medicine or, whose matter has been dealt with by such Chairperson or Member, directly or indirectly:

Provided that nothing contained herein shall be construed as preventing such person from accepting an employment in a body or institution including Medical institution of Indian System of Medicine, controlled or maintained by the Central Government or a State Government.

(8) Nothing in sub-section (7) shall prevent the Central Government from permitting the Chairperson or a Member to accept any employment in any capacity, including as a consultant or an expert, in any private Medical institution of Indian System of Medicine, whose matter has been dealt with by such Chairperson or Member.

7. (1) The Central Government may, by order, remove from office, the Chairperson or any other Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or

Removal of Chairperson and Members of Commission.

(d) is of unsound mind and stands so declared by a competent court; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest.

(2) No Member shall be removed under clauses (e) and (f) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Appointment of Secretary, experts, professionals, officers and other employees of Commission.

8. (1) There shall be a Secretariat for the Commission to be headed by a Secretary, to be appointed by the Central Government in accordance with the provisions of section 5.

(2) The Secretary of the Commission shall be a person of proven administrative capacity and integrity, possessing such qualifications and experience as may be prescribed.

(3) The Secretary shall be appointed by the Central Government for a term of four years and he shall not be eligible for any extension or re-appointment.

(4) The Secretary shall discharge such functions of the Commission as are assigned to him by the Commission and as may be specified by regulations made under this Act.

(5) The Commission may appoint such officers and other employees, as it considers necessary, against the posts created by the Central Government for the efficient discharge of its functions under this Act.

(6) The salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees of the Commission shall be such as may be prescribed.

(7) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of Indian System of Medicine, and experience in fields including medical education in Indian System of Medicine, public health, management, economics, accreditation, patient advocacy, health research, science and technology, administration, finance, accounts or law as it deems necessary, to assist the Commission in the discharge of its functions under this Act.

Meetings of Commission.

9. (1) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

(2) The Chairperson shall preside at the meeting of the Commission and if, for any reason, the Chairperson is unable to attend a meeting of the Commission, any Member being the President of the Autonomous Boards, nominated by the Chairperson shall preside at the meeting.

(3) Unless the procedure to be followed at the meetings of the Commission is otherwise provided by regulations, one-half of the total number of Members of the Commission including the Chairperson shall constitute the quorum and all decisions of the Commission shall be taken by a majority of the members, present and voting and in the event of equality of votes, the Chairperson or in his absence, the President of the Autonomous Board nominated under sub-section (2), shall have the casting vote.

(4) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson.

(5) No act or proceeding of the Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as a Chairperson or as a Member.

(6) A person who is aggrieved by any decision of the Commission, except the decision rendered under sub-section (4) of section 31, may prefer an appeal to the Central Government against such decision within fifteen days of the communication of such decision.

10. (1) The Commission shall perform the following functions, namely:—

Power and functions of Commission.

(a) lay down policies for maintaining a high quality and high standards in education of Indian System of Medicine and make necessary regulations in this behalf;

(b) lay down policies for regulating medical institutions, medical researches and medical professionals and make necessary regulations in this behalf;

(c) assess the requirements in healthcare, including human resources for health and healthcare infrastructure and develop a road map for meeting such requirements;

(d) frame guidelines and lay down policies by making such regulations as may be necessary for the proper functioning of the Commission, the Autonomous Boards and the State Medical Councils of Indian System of Medicine;

(e) ensure coordination among the Autonomous Boards;

(f) take such measures, as may be necessary, to ensure compliance by the State Medical Councils of Indian System of Medicine of the guidelines framed and regulations made under this Act for their effective functioning under this Act;

(g) exercise appellate jurisdiction with respect to decisions of the Autonomous Boards;

(h) ensure observance of professional ethics in Medical profession and to promote ethical conduct during the provision of care by medical practitioners;

(i) frame guidelines for determination of fees and all other charges in respect of fifty per cent. of seats in private medical institutions and deemed to be Universities which are governed under the provisions of this Act;

(j) exercise such other powers and perform such other functions as may be prescribed.

(2) All orders and decisions of the Commission shall be authenticated by signature of the Secretary and the Commission may delegate such of its powers on administrative and financial matters, as it deems fit, to the Secretary.

(3) The Commission may constitute sub-committees and delegate such of its powers to them as may be necessary to enable them to accomplish specific tasks.

CHAPTER III

ADVISORY COUNCIL FOR INDIAN SYSTEM OF MEDICINE

11. (1) The Central Government shall, by notification, constitute an advisory body to be known as the Advisory Council for Indian System of Medicine.

Constitution and composition of Advisory Council for Indian System of Medicine.

(2) The Council shall consist of a Chairperson and the following members, namely:—

(a) the Chairperson of the Commission shall be the *ex officio* Chairperson of the Council;

(b) every Member of the Commission shall be *ex officio* member of the Council;

(c) one member, to represent each State, who is the Vice-Chancellor of a University in that State, possessing qualifications in the Indian System of medicine, to be nominated by that State Government, and one member to represent each Union territory, who is the Vice-chancellor of a University in that Union territory, possessing qualifications in the Indian System of Medicine, to be nominated by the Ministry of Home Affairs in the Government of India:

Provided that where the Vice-Chancellor possessing qualifications in the Indian System of Medicine is not available, a Dean or a Head of Faculty possessing qualifications in the Indian System of Medicine shall be nominated;

(d) one member to represent each State and each Union territory from amongst elected members of the State Medical Council of Indian System of Medicine, to be nominated by that State Medical Council;

(e) the Chairman, University Grants Commission;

(f) the Director, National Assessment and Accreditation Council;

(g) four Members to be nominated by the Central Government from amongst persons holding the post of Director in the Indian Institutes of Technology, Indian Institutes of Management and the Indian Institutes of Science.

Functions of
Advisory
Council for
Indian System
of Medicine.

12. (1) The Council shall be the primary platform through which the States and Union territories may put forth their views and concerns before the Commission and help in shaping the overall agenda, policy and action relating to medical education, training, research and development.

(2) The Council shall advise the Commission on measures to determine and maintain, and to coordinate maintenance of, the minimum standards in all matters relating to medical education, training, research and development.

(3) The Council shall advise the Commission on measures to enhance equitable access to medical education.

Meetings of
Advisory
Council for
Indian System
of Medicine.

13. (1) The Council shall meet atleast twice a year at such time and place as may be decided by the Chairperson.

(2) The Chairperson shall preside at the meeting of the Council and if for any reason the Chairperson is unable to attend a meeting of the Council, such other member as nominated by the Chairperson shall preside over the meeting.

(3) Unless the procedure is otherwise provided by regulations, one-half of the members of the Council including the Chairperson shall form the quorum and all acts of the Council shall be decided by a majority of the members present and voting.

CHAPTER IV

NATIONAL EXAMINATION

National
Eligibility-
cum-Entrance
Test.

14. (1) There shall be a uniform National Eligibility-cum-Entrance Test for admission to the undergraduate courses in each of the disciplines of the Indian System of Medicine in all medical institutions governed under this Act:

Provided that National Eligibility-cum-Entrance Test shall be exempted for students who have taken admission in—

(i) Pre-tib for Bachelor of Unani Medicine and Surgery; and

(ii) Pre-Ayurveda for Bachelor of Ayurvedic Medicine and Surgery.

(2) The Commission shall conduct the National Eligibility-cum-Entrance Test in English and in such other languages, through such designated authority and in such manner, as may be specified by regulations.

(3) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to all the medical institutions governed under this Act:

Provided that the common counselling shall be conducted by the designated authority of—

(i) the Central Government, for All India seats; and

(ii) the State Government, for the remaining seats at the State level.

(4) The Commission shall specify by regulations the manner of admission of students to undergraduate courses who are exempted under sub-section (1).

National Exit
Test.

15. (1) A common final year undergraduate medical examination, to be known as the National Exit Test, shall be held for granting licence to practice as medical practitioner of respective disciplines of Indian System of Medicine and for enrollment in the State Register or National Register, as the case may be.

(2) The Commission shall conduct the National Exit Test for Indian System of Medicine in English and in such other languages, through such designated authority and in such manner as may be specified by regulations.

(3) The National Exit Test shall become operational on such date, within three years from the date on which this Act comes into force, as may be appointed by the Central Government, by notification.

(4) Any person with a foreign medical qualification shall have to qualify national Exit Test for the purpose of obtaining licence to practice as medical practitioner of Indian System of Medicine and for enrollment in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.

16. (1) A uniform Post-Graduate National Entrance Test shall be conducted separately for admission to postgraduate courses in each discipline of the Indian System of Medicine in all medical institutions governed under this Act.

Post-Graduate
National
Entrance Test.

(2) The Commission shall conduct the National Entrance Test for admission to postgraduate courses in English and in such other languages, through such designated authority and in such manner, as may be specified by regulations.

(3) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to the postgraduate seats in all medical institutions governed under this Act.

17. (1) A National Teachers' Eligibility Test shall be conducted separately for the postgraduates of each discipline of Indian System of Medicine who desire to take up teaching profession in that discipline.

National
Teachers'
Eligibility Test
for Indian
System of
Medicine.

(2) The Commission shall conduct the National Teachers' Eligibility Test for Indian System of Medicine through such designated authority and in such manner as may be specified by regulations.

(3) The National Teachers' Eligibility Test for Indian System of Medicine shall become operational on such date, within three years from the date on which this Act comes into force, as may be notified by the Central Government:

Provided that nothing contained in this section shall apply to the teachers appointed prior to the date notified under sub-section (3).

CHAPTER V

AUTONOMOUS BOARDS

18. (1) The Central Government shall, by notification, constitute the following Autonomous Boards, under the overall supervision of the Commission, to perform the functions assigned to such Boards under this Act, namely:—

Constitution
of
Autonomous
Boards.

(a) the Board of Ayurveda;

(b) the Board of Unani, Siddha and Sowa-Rigpa;

(c) the Medical Assessment and Rating Board for Indian System of Medicine;
and

(d) the Board of Ethics and Registration for Indian System of Medicine.

(2) Each Board referred to in sub-section (1) shall be an autonomous body which shall carry out its functions under this Act in accordance with the regulations made by the Commission.

19. (1) The composition of the Autonomous Boards shall be as under, namely:—

Composition
of
Autonomous
Boards.

(a) the Board of Ayurveda shall consist of a President and four Members from the Ayurveda discipline of Indian System of Medicine;

(b) the Board of Unani, Siddha and Sowa-Rigpa shall consist of a President and two Members from each of the Unani, Siddha and Sowa-Rigpa disciplines of Indian System of Medicine;

(c) the Medical Assessment and Rating Board for Indian System of Medicine shall consist of a President and eight Members:

Provided that the President and six out of eight Members shall be chosen from the Ayurveda, Siddha, Sowa-Rigpa and Unani disciplines of Indian System of Medicine in such manner that at least one Member represents each such discipline separately, and the remaining two Members shall be accreditation experts;

(d) the Board of Ethics and Registration for Indian System of Medicine shall consist of a President and eight Members:

Provided that the President and six out of eight Members shall be chosen from the Ayurveda, Siddha, Sowa-Rigpa and Unani disciplines of Indian System of Medicine in such manner that at least one Member represents each such discipline separately, and the remaining two Members shall be chosen from any of the disciplines of quality assurance, public health, law or patient advocacy.

(2) The President and Members of the Autonomous Boards to be chosen under sub-section (1) shall be persons of outstanding ability, proven administrative capacity and integrity, possessing postgraduate degree in respective disciplines from a recognised University and having experience of not less than fifteen years in respective fields, out of which at least seven years shall be as a leader:

Provided that seven years as leader in the case of the President and Member from Indian System of Medicine shall be in the area of health, growth and development of education in Indian System of Medicine.

Search Committee for appointment of President and Members.

20. The Central Government shall appoint the President and Members of the Autonomous Boards on the basis of the recommendations made in accordance with the procedure specified in section 5 by the Search Committee constituted thereunder.

Term of office and conditions of service of President and Members.

21. (1) The President and Members of each Autonomous Board shall hold the office for a term not exceeding four years and shall not be eligible for any extension or re-appointment:

Provided that such person shall cease to hold office after attaining the age of seventy years.

(2) The salary and allowances payable to, and other terms and conditions of service of, the President and Members of an Autonomous Boards shall be such as may be prescribed.

(3) The provisions contained in sub-sections (3), (5), (6), (7) and (8) of section 6 relating to the terms and conditions of service of, and in section 7 relating to removal from office, the Chairperson and Members of the Commission shall also be applicable to the President and Members of the Autonomous Boards.

Advisory Committees of experts.

22. (1) Each Autonomous Board, except the Board of Ethics and Registration for Indian System of Medicine, shall be assisted by such advisory Committees of experts, as may be constituted by the Commission, for the efficient discharge of the functions of such Boards under this Act.

(2) The Board of Ethics and Registration for Indian System of Medicine shall be assisted by such ethics committees of experts, as may be constituted by the Commission, for the efficient discharge of the functions of that Boards under this Act.

Staff of Autonomous Boards.

23. The experts, professionals, officers and other employees appointed under section 8 shall be made available to the Autonomous Boards in such number and in such manner, as may be specified by regulations made by the Commission.

Meetings, etc., of Autonomous Boards.

24. (1) Every Autonomous Board shall meet at least once a month at such time and place as it may appoint.

(2) Subject to such regulations as may be made in this behalf, all decisions of the Autonomous Boards shall be made by consensus and if consensus is not possible, decision shall be made by majority of votes of the President and Members.

(3) A person who is aggrieved by any decision of an Autonomous Board may prefer an appeal to the Commission against such decision within thirty days of the communication of such decision.

Delegation of powers.

25. (1) The Commission may delegate all or any of its administrative and financial powers to the President of each Autonomous Board to enable such Board to function smoothly and efficiently.

(2) The President of an Autonomous Board may further delegate any of his powers to a Member or officer of that Board.

26. (1) The Board of Ayurveda, in respect of the discipline of Ayurveda, and the Board of Unani, Siddha and Sowa-Rigpa, in respect of the disciplines of Unani, Siddha and Sowa-Rigpa, of the Indian System of Medicine, shall perform the following functions in respect of their respective disciplines, namely:—

Powers and functions of Autonomous Boards.

(a) determine the standards of education at the undergraduate, postgraduate and super-speciality levels and oversee all aspects relating thereto;

(b) develop a competency based dynamic curriculum at all levels in accordance with the regulations made under this Act, in such manner that it develops appropriate skill, knowledge, attitude, values and ethics among the postgraduate and super-speciality students and enables them to provide healthcare, to impart medical education and to conduct medical research;

(c) frame guidelines on setting up of medical institutions for imparting undergraduate, postgraduate and super-speciality courses in Ayurveda, Unani, Siddha and Sowa-Rigpa, having regard to the needs of the country, the global norms and the regulations made under this Act;

(d) determine minimum requirements and standards for conducting of courses and examinations in medical institutions, having regard to the needs of creativity at local levels and the regulations made under this Act;

(e) determine standards and norms for infrastructure, faculty and quality of education and research in medical institutions of Indian System of Medicine, in accordance with the regulations made under this Act;

(f) specify norms for compulsory annual disclosure, electronically or otherwise, by medical institutions of Indian System of Medicine in respect of their functions that has a bearing on the interest of various stakeholders including students, faculty, the Commission and the Government;

(g) facilitate development and training of faculty members;

(h) facilitate research programmes;

(i) grant recognition to medical qualifications at all levels.

(2) The Board of Ayurveda and the Board of Unani, Siddha and Sowa-Rigpa may, in the discharge of their functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

27. (1) The Board of Ethics and Registration for Indian System of Medicine shall perform the following functions, namely:—

Powers and functions of Board of Ethics and Registration for Indian System of Medicine.

(a) maintain a National Register of all licensed practitioners of Indian System of Medicine in accordance with the provisions of section 32;

(b) regulate professional conduct and promote medical ethics in accordance with the regulations made under this Act:

Provided that the Board of Ethics and Registration for Indian System of Medicine shall ensure compliance with the code of professional and ethical conduct through the State Medical Council, in a case where such State Medical Council has been conferred power to take disciplinary actions in respect of professional or ethical misconduct by medical practitioners under respective State Acts;

(c) develop mechanisms to have continuous interaction with State Medical Councils of Indian System of Medicine to effectively promote and regulate the conduct of medical practitioners of Indian System of Medicine;

(d) exercise appellate jurisdiction with respect to the actions taken by a State Medical Council under section 31.

(2) The Board of Ethics and Registration for Indian System of Medicine may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

Powers and functions of Medical Assessment and Rating Board for Indian System of Medicine.

28. (1) The Medical Assessment and Rating Board for Indian System of Medicine shall perform the following functions, namely:—

(a) determine the procedure for assessment and rating of medical institutions on the basis of their compliance with the standards laid down by the Board of Ayurveda or, as the case may be, the Board of Unani, Siddha and Sowa-Rigpa, in accordance with the regulations made under this Act;

(b) grant permission for establishment of a new medical institution or to start any postgraduate course or to increase number of seats, in accordance with the provisions of section 29;

(c) carry out inspections of medical institutions for assessing and rating such institutions in accordance with the regulations made under this Act:

Provided that the Medical Assessment and Rating Board for Indian System of Medicine may, if it deems necessary, hire and authorise any other third party agency or persons for carrying out inspections of medical institutions for assessing and rating such institutions:

Provided further that where inspection of medical institutions is carried out by such third party agency or persons authorised by the Medical Assessment and Rating Board for Indian System of Medicine, it shall be obligatory on such institutions to provide access to such agency or person;

(d) conduct, or where it deems necessary, empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by regulations;

(e) make available on its website or in public domain, the assessment and ratings of medical institutions at regular intervals, in accordance with the regulations made under this Act;

(f) take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a medical institution for its failure to maintain the minimum essential standards specified by the Board of Ayurveda or, as the case may be, the Board of Unani, Siddha and Sowa-Rigpa, in accordance with the regulations made under this Act.

(2) The Medical Assessment and Rating Board for Indian System of Medicine may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

Permission for establishment of new medical institution.

29. (1) No person shall establish a new medical institution or start any postgraduate course or increase number of seats without obtaining prior permission of the Medical Assessment and Rating Board for Indian System of Medicine.

Explanation.— For the purpose of this sub-section, the term “person” includes any University, trust or any other body, but does not include the Central Government.

(2) For the purpose of obtaining permission under sub-section (1), a person may submit a scheme to the Medical Assessment and Rating Board for Indian System of Medicine in such form, containing such particulars, accompanied by such fee, and in such manner, as may be specified by regulations.

(3) While considering the scheme received under sub-section (2), the Medical Assessment and Rating Board for Indian System of Medicine shall have regard to the standards of education and research, the standards and norms for infrastructure and faculty, the guidelines on setting up of medical institutions and other requirements determined by

the Board of Ayurveda or, as the case may be, the Board of Unani, Siddha and Sowa-Rigpa under section 26, and pass an order either approving or disapproving the scheme within three months from the date of receipt of such scheme:

Provided that before disapproving such scheme, an opportunity to rectify the defects, if any, shall be given to the person concerned.

(4) Where a scheme is approved under sub-section (3), such approval shall be the permission under sub-section (1) to establish a new medical institution.

(5) Where a scheme is disapproved under sub-section (3), or where no order is passed within three months of submitting a scheme under sub-section (2), the person concerned may prefer an appeal to the Commission within fifteen days of such disapproval or, as the case may be, after lapse of three months, in such manner as may be specified by regulations.

(6) Where the Commission has disapproved the scheme or no order has been passed within fifteen days from the date of preferring appeal under sub-section (5), the person concerned may prefer a second appeal to the Central Government within seven days of communication of such disapproval or, as the case may be, lapse of specified period of fifteen days.

(7) The Medical Assessment and Rating Board for Indian System of Medicine may conduct evaluation and assessment of any University or medical institution at any time, either directly or through any other expert, having integrity and experience in medical profession, without any prior notice and assess and evaluate the performance, standards and benchmarks of such University or medical institution.

30. While approving or disapproving a scheme under section 29, the Medical Assessment and Rating Board for Indian System of Medicine, or the Commission, as the case may be, shall take into consideration the following criteria, namely:—

Criteria for approving or disapproving scheme.

(a) adequacy of infrastructure and financial resources;

(b) whether adequate academic faculty, non-teaching staff, and other necessary facilities have been provided to ensure proper functioning of medical institution or would be provided within the time-limit specified in the scheme;

(c) whether adequate hospital facilities have been provided or would be provided within the time-limit specified in the scheme;

(d) such other factors as may be prescribed:

Provided that, subject to the previous approval of the Central Government, the criteria may be relaxed for the medical institutions which are set up in such areas as may be specified by the regulations.

31. (1) The State Government shall, by notification, within three years of the commencement of this Act, establish a State Medical Council for Indian System of Medicine in that State if no such Council exists in that State.

State Medical Council.

(2) Where a State Act confers power upon the State Medical Council to take disciplinary actions in respect of any professional or ethical misconduct by a registered practitioner of Indian System of Medicine, the State Medical Council shall act in accordance with the regulations made, and the guidelines framed, under this Act:

Provided that till such time as a State Medical Council for Indian System of Medicine is established in a State, the Board of Ethics and Registration for Indian System of Medicine shall receive the complaints and grievances relating to any professional or ethical misconduct against a registered practitioner of Indian System of Medicine in that State in accordance with such procedure as may be specified by regulations:

Provided further that the Board of Ethics and Registration for Indian System of Medicine or, as the case may be, the State Medical Council shall give an opportunity of hearing to such practitioner before passing any order or taking any action, including imposition of any monetary penalty, against such person.

(3) A practitioner of Indian System of Medicine who is aggrieved by the order passed or the action taken by—

(a) the State Medical Council under sub-section (2) may prefer an appeal to the Board of Ethics and Registration for Indian System of Medicine and the decision, if any, of the Board of Ethics and Registration for Indian System of Medicine thereupon shall be binding on such State Medical Council, unless a second appeal is preferred under sub-section (4);

(b) the Board of Ethics and Registration for Indian System of Medicine under the first proviso to sub-section (2) may prefer an appeal to the Commission.

(4) A medical practitioner of Indian system of medicine who is aggrieved by the decision of the Board of Ethics and Registration for Indian System of Medicine, may prefer an appeal to the Commission within sixty days of communication of such decision.

Explanation.—For the purposes of this Act,—

(a) “State” includes Union territory and the expressions “State Government” and “State Medical Council for Indian System of Medicine”, in relation to a Union territory, shall respectively mean the “Central Government” and “Union Territory Medical Council for Indian System of Medicine”;

(b) the expression “professional or ethical misconduct” includes any act of commission or omission, as may be specified by regulations.

National Register and State Register of Indian System of Medicine.

32. (1) The Board of Ethics and Registration for Indian System of Medicine shall maintain a National Register containing the name, address, all recognised qualifications possessed by a licensed medical practitioner of the Indian System of Medicine and such other particulars as may be specified by regulations.

(2) The National Register shall be maintained in such form, including in electronic form and in such manner as may be specified by regulations.

(3) The manner in which any name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, shall be such as may be specified by the regulations.

(4) The National Register shall be made available to the public by placing it on the website of the Board of Ethics and Registration for Indian System of Medicine.

(5) Every State Medical Council shall maintain and regularly update the State Register in the specified electronic format and supply a physical copy of the same to the Board of Ethics and Registration for Indian System of Medicine within three months of the commencement of this Act.

(6) The Board of Ethics and Registration for Indian System of Medicine shall ensure electronic synchronization of the National Register and the State Register in such a manner that any change in one such register is automatically reflected in the other register.

Rights of persons to be enrolled in National Register and their obligations thereto.

33. (1) Any person who has a recognised qualification in Indian System of Medicine under this Act and qualifies the National Exit Test held under section 15 shall be granted a licence to practice Indian System of Medicine and shall have his name and qualifications enrolled first in the State Register and subsequently in the National Register maintained under this Act:

Provided that a person who has been registered in the Central Register of Indian System of Medicine maintained under the Indian Medicine Central Council Act, 1970 prior to the coming into force of this Act and before the National Exit Test becomes operational under sub-section (3) of section 15, shall be deemed to have been registered under this Act and be enrolled in the National Register maintained under this Act.

48 of 1970.

(2) No person who has obtained a qualification in Indian System of Medicine from a medical institution established in any country outside India and is recognised as a medical practitioner of Indian System of Medicine in that country, shall, after the commencement of

this Act and the National Exit Test for Indian System of Medicine becomes operational under sub-section (3) of section 15, be enrolled in the National Register for Indian System of Medicine, unless he qualifies the National Exit Test for Indian System of Medicine.

(3) When a person whose name is entered in the State Register or the National Register, as the case may be, obtains any title, diploma or qualification for proficiency in sciences or medicine which is a recognised qualification under section 35 or section 36, as the case may be, he shall be entitled to have such title, diploma or qualification entered against his name in the State Register or the National Register, in such manner as may be specified by regulations.

34. (1) No person other than a person who is enrolled in the State Register or the National Register, as the case may be, shall—

Rights of persons to practice.

(a) be allowed to practice Indian System of Medicine as a qualified practitioner;

(b) hold office as a physician or surgeon or any other office, by whatever name called, which is meant to be held by a physician or surgeon, as the case may be;

(c) be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner;

(d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 on any matter relating to Indian System of Medicine:

1 of 1872.

Provided that the Commission shall submit a list of such practitioners to the Central Government in such manner as may be prescribed:

Provided further that a foreign citizen who is enrolled in his country as a practitioner of Indian System of Medicine in accordance with the law regulating the registration of such practitioners in that country may be permitted temporary registration in India for such period and in such manner as may be specified by regulations.

(2) Any person who acts in contravention of the provisions of this section shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both.

(3) Nothing contained in this section shall affect—

(a) the right of a person enrolled in a State Register as practitioner of Indian System of Medicine to practice in any State merely on the ground that he does not possess, as on the date of commencement of this Act, a recognised medical qualification in the Indian System of Medicine;

(b) the privileges, including the right to practice any system of medicine, conferred by or under any law for the time being in force in a State on the practitioners of Indian System of Medicine enrolled in the State register of that State;

(c) the right of a person who has been practicing Indian System of Medicine for not less than five years in a State, to continue to practice in that State in which a State Register of Indian System of Medicine is not maintained as on the date of commencement of this Act.

CHAPTER VI

RECOGNITION OF QUALIFICATIONS OF INDIAN SYSTEM OF MEDICINE

35. (1) The medical qualifications in Indian System of Medicine at undergraduate or postgraduate or super-speciality level granted by any University or medical institution in India shall be listed and maintained by the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, in such manner as may be specified by regulations and such medical qualification shall be a recognised medical qualification for the purposes of this Act.

Recognition of qualifications granted by Universities or medical institutions in India.

(2) Any University or medical institution in India which grants an undergraduate or postgraduate or super-speciality qualification in Indian System of Medicine not included in the list maintained by the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, may apply to that Board for granting recognition to such qualification.

(3) The Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, shall examine the application for grant of recognition to a qualification in Indian System of Medicine within a period of six months in such manner as may be specified by regulations.

(4) Where the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, decides to grant recognition to the qualification in Indian System of Medicine, it shall include such qualification in the list maintained by it and shall also specify therein the date of effect of such recognition, otherwise it shall communicate its decision not to grant recognition to the medical qualification to the concerned University or medical institution.

(5) The aggrieved University or the medical institution may prefer an appeal to the Commission within a period of sixty days from the date of communication of the decision of the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, in such manner as may be specified by regulations.

(6) The Commission shall examine the appeal received under sub-section (5) within a period of two months and if it decides that recognition may be granted to such medical qualification, it may direct the concerned Board to include such qualification in the list maintained by that Board in such manner as may be specified by regulations.

(7) Where the Commission decides not to grant recognition under sub-section (6) or fails to decide within the specified period, the aggrieved University or medical institution may prefer a second appeal to the Central Government within a period of thirty days from the date of communication of such decision or lapse of specified period, as the case may be.

(8) All medical qualifications which have been recognised before the date of commencement of this Act and are included in the Second Schedule and Third Schedule to the Indian Medicine Central Council Act, 1970, shall also be listed and maintained by the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, in such manner as may be specified by regulations. 48 of 1970.

Recognition of medical qualifications granted by medical institutions outside India.

36. (1) Where an authority in any country outside India which, by the law of that country is entrusted with the recognition of qualifications of Indian System of Medicine in that country, makes an application to the Commission for granting recognition to such qualification in India, the Commission may, subject to such verification as it deems necessary, either grant or refuse to grant recognition to that medical qualification.

(2) Where the Commission grants recognition to any medical qualification under sub-section (1), such qualification shall be a recognised qualification for the purposes of this Act and shall be included in the list maintained by the Commission in such manner as may be specified:

Provided that in case the Commission decides not to grant recognition to any qualification, the Commission shall give a reasonable opportunity of being heard to such authority before refusing to grant such recognition.

(3) Where the Commission refuses to grant recognition to a medical qualification under sub-section (2), the Authority concerned may prefer an appeal to the Central Government for grant of recognition.

(4) All qualifications which have been recognised before the date of commencement of this Act and are included in the Fourth Schedule to the Indian Medicine Central Council Act, 1970 shall also be recognised medical qualifications for the purposes of this Act and shall be listed and maintained by the Commission in such manner as may be specified by the regulations. 48 of 1970.

Withdrawal of recognition or de-recognition of qualification.

37. (1) Where, upon a report received from the Medical Assessment and Rating Board for Indian System of Medicine or otherwise, it appears to the Commission that—

(a) the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by, a University or medical institution do not conform to the standards specified by the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be; or

(b) the standards and norms for infrastructure, faculty and quality of education in medical institutions as determined by the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, are not adhered to by any University or medical institution, and such University or medical institution has failed to take necessary corrective action to maintain specified minimum standards,

the Commission may initiate action in accordance with the provisions of sub-section (2):

Provided that the Commission shall, before, taking any action for *suo motu* withdrawal of recognition granted to the medical qualification awarded by a University or medical institution, impose penalty in accordance with the provisions of clause (f) of sub-section (1) of section 28.

(2) The Commission shall, after making such further inquiry as it deems fit, and after holding consultations with the State Government and the authority of the concerned University or medical institution, comes to the conclusion that the recognition granted to a medical qualification ought to be withdrawn, it may, by order, withdraw recognition granted to such medical qualification and direct the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa, as the case may be, to amend the entries against the University or medical institution concerned in the list maintained by that Board to the effect that the recognition granted to such qualification is withdrawn with effect from the date specified in that order.

(3) If the Commission, after verification with the authority in any country outside India, is of the opinion that a recognised medical qualification which is included in the list maintained by it is to be de-recognised, it may, by order, de-recognise such medical qualification and remove it from the list maintained by the Commission with effect from the date of such order.

38. Where the Commission deems it necessary so to do, it may, by notification, direct that any qualification in Indian System of Medicine granted by a medical institution outside India, after such date, as may be specified in that notification, shall be recognised qualification for the purposes of this Act:

Special provision in certain cases for recognition of qualifications.

Provided that medical practice by a person possessing such qualification shall be permitted only if such person has been enrolled as a medical practitioner in accordance with the law regulating the registration of medical practitioner for the time being in force in that country:

Provided further that medical practice by a person possessing such qualification shall be limited to such period as may be specified in that order:

Provided also that medical practice by a person possessing such qualification shall be permitted only if such person qualifies National Exit Test.

CHAPTER VII

GRANTS, AUDIT AND ACCOUNTS

39. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit.

Grants by Central Government.

40. (1) There shall be constituted a fund to be called "the National Commission Fund for Indian System of Medicine" and there shall be credited thereto—

National Commission Fund for Indian System of Medicine.

(a) all Government grants, fees, penalties and charges received by the Commission and the Autonomous Boards;

(b) all sums received by the Commission from such other source as may be decided by it.

(2) The fund shall be applied for making payment towards—

(a) the salaries and allowances payable to the Chairperson and Members of the Commission, the Presidents and Members of the Autonomous Boards and the administrative expenses including the salaries and allowances payable to the officers and other employees of the Commission and Autonomous Boards;

(b) the expenses incurred or to be incurred in carrying out the provisions of this Act including in connection with the discharge of the functions of the Commission and the Autonomous Boards.

Audit and accounts.

41. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other persons appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of, and complete access to, records, books, accounts, connected vouchers and other documents and papers and to inspect the office of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Commission to the Central Government which shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

Furnishing of returns and reports to Central Government.

42. (1) The Commission shall furnish to the Central Government, at such time, in such form and in such manner, as may be prescribed or as the Central Government may direct, such reports and statements and such particulars in regard to any matter under the jurisdiction of the Commission, as the Central Government may, from time to time, require.

(2) The Commission shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VIII

MISCELLANEOUS

Power of Central Government to give directions to Commission and Autonomous Boards.

43. (1) Without prejudice to the foregoing provisions of this Act, the Commission and the Autonomous Boards shall, in exercise of their powers and discharge of their functions under this Act be bound by such directions on questions of policy as the Central Government may give in writing to them from time to time:

Provided that the Commission and the Autonomous Boards shall, as far as practicable, be given an opportunity to express their views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to give directions to State Governments.

44. The Central Government may give such directions, as it may deem necessary, to a State Government for carrying out all or any of the provisions of this Act and the State Government shall comply with such directions.

Information to be furnished by Commission and publication thereof.

45. (1) The Commission shall furnish such reports, copies of its minutes, abstracts of its accounts and other information to the Central Government as that Government may require.

(2) The Central Government may publish, in such manner as it may think fit, the reports, minutes, abstracts of accounts and other information furnished to it under sub-section (1).

46. Every university and medical institutions covered under this Act shall maintain a website at all times and display in its website all such information as may be required by the Commission or an Autonomous Board, as the case may be.

Obligation of Universities and medical institutions.

47. (1) Notwithstanding anything contained in this Act, any student who was studying for a degree or diploma in any medical institution immediately before the commencement of this Act shall continue to so study and complete his course for such degree or diploma, and such institution shall continue to provide instructions and hold examination for such student in accordance with the syllabus and studies as existed before such commencement, and such student shall be deemed to have completed his course of study under this Act and shall be awarded degree or diploma under this Act.

Completion of courses of studies in medical institutions.

(2) Notwithstanding anything contained in this Act, where recognition granted to a medical institution has lapsed, whether by efflux of time or by its voluntary surrender or for any other reason whatsoever, such medical institution shall continue to maintain and provide the minimum standards as approved by the Commission till such time as all the candidates are able to complete their study in that institution.

48. The Chairperson, Members, officers and other employees of the Commission and the President and Members of Autonomous Boards shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson, Members, officers of Commission and of Autonomous Boards to be public servants.

45 of 1860.

49. No suit, prosecution or other legal proceeding shall lie against the Government, the Commission or any Autonomous Board or a State Medical Council or any Committee thereof, or any officer or other employee of the Government or of the Commission acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

50. No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made in this behalf by an officer authorised by the Commission or the Ethics and Registration Board or a State Medical Council for Indian System of Medicine, as the case may be.

Cognizance of offences.

51. (1) If, at any time, the Central Government is of opinion that—

(a) the Commission is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) the Commission has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act,

Power of Central Government to supersede Commission.

the Central Government may, by notification, supersede the Commission for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Commission to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Commission.

(2) Upon the publication of a notification under sub-section (1) superseding the Commission,—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission, shall until the Commission is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Commission shall, until the Commission is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified by the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Commission by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Joint sittings of Commission, National Commission for Homoeopathy and National Medical Commission.

52. (1) There shall be a joint sitting of the Commission, the National Commission for Homoeopathy, and the National Medical Commission, at least once a year, at such time and place as they mutually appoint, to enhance the interface between Indian System of Medicine, Homoeopathy and modern system of medicine.

(2) The Agenda for the joint sitting may be placed with mutual agreement by the Chairpersons of the Commissions concerned.

(3) The joint sitting may, by an affirmative vote of all members present and voting, decide on approving specific educational and medical modules or programme that could be introduced in the under-graduate and post-graduate courses across medical systems, and promote medical pluralism.

State Government to promote public health.

53. Every State Government may, for the purposes of addressing or promoting public health, take necessary measures to enhance the capacity of the healthcare professionals.

Power to make rules.

54. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of appointing six Members of the Commission on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council under clause (b) of sub-section (4) of section 4;

(b) the manner of appointing members under clause (c) of sub-section (4) of section 4;

(c) the manner of nominating one expert by the Central Government under clause (d) of sub-section (1) of section 5;

(d) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members under sub-section (4) of section 6;

(e) the form and the manner of making declaration under sub-section (6) of section 6;

(f) the qualifications and experience to be possessed by Secretary under sub-section (2) of section 8;

(g) the salaries and allowances payable to, and other terms and conditions of the Secretary, officers and other employees of the Commission under sub-section (6) of section 8;

(h) the other powers to be exercised and other functions to be performed by the Commission under clause (i) of sub-section (1) of section 10;

(i) the salary and allowances payable to, and other terms and conditions of service of, the President and Members of an Autonomous Board under sub-section (2) of section 21;

(j) the other factors under clause (d) of section 30.

(k) the manner of submitting a list of practitioners under the second proviso to sub-section (1) of section 34;

(l) the form for preparing annual statement of accounts under sub-section (1) of section 41;

(m) the time within which, and the form and the manner in which, the reports and statements shall be furnished by the Commission and the particulars with regard to any matter as may be required by the Central Government under sub-section (1) of section 42;

(n) the form and the time for preparing annual report under sub-section (2) of section 42;

(o) the compensation for the premature termination of employment under the second proviso to sub-section (3) of section 58;

(p) any other matter in respect of which provision is to be made by rules.

55. (1) The Commission may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the functions to be discharged by the Secretary of the Commission under sub-section (4) of section 8;

(b) the procedure in accordance with which experts and professionals may be engaged and the number of such experts and professionals under sub-section (7) of section 8;

(c) the procedure to be followed at the meetings of Commission, including the quorum at its meetings under sub-section (3) of section 9;

(d) the quality and standards to be maintained in education of Indian System of Medicine under clause (a) of sub-section (1) of section 10;

(e) the manner of regulating medical institutions, medical researches and medical professionals under clause (b) of sub-section (1) of section 10;

(f) the manner of functioning of the Commission, the Autonomous Boards and the State Medical Councils under clause (d) of sub-section (1) of section 10;

(g) the procedure to be followed at the meetings of the Medical Advisory Council, including the quorum at its meetings under sub-section (3) of section 13;

(h) the other languages in which, the designated authority through which, and the manner in which the National Eligibility-cum-Entrance Test shall be conducted under sub-section (2) of section 14;

(i) the manner of conducting common counselling by the designated authority for admission to medical institutions under sub-section (3) of section 14;

(j) the manner of admission of students to undergraduate courses under sub-section (4) of section 14;

(k) the other languages in which, the designated authority through which, and the manner in which, the National Exit Test shall be conducted under sub-section (2) of section 15;

(l) the manner in which a person with foreign medical qualification shall qualify National Exit Test under sub-section (4) of section 15;

(m) the other languages in which, the designated authority through which, and the manner in which admission to postgraduate courses shall be conducted under sub-section (2) of section 16;

(n) the manner of conducting common counselling by the designated authority for admission to the postgraduate seats in all medical institutions under sub-section (3) of section 16;

(o) the manner of conducting the National Teachers' Eligibility Test for Indian System of Medicine and the designated authority through whom such test shall be conducted under sub-section (2) of section 17;

(p) the number of, and the manner in which, experts, professionals, officers and other employees shall be made available by the Commission to the Autonomous Boards under section 23;

(q) the manner in which decisions of the Autonomous Boards shall be made under sub-section (2) of section 24;

(r) the competency based dynamic curriculum at all levels under clause (b) of sub-section (1) of section 26;

(s) the manner of imparting undergraduate, postgraduate and super-speciality courses in Ayurveda, Unani, Siddha and Sowa-Rigpa under clause (c) of sub-section (1) of section 26;

(t) the minimum requirements and standards for conducting courses and examinations in medical institutions under clause (d) of sub-section (1) of section 26;

(u) the standards and norms for infrastructure, faculty and quality of education and research in medical institutions of Indian System of Medicine under clause (e) of sub-section (1) of section 26;

(v) the manner of regulating professional conduct and promoting medical ethics under clause (b) of sub-section (1) of section 27;

(w) the procedure for assessment and rating of the medical institutions under clause (a) of sub-section (1) of section 28;

(x) the manner of carrying out inspections of medical institutions for assessing and rating under clause (c) of sub-section (1) of section 28;

(y) the manner of conducting, and the manner of empanelling independent rating agencies to conduct, assess and rate all medical institutions under clause (d) of sub-section (1) of section 28;

(z) the manner of making available on website or in public domain the assessment and ratings of medical institutions under clause (e) of sub-section (1) of section 28;

(za) the measures to be taken against a medical institution for failure to maintain the minimum essential standards under clause (f) of sub-section (1) of section 28;

(zb) the form of scheme, the particulars thereof, the fee to be accompanied and the manner of submitting scheme for establishing new medical college under sub-section (2) of section 29;

(zc) the manner of preferring an appeal to the Commission for approval of the scheme under sub-section (5) of section 29;

(zd) the areas in respect of which criteria may be relaxed under the proviso to section 30;

(ze) the manner of taking disciplinary action by a State Medical Council for professional or ethical misconduct of registered medical practitioner and the procedure for receiving complaints and grievances by the Board of Ethics and Registration for Indian System of Medicine, under sub-section (2) of section 31;

(zf) the act of commission or omission which amounts to professional or ethical misconduct under clause (b) of the *Explanation* to section 31;

(zg) other particulars to be contained in a National Register under sub-section (1) of section 32;

(zh) the form, including the electronic form and the manner of maintaining the National Register under sub-section (2) of section 32;

(zi) the manner in which any name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, under sub-section (3) of section 32;

(zj) the manner of entering the title, diploma or qualification in the State Register or the National Register under sub-section (3) of section 33;

(zk) the manner in which, and the period for which temporary registration may be permitted to a foreign citizen under the third proviso to sub-section (1) of section 34;

(zl) the manner of listing and maintaining medical qualifications granted by a University or medical institution in India under sub-section (1) of section 35;

(zm) the manner of examining the application for grant of recognition under sub-section (3) of section 35;

(zn) the manner of preferring an appeal to the Commission for grant of recognition under sub-section (5) of section 35;

(zo) the manner of including a medical qualification in the list maintained by the Board under sub-section (6) of section 35;

(zp) the manner in which the Board of Ayurveda or the Board of Unani, Siddha and Sowa-Rigpa shall list and maintain the medical qualifications which have been granted recognition before the date of commencement of this Act, under sub-section (8) of section 35;

(zq) the manner in which the Commission shall list and maintain the medical qualifications which have been granted recognition before the date of commencement of this Act, under sub-section (4) of section 36.

56. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

Power to
remove
difficulties.

57. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it be necessary, for the removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each house of Parliament.

Repeal and
saving.

58. (1) With effect from such date as the Central Government may, by notification, appoint in this behalf, the Indian Medicine Central Council Act, 1970 shall stand repealed and the Central Council of Indian Medicine constituted under section 3 of the said Act shall stand dissolved. 48 of 1970.

(2) Notwithstanding the repeal of the Act referred to in sub-section (1), it shall not affect,—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed;

(c) any penalty incurred in respect of any contravention under the Act so repealed; or

(d) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Act had not been repealed.

(3) On the dissolution of the Central Council of Indian Medicine, the person appointed as the Chairman of that Council and every other person appointed as the Member and any officer and other employees of the Council and holding office as such immediately before such dissolution shall vacate their respective offices and such Chairman and other Members shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service:

Provided that any officer or other employee who has been, immediately before the dissolution of the Central Council of Indian Medicine appointed on deputation basis to the Central Council of Indian Medicine, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be:

Provided further that any officer, expert, professional or other employee who has been, immediately before the dissolution of the Central Council of Indian Medicine employed on regular basis or on contractual basis by the Council, shall cease to be such officer, expert, professional or other employees of the Central Council and shall be entitled to such compensation for the premature termination of his employment, which shall not be less than three months' pay and allowances, as may be prescribed.

(4) Notwithstanding the repeal of the aforesaid enactment, any order made, any licence to practice issued, any registration made, any permission to start new medical institution or to start higher course of studies or to increase in the admission capacity granted, any recognition of medical qualifications granted, under the Indian Medicine Central Council Act, 1970 which are in force as on the date of commencement of this Act shall continue to be in force till the date of their expiry for all purposes, as if they had been issued or granted under the provisions of this Act or the rules or regulations made thereunder. 48 of 1970.

Transitory
provisions.

59. (1) The Commission shall be the successor in interest to the Central Council of Indian Medicine including its subsidiaries or owned trusts and all the assets and liabilities of

the Central Council of Indian Medicine shall be deemed to have been transferred to the Commission.

48 of 1970.

(2) Notwithstanding the repeal of the Indian Medicine Central Council Act, 1970, the Medical standards, requirements and other provisions of the Indian Medicine Central Council Act, 1970 and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under this Act or the rules and regulations made thereunder:

Provided that anything done or any action taken as regards the medical standards and requirements under the enactment under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue in force accordingly unless and until superseded by anything or by any action taken under this Act.

(3) The Central Government may take such appropriate measure as may be necessary for smooth transition of the dissolved Central Council of Indian Medicine to the corresponding to new Commission under this Act.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 44] नई दिल्ली, शुक्रवार, सितम्बर 25, 2020/ आश्विन 3, 1942 (शक)
No. 44] NEW DELHI, FRIDAY, SEPTEMBER 25, 2020/ASVINA 3, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 25th September, 2020/Asvina 3, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 24th September, 2020 and is hereby published for general information:—

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 2020

No. 19 OF 2020

[24th September, 2020]

An Act further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2020. Short title and commencement.

(2) It shall be deemed to have come into force on the 7th day of April, 2020.

30 of 1954.

2. In the Salary, Allowances and Pension of Members of Parliament Act, 1954, in section 3, after sub-section (1), the following sub-section shall be inserted, namely:— Amendment of section 3.

"(1A) Notwithstanding anything contained in sub-section (1), the salary payable to Members of Parliament under sub-section (1) shall be reduced by thirty per cent. for a period of one year commencing from the 1st April, 2020, to meet the exigencies arising out of Corona Virus (COVID-19) pandemic."

Repeal and savings.

3. (1) The Salary, Allowances and Pension of Members of Parliament (Amendment) Ordinance, 2020 is hereby repealed.

Ord. 3 of 2020.

(2) Notwithstanding such repeal, anything done or any action taken under the Salary, Allowances and Pension of Members of Parliament Act, 1954, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act as amended by this Act.

30 of 1954.

The above Bill has been passed by the Houses of Parliament.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 27th September, 2020/Asvina 5, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 26th September, 2020 and is hereby published for general information:—

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2020

No. 22 OF 2020

[26th September, 2020.]

An Act further to amend the Essential Commodities Act, 1955.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Essential Commodities (Amendment) Act, 2020.

Short title and commencement.

(2) It shall be deemed to have come into force on the 5th day of June, 2020.

10 of 1955.

2. In section 3 of the Essential Commodities Act, 1955, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 3.

‘(1A) Notwithstanding anything contained in sub-section (1),—

(a) the supply of such foodstuffs, including cereals, pulses, potato, onions, edible oilseeds and oils, as the Central Government may, by notification in the Official Gazette, specify, may be regulated only under extraordinary circumstances which may include war, famine, extraordinary price rise and natural calamity of grave nature;

(b) any action on imposing stock limit shall be based on price rise and an order for regulating stock limit of any agricultural produce may be issued under this Act only if there is—

(i) hundred per cent. increase in the retail price of horticultural produce; or

(ii) fifty per cent. increase in the retail price of non-perishable agricultural foodstuffs,

over the price prevailing immediately preceding twelve months, or average retail price of last five years, whichever is lower:

Provided that such order for regulating stock limit shall not apply to a processor or value chain participant of any agricultural produce, if the stock limit of such person does not exceed the overall ceiling of installed capacity of processing, or the demand for export in case of an exporter:

Provided further that nothing contained in this sub-section shall apply to any order, relating to the Public Distribution System or the Targeted Public Distribution System, made by the Government under this Act or under any other law for the time being in force.

Explanation.—The expression "value chain participant", in relation to any agricultural product, means and includes a set of participants, from production of any agricultural produce in the field to final consumption, involving processing, packaging, storage, transport and distribution, where at each stage value is added to the product. '

Repeal and savings.

3. (1) The Essential Commodities (Amendment) Ordinance, 2020 is hereby repealed. Ord. 8 of 2020.

(2) Notwithstanding such repeal, anything done or any action taken under the Essential Commodities Act, 1955, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act as amended by this Act. 10 of 1955.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 45] नई दिल्ली, रविवार, सितम्बर 27, 2020/ आश्विन 5, 1942 (शक)
No. 45] NEW DELHI, SUNDAY, SEPTEMBER 27, 2020/ASVINA 5, 1942 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 27th September, 2020/Asvina 5, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 24th September, 2020 and is hereby published for general information:—

THE FARMERS (EMPOWERMENT AND PROTECTION) AGREEMENT ON PRICE ASSURANCE AND FARM SERVICES ACT, 2020

No. 20 OF 2020

[24th September, 2020.]

An Act to provide for a national framework on farming agreements that protects and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020.

(2) It shall be deemed to have come into force on the 5th June, 2020.

Short title
and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "APMC yard" means the physical premises covering Agriculture Produce Market Committee Yard, by whatever name called, established for regulating markets and trade in farming produce under any State Act;

(b) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;

18 of 2013.

(c) "electronic trading and transaction platform" means a platform set up to facilitate direct and online buying and selling for conduct of trade and commerce of farming produce through a network of electronic devices and internet applications;

(d) "farm services" includes supply of seed, feed, fodder, agro-chemicals, machinery and technology, advice, non-chemical agro-inputs and such other inputs for farming;

(e) "farmer" means an individual engaged in the production of farming produce by self or by hired labour or otherwise, and includes the Farmer Producer Organisation;

(f) "Farmer Producer Organisation" means an association or group of farmers, by whatever name called,—

(i) registered under any law for the time being in force; or

(ii) promoted under a scheme or programme sponsored by the Central Government or the State Government;

(g) "farming agreement" means a written agreement entered into between a farmer and a Sponsor, or a farmer, a Sponsor and any third party, prior to the production or rearing of any farming produce of a predetermined quality, in which the Sponsor agrees to purchase such farming produce from the farmer and to provide farm services.

Explanation.—For the purposes of this clause, the term "farming agreement" may include—

(i) "trade and commerce agreement", where the ownership of commodity remains with the farmer during production and he gets the price of produce on its delivery as per the agreed terms with the Sponsor;

(ii) "production agreement", where the Sponsor agrees to provide farm services, either fully or partially and to bear the risk of output, but agrees to make payment to the farmer for the services rendered by such farmer; and

(iii) such other agreements or a combination of agreements specified above;

(h) "farming produce" includes—

(i) foodstuffs, including edible oilseeds and oils, all kinds of cereals like wheat, rice or other coarse grains, pulses, vegetables, fruits, nuts, spices, sugarcane and products of poultry, piggery, goatery, fishery and dairy, intended for human consumption in its natural or processed form;

(ii) cattle fodder, including oilcakes and other concentrates;

(iii) raw cotton, whether ginned or unginned;

(iv) cotton seeds and raw jute;

(i) "firm" means a firm as defined in section 4 of the Indian Partnership Act, 1932; 9 of 1932.

(j) "force majeure" means any unforeseen external event, including flood, drought, bad weather, earthquake, epidemic outbreak of disease, insect-pests and such other events, which is unavoidable and beyond the control of parties entering into a farming agreement;

(k) "notification" means a notification published by the Central Government or the State Government, as the case may be, in the Official Gazette and the expression "notified" shall be construed accordingly;

(l) "person" includes—

(i) an individual;

(ii) a partnership firm;

(iii) a company;

(iv) a limited liability partnership;

(v) a co-operative society;

(vi) a society; or

(vii) any association or body of persons duly incorporated or recognised as a group under any ongoing programmes of the Central Government or the State Government;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "Registration Authority" means an authority notified as such by the State Government under section 12;

(o) "Sponsor" means a person who has entered into a farming agreement with the farmer to purchase a farming produce;

(p) "State" includes Union territory.

CHAPTER II

FARMING AGREEMENT

3. (1) A farmer may enter into a written farming agreement in respect of any farming produce and such agreement may provide for—

Farming agreement and its period.

(a) the terms and conditions for supply of such produce, including the time of supply, quality, grade, standards, price and such other matters; and

(b) the terms related to supply of farm services:

Provided that the responsibility for compliance of any legal requirement for providing such farm services shall be with the Sponsor or the farm service provider, as the case may be.

(2) No farming agreement shall be entered into by a farmer under this section in derogation of any rights of a share cropper.

Explanation.—For the purposes of this sub-section, the term "share cropper" means a tiller or occupier of a farm land who formally or informally agrees to give fixed share of crop or to pay fixed amount to the land owner for growing or rearing of farming produce.

(3) The minimum period of the farming agreement shall be for one crop season or one production cycle of livestock, as the case may be, and the maximum period shall be five years:

Provided that where the production cycle of any farming produce is longer and may go beyond five years, in such case, the maximum period of farming agreement may be mutually decided by the farmer and the Sponsor and explicitly mentioned in the farming agreement.

(4) For the purposes of facilitating farmers to enter into written farming agreements, the Central Government may issue necessary guidelines along with model farming agreements, in such manner, as it deems fit.

Quality, grade and standards of farming produce.

4. (1) The parties entering into a farming agreement may identify and require as a condition for the performance of such agreement compliance with mutually acceptable quality, grade and standards of a farming produce.

(2) For the purposes of sub-section (1), the parties may adopt the quality, grade and standards—

(a) which are compatible with agronomic practices, agro-climate and such other factors; or

(b) formulated by any agency of the Central Government or the State Government, or any agency authorised by such Government for this purpose,

and explicitly mention such quality, grade and standards in the farming agreement.

(3) The quality, grade and standards for pesticide residue, food safety standards, good farming practices and labour and social development standards may also be adopted in the farming agreement.

(4) The parties entering into a farming agreement may require as a condition that such mutually acceptable quality, grade and standards shall be monitored and certified during the process of cultivation or rearing, or at the time of delivery, by third party qualified assayers to ensure impartiality and fairness.

Pricing of farming produce.

5. The price to be paid for the purchase of a farming produce may be determined and mentioned in the farming agreement itself, and in case, such price is subject to variation, then, such agreement shall explicitly provide for—

(a) a guaranteed price to be paid for such produce;

(b) a clear price reference for any additional amount over and above the guaranteed price, including bonus or premium, to ensure best value to the farmer and such price reference may be linked to the prevailing prices in specified APMC yard or electronic trading and transaction platform or any other suitable benchmark prices:

Provided that the method of determining such price or guaranteed price or additional amount shall be annexed to the farming agreement.

Sale or purchase of farming produce.

6. (1) Where, under a farming agreement, the delivery of any farming produce is to be—

(a) taken by the Sponsor at the farm gate, he shall take such delivery within the agreed time;

(b) effected by the farmer, it shall be the responsibility of the Sponsor to ensure that all preparations for the timely acceptance of such delivery have been made.

(2) The Sponsor may, before accepting the delivery of any farming produce, inspect the quality or any other feature of such produce as specified in the farming agreement, otherwise, he shall be deemed to have inspected the produce and shall have no right to retract from acceptance of such produce at the time of its delivery or thereafter.

(3) The Sponsor shall,—

(a) where the farming agreement relates to seed production, make payment of not less than two-third of agreed amount at the time of delivery and the remaining amount after due certification, but not later than thirty days of delivery;

(b) in other cases, make payment of agreed amount at the time of accepting the delivery of farming produce and issue a receipt slip with details of the sale proceeds.

(4) The State Government may prescribe the mode and manner in which payment shall be made to the farmer under sub-section (3).

7. (1) Where a farming agreement has been entered into in respect of any farming produce under this Act, such produce shall be exempt from the application of any State Act, by whatever name called, established for the purpose of regulation of sale and purchase of such farming produce.

Exemptions with respect to farming produce.

10 of 1955.

(2) Notwithstanding anything contained in the Essential Commodities Act, 1955 or in any control order issued thereunder or in any other law for the time being in force, any obligation related to stock limit shall not be applicable to such quantities of farming produce as are purchased under a farming agreement entered into in accordance with the provisions of this Act.

8. No farming agreement shall be entered into for the purpose of—

(a) any transfer, including sale, lease and mortgage of the land or premises of the farmer; or

(b) raising any permanent structure or making any modification on the land or premises of the farmer, unless the Sponsor agrees to remove such structure or to restore the land to its original condition, at his cost, on the conclusion of the agreement or expiry of the agreement period, as the case may be:

Sponsor prohibited from acquiring ownership rights or making permanent modifications on farmer's land or premises.

Provided that where such structure is not removed as agreed by the Sponsor, the ownership of such structure shall vest with the farmer after conclusion of the agreement or expiry of the agreement period, as the case may be.

9. A farming agreement may be linked with insurance or credit instrument under any scheme of the Central Government or the State Government or any financial service provider to ensure risk mitigation and flow of credit to farmer or Sponsor or both.

Linkage of farming agreement with insurance or credit.

10. Save as otherwise provided in this Act, an aggregator or farm service provider may become a party to the farming agreement and in such case, the role and services of such aggregator or farm service provider shall be explicitly mentioned in such farming agreement.

Other parties to farming agreement.

Explanation.—For the purposes of this section,—

(i) "aggregator" means any person, including a Farmer Producer Organisation, who acts as an intermediary between a farmer or a group of farmers and a Sponsor and provides aggregation related services to both farmers and Sponsor;

(ii) "farm service provider" means any person who provides farm services.

11. At any time after entering into a farming agreement, the parties to such agreement may, with mutual consent, alter or terminate such agreement for any reasonable cause.

Alteration or termination of farming agreement.

12. (1) A State Government may notify a Registration Authority to provide for electronic registry for that State that provides facilitative framework for registration of farming agreements.

Establishment of Registration Authority.

(2) The constitution, composition, powers and functions of the Registration Authority and the procedure for registration shall be such as may be prescribed by the State Government.

CHAPTER III

DISPUTE SETTLEMENT

13. (1) Every farming agreement shall explicitly provide for a conciliation process and formation of a conciliation board consisting of representatives of parties to the agreement:

Conciliation board for dispute settlement.

Provided that representation of parties in such conciliation board shall be fair and balanced.

(2) A dispute arising from any farming agreement shall be first referred to the conciliation board formed as per the provisions of the farming agreement and every endeavour shall be made by such board to bring about settlement of such dispute.

(3) Where, in respect of any dispute, a settlement is arrived during the course of conciliation proceeding, a memorandum of settlement shall be drawn accordingly and signed by the parties to such dispute and such settlement shall be binding on the parties.

Mechanism
for dispute
resolution.

14. (1) Where, the farming agreement does not provide for conciliation process as required under sub-section (1) of section 13, or the parties to the farming agreement fail to settle their dispute under that section within a period of thirty days, then, any such party may approach the concerned Sub-Divisional Magistrate who shall be the Sub-Divisional Authority for deciding the disputes under farming agreements.

(2) On receipt of a dispute under sub-section (1), the Sub-Divisional Authority may, if—

(a) the farming agreement did not provide for conciliation process, constitute a conciliation board for bringing about settlement of such dispute; or

(b) the parties failed to settle their dispute through conciliation process, decide the dispute in a summary manner within thirty days from the date of receipt of such dispute, after giving the parties a reasonable opportunity of being heard and pass an order for recovery of the amount under dispute, with such penalty and interest, as it deems fit, subject to the following conditions, namely:—

(i) where the Sponsor fails to make payment of the amount due to the farmer, such penalty may extend to one and half times the amount due;

(ii) where the order is against the farmer for recovery of the amount due to the Sponsor on account of any advance payment or cost of inputs, as per terms of farming agreement, such amount shall not exceed the actual cost incurred by the Sponsor;

(iii) where the farming agreement in dispute is in contravention of the provisions of this Act, or default by the farmer is due to force majeure, then, no order for recovery of amount shall be passed against the farmer.

(3) Every order passed by the Sub-Divisional Authority under this section shall have same force as a decree of a civil court and be enforceable in the same manner as that of a decree under the Code of Civil Procedure, 1908, unless an appeal is preferred under sub-section (4). 5 of 1908.

(4) Any party aggrieved by the order of the Sub-Divisional Authority may prefer an appeal to the Appellate Authority, which shall be presided over by the Collector or Additional Collector nominated by the Collector, within thirty days from the date of such order.

(5) The Appellate Authority shall dispose of the appeal within thirty days.

(6) Every order passed by the Appellate Authority under this section shall have same force as a decree of a civil court and be enforceable in the same manner as that of a decree under the Code of Civil Procedure, 1908. 5 of 1908.

(7) The amount payable under any order passed by the Sub-Divisional Authority or the Appellate Authority, as the case may be, may be recovered as arrears of land revenue.

(8) The Sub-Divisional Authority or the Appellate Authority shall, while deciding disputes under this section, have all the powers of a civil court for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed by the Central Government.

(9) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and an appeal before the Appellate Authority shall be such as may be prescribed by the Central Government.

15. Notwithstanding anything contained in section 14, no action for recovery of any amount due in pursuance of an order passed under that section, shall be initiated against the agricultural land of the farmer.

No action for recovery of dues against farmer's land.

CHAPTER IV

MISCELLANEOUS

16. The Central Government may, from time to time, give such directions, as it may consider necessary, to the State Governments for effective implementation of the provisions of this Act and the State Governments shall comply with such directions.

Power of Central Government to give directions.

17. All authorities, including Registration Authority, Sub-Divisional Authority and Appellate Authority, constituted or prescribed under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Authorities under Act to be public servants.

18. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Registration Authority, the Sub-Divisional Authority, the Appellate Authority or any other person for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder.

Protection of action taken in good faith.

19. No civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any dispute which a Sub-Divisional Authority or the Appellate Authority is empowered by or under this Act to decide and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any rules made thereunder.

Bar of jurisdiction of civil court.

20. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any State law for the time being in force or in any instrument having effect by virtue of any such law other than this Act:

Act to have an overriding effect.

Provided that a farming agreement or such contract entered into under any State law for the time being in force, or any rules made thereunder, before the date of coming into force of this Act, shall continue to be valid for the period of such agreement or contract.

21. Nothing contained in this Act shall be applicable to the stock exchanges and clearing corporations recognised under the Securities Contracts (Regulation) Act, 1956 and the transactions undertaken therein.

42 of 1956.

Act not to apply to stock exchanges and clearing corporations.

22. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) other purposes for which the Sub-Divisional Authority or the Appellate Authority shall have the powers of civil court under sub-section (8) of section 14;

(b) the manner and procedure for filing petition or application before the Sub-Divisional Authority, and an appeal before the Appellate Authority, under sub-section (9) of section 14;

(c) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules, by the Central Government.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total

period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

23. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the mode and manner of payment to the farmer under sub-section (4) of section 6;

(b) the constitution, composition, powers and functions of the Registration Authority, and the procedure for registration under sub-section (2) of section 12;

(c) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules, by the State Government.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to remove difficulties.

24. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

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

Repeal and savings.

25. (1) The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020 is hereby repealed.

Ord. 11 of 2020.

(2) Notwithstanding such repeal, anything done or any action taken under the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020 shall be deemed to have been done or taken under the corresponding provisions of this Act.

Ord. 11 of 2020.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 46] नई दिल्ली, रविवार, सितम्बर 27, 2020/ आश्विन 5, 1942 (शक)
No. 46] NEW DELHI, SUNDAY, SEPTEMBER 27, 2020/ASVINA 5, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 27th September, 2020/Asvina 5, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 24th September, 2020 and is hereby published for general information:—

THE FARMERS' PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION) ACT, 2020

No. 21 OF 2020

[24th September, 2020.]

An Act to provide for the creation of an ecosystem where the farmers and traders enjoy the freedom of choice relating to sale and purchase of farmers' produce which facilitates remunerative prices through competitive alternative trading channels; to promote efficient, transparent and barrier-free inter-State and intra-State trade and commerce of farmers' produce outside the physical premises of markets or deemed markets notified under various State agricultural produce market legislations; to provide a facilitative framework for electronic trading and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020.

Short title and commencement.

(2) It shall be deemed to have come into force on the 5th day of June, 2020.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “electronic trading and transaction platform” means a platform set up to facilitate direct and online buying and selling for conduct of trade and commerce of farmers’ produce through a network of electronic devices and internet applications, where each such transaction results in physical delivery of farmers’ produce;

(b) “farmer” means an individual engaged in the production of farmers’ produce by self or by hired labour or otherwise, and includes the farmer producer organisation;

(c) “farmers’ produce” means,—

(i) foodstuffs including cereals like wheat, rice or other coarse grains, pulses, edible oilseeds, oils, vegetables, fruits, nuts, spices, sugarcane and products of poultry, piggery, goatery, fishery and dairy intended for human consumption in its natural or processed form;

(ii) cattle fodder including oilcakes and other concentrates; and

(iii) raw cotton whether ginned or unginned, cotton seeds and raw jute;

(d) “farmer producer organisation” means an association or group of farmers, by whatever name called,—

(i) registered under any law for the time being in force; or

(ii) promoted under a scheme or programme sponsored by the Central or the State Government;

(e) “inter-State trade” means the act of buying or selling of farmers’ produce, wherein a trader of one State buys the farmers’ produce from the farmer or a trader of another State and such farmers’ produce is transported to a State other than the State in which the trader purchased such farmers’ produce or where such farmers’ produce originated;

(f) “intra-State trade” means the act of buying or selling of farmers’ produce, wherein a trader of one State buys the farmers’ produce from a farmer or a trader of the same State in which the trader purchased such farmers’ produce or where such farmers’ produce originated;

(g) “notification” means a notification published by the Central Government or the State Governments in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;

(h) “person” includes—

(a) an individual;

(b) a partnership firm;

(c) a company;

(d) a limited liability partnership;

(e) a co-operative society;

(f) a society; or

(g) any association or body of persons duly incorporated or recognised as a group under any ongoing programmes of the Central Government or the State Government;

(i) “prescribed” means prescribed by the rules made by the Central Government under this Act;

(j) “scheduled farmers’ produce” means the agricultural produce specified under any State APMC Act for regulation;

(k) “State” includes the Union territory;

(l) “State APMC Act” means any State legislation or Union territory legislation in force in India, by whatever name called, which regulates markets for agricultural produce in that State;

(m) “trade area” means any area or location, place of production, collection and aggregation including—

(a) farm gates;

(b) factory premises;

(c) warehouses;

(d) silos;

(e) cold storages; or

(f) any other structures or places,

from where trade of farmers’ produce may be undertaken in the territory of India but does not include the premises, enclosures and structures constituting—

(i) physical boundaries of principal market yards, sub-market yards and market sub-yards managed and run by the market committees formed under each State APMC Act in force in India; and

(ii) private market yards, private market sub-yards, direct marketing collection centres, and private farmer-consumer market yards managed by persons holding licenses or any warehouses, silos, cold storages or other structures notified as markets or deemed markets under each State APMC Act in force in India;

(n) “trader” means a person who buys farmers’ produce by way of inter-State trade or intra-State trade or a combination thereof, either for self or on behalf of one or more persons for the purpose of wholesale trade, retail, end-use, value addition, processing, manufacturing, export, consumption or for such other purpose.

CHAPTER II

PROMOTION AND FACILITATION OF TRADE AND COMMERCE OF FARMERS’ PRODUCE

3. Subject to the provisions of this Act, any farmer or trader or electronic trading and transaction platform shall have the freedom to carry on the inter-State or intra-State trade and commerce in farmers’ produce in a trade area.

Freedom to conduct trade and commerce in a trade area.

4. (1) Any trader may engage in the inter-State trade or intra-State trade of scheduled farmers’ produce with a farmer or another trader in a trade area:

Trade and commerce of scheduled farmers’ produce.

Provided that no trader, except the farmer producer organisations or agricultural co-operative society, shall trade in any scheduled farmers’ produce unless such a trader has a permanent account number allotted under the Income-tax Act, 1961 or such other document as may be notified by the Central Government.

(2) The Central Government may, if it is of the opinion that it is necessary and expedient in the public interest so to do, prescribe a system for electronic registration for a trader, modalities of trade transaction and mode of payment of the scheduled farmers’ produce in a trade area.

(3) Every trader who transacts with farmers shall make payment for the traded scheduled farmers' produce on the same day or within the maximum three working days if procedurally so required subject to the condition that the receipt of delivery mentioning the due payment amount shall be given to the farmer on the same day:

Provided that the Central Government may prescribe a different procedure of payment by farmer produce organisation or agriculture co-operative society, by whatever name called, linked with the receipt of payment from the buyers.

Electronic trading and transaction platform.

5. (1) Any person (other than individual), having a permanent account number allotted under the Income-tax Act, 1961 or such other document as may be notified by the Central Government or any farmer producer organisation or agricultural co-operative society may establish and operate an electronic trading and transaction platform for facilitating inter-State or intra-State trade and commerce of scheduled farmers' produce in a trade area:

43 of 1961.

Provided that the person establishing and operating an electronic trading and transaction platform shall prepare and implement the guidelines for fair trade practices such as mode of trading, fees, technical parameters including inter-operability with other platforms, logistics arrangements, quality assessment, timely payment, dissemination of guidelines in local language of the place of operation of the platform and such other matters.

(2) If the Central Government is of the opinion that it is necessary and expedient in public interest so to do, it may, for electronic trading platforms, by rules—

(a) specify the procedure, norms, manner of registration; and

(b) specify the code of conduct, technical parameters including inter-operability with other platform and modalities of trade transaction including logistics arrangements and quality assessment of scheduled farmers' produce and mode of payment,

for facilitating fair inter-State and intra-State trade and commerce of scheduled farmers' produce in a trade area.

Market fee under State APMC Act, etc., in trade area.

6. No market fee or cess or levy, by whatever name called, under any State APMC Act or any other State law, shall be levied on any farmer or trader or electronic trading and transaction platform for trade and commerce in scheduled farmers' produce in a trade area.

Price Information and Market Intelligence System.

7. (1) The Central Government may, through any Central Government Organisation, develop a Price Information and Market Intelligence System for farmers' produce and a framework for dissemination of information relating thereto.

(2) The Central Government may require any person owning and operating an electronic trading and transaction platform to provide information regarding such transactions as may be prescribed.

Explanation.—For the purposes of this section, the expression “Central Government Organisation” includes any subordinate or attached office, Government owned or promoted company or society.

CHAPTER III

DISPUTE RESOLUTION

Dispute Resolution Mechanism for farmers.

8. (1) In case of any dispute arising out of a transaction between the farmer and a trader under section 4, the parties may seek a mutually acceptable solution through conciliation by filing an application to the Sub-Divisional Magistrate who shall refer such dispute to a Conciliation Board to be appointed by him for facilitating the binding settlement of the dispute.

(2) Every Board of Conciliation appointed by the Sub-Divisional Magistrate under sub-section (1), shall consist of a chairperson and such members not less than two and not more than four, as the Sub-Divisional Magistrate may deem fit.

(3) The chairperson shall be an officer serving under the supervision and control of the Sub-Divisional Magistrate and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make such recommendation within seven days, the Sub-Divisional Magistrate shall appoint such persons as he thinks fit to represent that party.

(4) Where, in respect of any dispute, a settlement is arrived at during the course of conciliation proceedings, a memorandum of settlement shall be drawn accordingly and signed by the parties to such dispute which shall be binding upon the parties.

(5) If the parties to the transaction under sub-section (1) are unable to resolve the dispute within thirty days in the manner set out under this section, they may approach the Sub-Divisional Magistrate concerned who shall be the "Sub-Divisional Authority" for settlement of such dispute.

(6) The Sub-Divisional Authority on its own motion or on a petition or on the reference from any Government agency take cognizance of any contravention of the provisions of section 4 or rules made thereunder and take action under sub-section (7).

(7) The Sub-Divisional Authority shall decide the dispute or contravention under this section in a summary manner within thirty days from the date of its filing and after giving the parties an opportunity of being heard, he may—

(a) pass an order for the recovery of the amount under dispute; or

(b) impose a penalty as stipulated in sub-section (1) of section 11; or

(c) pass an order for restraining the trader in dispute from undertaking any trade and commerce of scheduled farmers' produce, directly or indirectly under this Act for such period as it may deem fit.

(8) Any party aggrieved by the order of the Sub-Divisional Authority may prefer an appeal before the Appellate Authority (Collector or Additional Collector nominated by the Collector) within thirty days of such order who shall dispose of the appeal within thirty days from the date of filing of such appeal.

(9) Every order of the Sub-Divisional Authority or Appellate Authority under this section shall have force of the decree of a civil court and shall be enforceable as such, and decretal amount shall be recovered as arrears of land revenue.

(10) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and appeal before the appellate authority shall be such as may be prescribed.

9. (1) The Agriculture Marketing Adviser, Directorate of Marketing and Inspection, Government of India or an officer of the State Government to whom such powers are delegated by the Central Government in consultation with the respective State Government may, on its own motion or on a petition or on the reference from any Government Agency, take cognizance of any breach of the procedures, norms, manner of registration and code of conduct or any breach of the guidelines for fair trade practices by the electronic trading and transaction platform established under section 5 or contravenes the provisions of section 7 and, by an order within sixty days from the date of receipt and for the reasons to be recorded, he may—

(a) pass an order for the recovery of the amount payable to the farmers and traders;

(b) impose a penalty as stipulated in sub-section (2) of section 11; or

(c) suspend for such period as he deems fit or cancel the right to operate as an electronic trading and transaction platform:

Suspension or cancellation of right to operate in electronic trading and transaction platform.

Provided that no order for recovery of amount, imposition of penalty or suspension or cancellation of the right to operate shall be passed without giving the operator of such electronic trading and transaction platform an opportunity of being heard.

(2) Every order made under sub-section (1) shall have force of the decree of a civil court and shall be enforceable as such and the decretal amount shall be recovered as arrears of land revenue.

Appeal against cancellation of right to operate.

10. (1) Any person aggrieved by an order under section 9 may, prefer an appeal within sixty days from the date of such order, to an officer not below the rank of Joint Secretary to the Government of India to be nominated by the Central Government for this purpose:

Provided that an appeal may be admitted even after the expiry of the said period of sixty days, but not beyond a total period of ninety days, if the appellant satisfies the appellate authority, that he had sufficient cause for not preferring the appeal within the said period.

(2) Every appeal made under this section shall be made in such form and manner, and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(3) The procedure for disposing of an appeal shall be such as may be prescribed.

(4) An appeal filed under this section shall be heard and disposed of within a period of ninety days from the date of its filing:

Provided that before disposing of an appeal, the appellant shall be given an opportunity of being heard.

CHAPTER IV

PENALTIES

Penalty for contravention of Act and rules.

11. (1) Whoever contravenes the provisions of section 4 or the rules made thereunder shall be liable to pay a penalty which shall not be less than twenty-five thousand rupees but which may extend up to five lakh rupees, and where the contravention is a continuing one, further penalty not exceeding five thousand rupees for each day after the first day during which the contravention continues.

(2) If any person, who owns, controls or operates an electronic trading and transaction platform, contravenes the provisions of sections 5 and 7 or the rules made thereunder shall be liable to pay a penalty which shall not be less than fifty thousand rupees but which may extend up to ten lakh rupees, and where the contravention is a continuing one, further penalty not exceeding ten thousand rupees for each day after the first day during which the contravention continues.

CHAPTER V

MISCELLANEOUS

Powers of Central Government to issue instructions, directions, orders or guidelines.

12. The Central Government may, for carrying out the provisions of this Act, give such instructions, directions, orders or issue guidelines as it may deem necessary to any authority or officer subordinate to the Central Government, any State Government or any authority or officer subordinate to a State Government, an electronic trading and transaction platform or to any person or persons owning or operating an electronic trading and transaction platform, or a trader or class of traders.

Protection of action taken in good faith.

13. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government, or any officer of the Central Government or the State Government or any other person in respect of anything which is in good faith done or intended to be done under this Act or of any rules or orders made thereunder.

14. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any State APMC Act or any other law for time being in force or in any instrument having effect by virtue of any law for the time being in force.

Act to have overriding effect.

15. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognizance of which can be taken and disposed of by any authority empowered by or under this Act or the rules made thereunder.

Bar of jurisdiction of civil court.

42 of 1956.

16. Nothing contained in this Act, shall be applicable to the Stock Exchanges and Clearing Corporations recognised under the Securities Contracts (Regulation) Act, 1956 and the transactions made thereunder.

Act not to apply to certain transactions.

17. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the following matters, namely:—

(a) the system of electronic registration for a trader and modalities of trade transaction of scheduled farmers' produce under sub-section (2) of section 4;

(b) the procedure of payment under proviso to sub-section (3) of section 4;

(c) the manner and procedure for filing a petition or an application before the Sub-Divisional Authority and appeal before the appellate authority under sub-section (10) of section 8;

(d) the information regarding transactions under sub-section (2) of section 9;

(e) the form and manner and the fee payable for filing an appeal under sub-section (2) of section 10;

(f) the procedure for disposing of an appeal under sub-section (3) of section 10;

(g) any other matter which is to be or may be prescribed.

18. Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of rules.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

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

20. (1) The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020 is hereby repealed.

Repeal and savings.

Ord. 10 of 2020.

(2) Notwithstanding such repeal, anything done or any action under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 48] नई दिल्ली, रविवार, सितम्बर 27, 2020/ आश्विन 5, 1942 (शक)
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
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MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 27th September, 2020/Asvina 5, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 26th September, 2020 and is hereby published for general information:—

THE JAMMU AND KASHMIR OFFICIAL LANGUAGES ACT, 2020

No. 23 OF 2020

[26th September, 2020.]

An Act to provide for the languages to be used for the official purposes of the Union territory of Jammu and Kashmir and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Jammu and Kashmir Official Languages Act, 2020.

(2) It extends to the Union territory of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that the Administrator may appoint different dates for different areas in the Union territory.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Administrator” means the Lieutenant Governor of the Union territory of Jammu and Kashmir appointed by the President under article 239 of the Constitution;

(b) “Union territory” means the Union territory of Jammu and Kashmir.

Official
languages of
Union territory.

3. With effect from such date as the Administrator may, by notification in the Official Gazette, appoint in this behalf, the Kashmiri, Dogri, Urdu, Hindi and English languages shall be the official languages to be used for all or any of the official purposes of the Union territory:

Provided that the English language may continue to be used, for those administrative and legislative purposes, in the Union territory for which it was being used before the commencement of this Act:

Provided further that the business in the Legislative Assembly of the Union territory shall be transacted in the official language or languages of the Union territory.

Promotion
and
development
of regional
languages.

4. (1) The Administrator may, for the promotion and development of regional languages of the Union territory, take necessary steps to strengthen the existing institutional mechanisms such as the Academy of Art, Culture and languages in the Union territory.

(2) The institutional mechanisms referred to in sub-section (1) shall make special efforts for the promotion and development of Gojri, Pahari and Punjabi languages.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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सं० 49] नई दिल्ली, सोमवार, सितम्बर 28, 2020/ आश्विन 6, 1942 (शक)
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 25th September, 2020 and is hereby published for general information:—

THE APPROPRIATION (No. 3) ACT, 2020

No. 27 OF 2020

[25th September, 2020.]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 2017 in excess of the amounts granted for those services and for that year.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 3) Act, 2020.

Short title.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule, amounting in the aggregate to the sum of one lakh ninety thousand two hundred forty-seven crore eighty-three lakh seventy-six thousand two hundred forty-three rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 2017, in excess of the amounts granted for those services and for that year.

Issue of
Rs. 190247,83,76,243
out of the
Consolidated
Fund of India to
meet certain
excess
expenditure
for the year
ended on the
31st March,
2017.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 2017.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Voted portion	Excess Charged portion	Total
	Civil Ministries	Rs.	Rs.	Rs.
13	Department of Posts..... Revenue	936,47,75,842	...	936,47,75,842
21	Defence Pensions..... Revenue	2199,55,77,250	28,08,608	2199,83,85,858
23	Capital Outlay on Defence Services..... Capital	104,54,70,013	41,76,33,564	146,31,03,577
	<i>CHARGED.—Repayment of debt.....</i> Capital	...	186954,41,93,269	186954,41,93,269
	Ministry of Railways			
4	Repairs and maintenance of permanent ways and works..... Revenue	...	7,77,229	7,77,229
7	Working Expenses—Repair and Maintenance of Plant and Equipment..... Revenue	...	52,739	52,739
16	Assets—Acquisition, Construction and Replacement..... Capital	...	10,70,87,729	10,70,87,729
	TOTAL :	3240,58,23,105	187007,25,53,138	190247,83,76,243

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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No. 51] NEW DELHI, MONDAY, SEPTEMBER 28, 2020/ASVINA 6, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
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MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 25th September, 2020 and is hereby published for general information:—

THE APPROPRIATION (NO. 4) ACT, 2020

No. 26 OF 2020

[25th September, 2020.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2020-21.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 4) Act, 2020. Short title.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two lakh thirty-five thousand eight hundred fifty-two crore and eighty-seven lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2020-21 in respect of the services specified in column 2 of the Schedule. Issue of ₹ 235852.87,00,000 out of the Consolidated Fund of India for the financial year 2020-21.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Department of Agriculture, Cooperation and Farmers' Welfare..... Revenue	195,01,00,000	..	195,01,00,000
	Capital	13,00,00,000	..	13,00,00,000
2	Department of Agricultural Research and Education..... Revenue	1,00,000	..	1,00,000
4	Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)..... Revenue	200,00,00,000	..	200,00,00,000
5	Department of Chemicals and Petrochemicals..... Revenue	2,00,000	..	2,00,000
	Capital	73,70,00,000	..	73,70,00,000
7	Department of Pharmaceuticals..... Revenue	1,00,000	..	1,00,000
8	Ministry of Civil Aviation..... Revenue	19,35,00,000	..	19,35,00,000
9	Ministry of Coal..... Revenue	1,00,000	..	1,00,000
14	Department of Consumer Affairs..... Revenue	6000,00,00,000	..	6000,00,00,000
15	Department of Food and Public Distribution..... Revenue	10000,00,00,000	..	10000,00,00,000
16	Ministry of Corporate Affairs..... Revenue	1,00,000	..	1,00,000
18	Ministry of Defence (Civil)..... Revenue	400,00,00,000	..	400,00,00,000
	Capital	800,00,00,000	..	800,00,00,000
20	Capital Outlay on Defence Services..... Capital	150,00,00,000	..	150,00,00,000
23	Ministry of Earth Sciences..... Revenue	1,00,000	..	1,00,000
24	Ministry of Electronics and Information Technology..... Capital	92,99,00,000	..	92,99,00,000
25	Ministry of Environment, Forests and Climate Change..... Revenue	2,00,000	..	2,00,000
26	Ministry of External Affairs..... Revenue	96,01,00,000	..	96,01,00,000
	Capital	45,00,00,000	..	45,00,00,000
27	Department of Economic Affairs..... Revenue	69,90,00,000	..	69,90,00,000
	Capital	6122,35,00,000	..	6122,35,00,000
29	Department of Financial Services..... Revenue	5232,00,00,000	..	5232,00,00,000
	Capital	21000,00,00,000	..	21000,00,00,000
32	Direct Taxes Capital	2,00,000	..	2,00,000
34	Indian Audit and Accounts Department..... Revenue	50,00,00,000	..	50,00,00,000
38	Transfers to States..... Revenue	..	46602,43,00,000	46602,43,00,000
39	Department of Fisheries..... Revenue	4,00,000	..	4,00,000
40	Department of Animal Husbandry and Dairying..... Revenue	2,00,000	..	2,00,000
41	Ministry of Food Processing Industries..... Revenue	150,00,00,000	..	150,00,00,000
42	Department of Health and Family Welfare..... Revenue	10615,98,00,000	..	10615,98,00,000
	Capital	1141,01,00,000	..	1141,01,00,000
43	Department of Health Research..... Revenue	2475,00,00,000	..	2475,00,00,000
44	Department of Heavy Industry..... Revenue	42,45,00,000	..	42,45,00,000
48	Police..... Revenue	1,00,000	..	1,00,000
51	Dadra and Nagar Haveli and Daman and Diu..... Capital	1,00,000	..	1,00,000
52	Ladakh..... Revenue	2,00,000	..	2,00,000
53	Lakshadweep..... Revenue	1,00,000	..	1,00,000
	Capital	3,00,000	..	3,00,000
57	Ministry of Housing and Urban Affairs..... Revenue	1,00,000	..	1,00,000
	Capital	2,00,000	..	2,00,000
59	Department of Higher Education..... Revenue	812,51,00,000	..	812,51,00,000
61	Department of Water Resources, River Development and Ganga Rejuvenation..... Revenue	1,00,000	..	1,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
63	Ministry of Labour and Employment..... Revenue	4860,00,00,000	..	4860,00,00,000
65	Election Commission..... Revenue	1,00,000	..	1,00,000
67	Ministry of Micro, Small and Medium Enterprises..... Revenue	2,00,000	..	2,00,000
	Capital	500,00,00,000	..	500,00,00,000
70	Ministry of New and Renewable Energy..... Revenue	1,00,000	..	1,00,000
71	Ministry of Panchayati Raj..... Revenue	1,00,000	..	1,00,000
73	Ministry of Personnel, Public Grievances and Pensions..... Revenue	1,00,000	..	1,00,000
	Capital	1,00,000	..	1,00,000
75	Ministry of Petroleum and Natural Gas..... Revenue	1,00,000	..	1,00,000
	Capital	3184,00,00,000	..	3184,00,00,000
76	Ministry of Planning..... Revenue	2,00,000	..	2,00,000
83	Ministry of Railways..... Revenue	520,00,00,000	..	520,00,00,000
	Capital	100,00,00,000	..	100,00,00,000
84	Ministry of Road Transport and Highways..... Revenue	1,00,000	..	1,00,000
	Capital	156,92,00,000	..	156,92,00,000
85	Department of Rural Development..... Revenue	113771,50,00,000	..	113771,50,00,000
86	Department of Land Resources..... Revenue	1,00,000	..	1,00,000
87	Department of Science and Technology..... Revenue	1,00,000	..	1,00,000
88	Department of Biotechnology..... Revenue	350,00,00,000	..	350,00,00,000
92	Department of Social Justice and Empowerment..... Revenue	1,00,000	..	1,00,000
94	Department of Space..... Revenue	1,00,000	..	1,00,000
	Capital	1,00,000	..	1,00,000
95	Ministry of Statistics and Programme Implementation..... Revenue	1,00,000	..	1,00,000
97	Ministry of Textiles..... Revenue	2,00,000	..	2,00,000
98	Ministry of Tourism..... Revenue	6,26,00,000	..	6,26,00,000
100	Ministry of Women and Child Development..... Capital	5,00,00,000	..	5,00,00,000
101	Ministry of Youth Affairs and Sports..... Revenue	2,00,000	..	2,00,000
	TOTAL :	189250,44,00,000	46602,43,00,000	235852,87,00,000

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 55] नई दिल्ली, सोमवार, सितम्बर 28, 2020/आश्विन 6, 1942 (शक)
No. 55] NEW DELHI, MONDAY, SEPTEMBER 28, 2020/ASVINA 6, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE BILATERAL NETTING OF QUALIFIED FINANCIAL CONTRACTS ACT, 2020

No. 30 OF 2020

[28th September, 2020.]

An Act to ensure financial stability and promote competitiveness in Indian financial markets by providing enforceability of bilateral netting of qualified financial contracts and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bilateral Netting of Qualified Financial Contracts Act, 2020.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "administration" means proceedings of the nature of placing under administration and includes imposition of moratorium, reorganisation, winding up, liquidation (including any compulsory winding up procedure or proceeding), insolvency, bankruptcy, composition with creditors, receivership, conservatorship or any proceedings of nature similar to or resulting in any of the foregoing, initiated or commenced under any law for the time being in force, against a qualified financial market participant;

(b) "administration practitioner" means the liquidator, receiver, trustee, conservator, resolution professional or any other person or entity, by whatever name called, which administers the affairs of a party subject to administration under any law for the time being in force;

(c) "authority" means the Central Government or any of the regulatory authorities as specified in the First Schedule;

(d) "banking institution" means,—

(i) scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934; and

(ii) any other bank as the Reserve Bank of India may specify;

(e) "close-out netting" means a process involving termination of obligations under a qualified financial contract with a party in default and subsequent combining of positive and negative replacement values into a single net payable or receivable as set out in section 6;

(f) "collateral" means,—

(i) money, in the form of cash, credited to an account in any currency, or a similar claim for repayment of money, such as a money market deposit;

(ii) securities of any kind, including debt and equity securities;

(iii) guarantees, letters of credit and obligations to reimburse; and

(iv) any asset commonly used as collateral under any law for the time being in force;

(g) "collateral arrangement" means any margin, collateral or security arrangement or other credit enhancement related to or forming part of a netting agreement or one or more qualified financial contracts to which a netting agreement applies, and includes,—

(i) a pledge or any other form of security interest in collateral, whether possessory or non-possessory;

(ii) a title transfer collateral arrangement; and

(iii) any guarantee, letter of credit or reimbursement obligation by or to a party to one or more qualified financial contracts, in respect of those qualified financial contracts; or a netting agreement;

(h) "insolvent party" means the party to a qualified financial contract in relation to which insolvency, winding up, liquidation, resolution, administration or similar proceedings have been instituted under any law for the time being in force in India or under the laws of any other country, including of its incorporation;

(i) "margin" means the amount, form and type of collateral required as a performance bond for the purchase, sale or carrying of a qualified financial contract and includes—

(A) initial margin which protects the transacting parties from potential future exposure likely to arise from future changes in the mark-to-market value of the qualified financial contract during the close-out and replace the position in the event of counterparty default; and

2 of 1934.

(B) variation margin which protects the transacting parties from the current exposure that has already been incurred by one of the parties from changes in the mark-to-market value of the qualified financial contract after the transaction has been executed;

(j) "netting" means determination of net claim or obligations after setting off or adjusting all the claims or obligations based or arising from mutual dealings between the parties to qualified financial contracts and includes close-out netting;

(k) "netting agreement" means an agreement that provides for netting, and includes,—

(i) an agreement that provides for the netting of amounts due under two or more netting agreements; and

(ii) a collateral arrangement relating to or forming part of a netting agreement;

(l) "non-insolvent party" means the party to a qualified financial contract that is not the insolvent party;

(m) "notification" means a notification published in the Official Gazette and the term "notify" shall be construed accordingly;

(n) "qualified financial contract" means a qualified financial contract notified by the authority under clause (a) of section 4;

(o) "qualified financial market participant" includes,—

(i) a banking institution, or a non-banking financial company, or such other financial institution which is subject to regulation or prudential supervision by the Reserve Bank of India;

(ii) an individual, partnership firm, company, or any other person or body corporate whether incorporated under any law for the time being in force in India or under the laws of any other country and includes any international or regional development bank or other international or regional organisation;

(iii) an insurance or reinsurance company which is subject to regulation or prudential supervision by the Insurance Regulatory and Development Authority of India established under the Insurance Regulatory and Development Authority Act, 1999;

41 of 1999.

(iv) a pension fund regulated by the Pension Fund Regulatory and Development Authority established under the Pension Fund Regulatory and Development Authority Act, 2013;

23 of 2013.

(v) a financial institution regulated by the International Financial Services Centres Authority established under the International Financial Services Centres Authority Act, 2019; and

50 of 2019.

(vi) any other entity notified by the relevant authority under clause (b) of section 4;

(p) "Schedule" means the First Schedule or the Second Schedule to this Act;

(q) "title transfer collateral arrangement" means a margin, collateral or security arrangement related to a netting agreement based on the transfer of title to collateral, whether by outright sale or by way of security, including a sale and repurchase agreement, securities lending agreement, securities, buy or sell-back agreement or an irregular pledge.

2 of 1934.
4 of 1938.
10 of 1949.
42 of 1956.

(2) Words and expressions used but not defined in this Act and defined in the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Banking Regulation Act, 1949, the Securities Contracts (Regulation) Act, 1956, the Banking Companies (Acquisition

and Transfer of Undertakings) Act, 1970, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, the Securities and Exchange Board of India Act, 1992, the Foreign Exchange Management Act, 1999, the Insurance Regulatory and Development Authority Act, 1999, the Payment and Settlement Systems Act, 2007, the Companies Act, 2013, the Pension Fund Regulatory and Development Authority Act, 2013 and the Insolvency and Bankruptcy Code, 2016, shall have the meanings respectively assigned to them in those enactments.

5 of 1970.
40 of 1980.
15 of 1992.
42 of 1999.
41 of 1999.
51 of 2007.
18 of 2013.
23 of 2013.
31 of 2016.

CHAPTER II

APPLICATION OF ACT

Applicability
of Act.

3. The provisions of this Act shall apply to a qualified financial contract entered into on a bilateral basis between qualified financial market participants, either under a netting agreement or otherwise, where at least one of such participants shall be an entity regulated by an authority specified in the First Schedule.

Powers of
authority.

4. The relevant authority may, by notification,—

(a) designate any bilateral agreement or contract or transaction, or type of contract regulated by it, as qualified financial contract:

Provided that the contract, so designated under this clause, shall not include any contract,—

(i) entered into between such parties and on such terms as the Central Government may, by notification, specify; or

(ii) entered into on multilateral basis in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 and the Payment and Settlement Systems Act, 2007;

42 of 1956.
51 of 2007.

(b) specify any entity regulated by it, as a qualified financial market participant to deal in qualified financial contracts.

Enforceability
of netting.

5. (1) Netting of the qualified financial contract shall be enforceable—

(a) where such contract is entered into with a netting agreement, in accordance with the terms of the netting agreement:

Provided that the inclusion of any non-qualified financial contract in a netting agreement shall not invalidate the enforceability of netting of qualified financial contract under such agreement; or

(b) where such contract is entered into without a netting agreement, in accordance with the provisions of section 6.

(2) A qualified financial contract shall not be void and shall be deemed never to have been void or unenforceable by reason of any law for the time being in force.

(3) Close-out netting of a qualified financial contract shall be enforceable against an insolvent party, and, wherever applicable, against a guarantor or other person providing collateral or security for a party and shall not be affected or stopped or otherwise limited by:—

(i) the appointment of, or any application for the appointment of, an administration practitioner, or

(ii) applicability of any provision of law relating to administration, or

(iii) any other provision of law that may be applicable to an insolvent party.

(4) Where a qualified financial market participant is subject to administration, then notwithstanding,—

(i) any stay, injunction, avoidance, moratorium or similar proceedings or any other order of a court, tribunal or authority, or

(ii) any order of adjudication or dissolution or winding up or resolution or insolvency, or

(iii) any rule, regulation, scheme, direction, guideline, circular or order,

made or issued under any law for the time being in force, close-out netting shall be applicable and nothing contained therein shall affect the validity of close-out netting under this Act.

(5) The amount payable or other claims to be made in accordance with the close-out netting under this Act shall be final, irrevocable and binding upon the parties to a qualified financial contract and upon the administration practitioner, of the party in administration.

CHAPTER III

INVOCATION OF CLOSE-OUT NETTING

6. (1) Close-out netting may be commenced by a notice given by one party to the other party of a qualified financial contract upon the occurrence of an event of default with respect to the other party or a termination event that may, in certain circumstances, occur automatically as specified in the netting agreement: Invocation of close-out netting.

Provided that where any one of the parties to a netting agreement is subject to administration, then no prior notice to or consent of the party in insolvency, winding up, liquidation, administration or resolution proceeding, or to the administration practitioner of such proceeding, shall be required.

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

(i) "event of default" means failure to pay or deliver or honour the obligations of a qualified financial contract, or bankruptcy, or any other event as may be agreed upon by the parties in the agreement; and

(ii) "termination event" means the occurrence of any event mentioned in the netting agreement which gives one or both parties the right to terminate relevant transactions under that agreement.

(2) The parties to a qualified financial contract shall ensure that all obligations owed by one party to another party under a qualified financial contract are reduced to or replaced with single net amount which has the following effect, namely:—

(a) the termination, liquidation or acceleration of any present or future payment or delivery rights or obligations arising under or in connection with any one or more qualified financial contracts to which a netting agreement applies;

(b) the calculation or estimation of a close-out value, market value, liquidation value or replacement value in respect of each right and obligation or group of rights and obligations terminated, liquidated or accelerated under clause (a) and the conversion of each such value into a single currency; and

(c) the determination of the net balance of the values calculated under clause (b), whether by operation of set-off or otherwise, giving rise to the obligation of one party to pay an amount equal to the net balance to the other party.

(3) Without prejudice to the provisions of any law for the time being in force requiring the realisation, appropriation or liquidation of collateral, and unless otherwise agreed by the parties, the realisation, appropriation or liquidation of collateral under a collateral arrangement shall take effect without any requirement of prior notice to, or consent from, any party, person or entity.

(4) Close-out netting shall be applicable to all qualified financial market participants who are parties to a qualified financial contract notwithstanding anything to the contrary contained in any law specified in the Second Schedule or any other law pursuant to which any qualified financial market participant has been incorporated, constituted or is regulated.

Net amount.

7. (1) Where parties to the qualified financial contract enter into a netting agreement, the net amount payable under the close-out netting shall be determined in accordance with the terms of the netting agreement entered into by the parties.

(2) In the absence of the netting agreement, where the parties to a qualified financial contract fail to agree on the sum with regard to the net amount payable under the close-out netting, such sum shall be determined through arbitration.

CHAPTER IV

LIMITATIONS ON POWERS OF ADMINISTRATION PRACTITIONER

Limitations on powers of administration practitioner.

8. The administration practitioner shall not render or seek to render ineffective,—

(a) any transfer, substitution or exchange of cash, collateral or any other interests under or in connection with a netting agreement between the insolvent party and the non-insolvent party to a qualified financial contract; or

(b) any payment or delivery obligation incurred by the insolvent party and owing to the non-insolvent party under or in connection with a netting agreement on the grounds of it constituting a preference including a fraudulent preference or a transfer for undervalue, including during a suspect period by the insolvent party to the non-insolvent party.

Explanation.—For the purposes of this clause, "suspect period" means the relevant period referred to in sub-section (4) of section 43 of the Insolvency and Bankruptcy Code, 2016 in respect of "preferential transaction" and in sub-section (1) of section 46 of the said Code in respect of "undervalued transaction".

31 of 2016.

CHAPTER V

MISCELLANEOUS

Power to amend Schedules.

9. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, add to or otherwise amend the First Schedule or the Second Schedule and thereupon, the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Provisions of this Act to override other laws.

10. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

Power to remove difficulties.

11. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made after the expiry of a period of three years from the date of commencement of this Act.

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

THE FIRST SCHEDULE

[See sections 2(1) (c), (p) and 9(1)]

Sl. No.	Name of the authority	Act No.
(1)	(2)	(3)
1.	The Reserve Bank of India, established under section 3 of the Reserve Bank of India Act, 1934.	2 of 1934.
2.	The Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992.	15 of 1992.
3.	The Insurance Regulatory and Development Authority of India, established under section 3 of the Insurance Regulatory and Development Authority Act, 1999.	41 of 1999.
4.	The Pension Fund Regulatory and Development Authority, established under section 3 of the Pension Fund Regulatory and Development Authority Act, 2013.	23 of 2013.
5.	The International Financial Services Centres Authority established under section 4 of the International Financial Services Centres Authority Act, 2019.	50 of 2019.

THE SECOND SCHEDULE

[See sections 6(4) and 9(1)]

Sl. No.	Name of the enactment	Act No.
(1)	(2)	(3)
1.	The Reserve Bank of India Act, 1934.	2 of 1934.
2.	The Insurance Act, 1938.	4 of 1938.
3.	The Banking Regulation Act, 1949.	10 of 1949.
4.	The State Bank of India Act, 1955.	23 of 1955.
5.	The Securities Contracts (Regulation) Act, 1956.	42 of 1956.
6.	The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.	5 of 1970.
7.	The Regional Rural Bank Act, 1976.	21 of 1976.
8.	The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.	40 of 1980.
9.	The Securities and Exchange Board of India Act, 1992.	15 of 1992.
10.	The Foreign Exchange Management Act, 1999.	42 of 1999.
11.	The Insurance Regulatory and Development Authority Act, 1999.	41 of 1999.
12.	The Payment and Settlement Systems Act, 2007.	51 of 2007.
13.	The Companies Act, 2013.	18 of 2013.
14.	The Pension Fund Regulatory and Development Authority Act, 2013.	23 of 2013.
15.	The Insolvency and Bankruptcy Code, 2016.	31 of 2016.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 54] नई दिल्ली, सोमवार, सितम्बर 28, 2020/आश्विन 6, 1942 (शक)
No. 54] NEW DELHI, MONDAY, SEPTEMBER 28, 2020/ASVINA 6, 1942 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE COMPANIES (AMENDMENT) ACT, 2020

No. 29 OF 2020

[28th September, 2020.]

An Act further to amend the Companies Act, 2013.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 2020.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Short title and
commencement.

- Amendment of section 2. **2.** In the Companies Act, 2013 (hereinafter referred to as the principal Act), in section 2, in clause (52), the following proviso shall be inserted, namely:—
- "Provided that such class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with the Securities and Exchange Board, shall not be considered as listed companies."
- Amendment of section 8. **3.** In section 8 of the principal Act, in sub-section (11),—
- (a) the words "with imprisonment for a term which may extend to three years or" shall be omitted;
- (b) for the words "twenty-five lakh rupees, or with both", the words "twenty-five lakh rupees" shall be substituted.
- Amendment of section 16. **4.** In section 16 of the principal Act,—
- (i) in sub-section (1), in clause (b), for the words "period of six months", the words "period of three months" shall be substituted;
- (ii) for sub-section (3), the following sub-section shall be substituted, namely:—
- "(3) If a company is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the company in such manner as may be prescribed and the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name, which the company shall use thereafter:
- Provided that nothing in this sub-section shall prevent a company from subsequently changing its name in accordance with the provisions of section 13."
- Amendment of section 23. **5.** In section 23 of the principal Act, after sub-section (2) and before the *Explanation*, the following sub-sections shall be inserted, namely:—
- "(3) Such class of public companies may issue such class of securities for the purposes of listing on permitted stock exchanges in permissible foreign jurisdictions or such other jurisdictions, as may be prescribed.
- (4) The Central Government may, by notification, exempt any class or classes of public companies referred to in sub-section (3) from any of the provisions of this Chapter, Chapter IV, section 89, section 90 or section 127 and a copy of every such notification shall, as soon as may be after it is issued, be laid before both Houses of Parliament."
- Amendment of section 26. **6.** In section 26 of the principal Act, in sub-section (9),—
- (a) the words "with imprisonment for a term which may extend to three years or" shall be omitted;
- (b) for the words "three lakh rupees, or with both", the words "three lakh rupees" shall be substituted.
- Amendment of section 40. **7.** In section 40 of the principal Act, in sub-section (5),—
- (a) the words "with imprisonment for a term which may extend to one year or" shall be omitted;
- (b) for the words "three lakh rupees, or with both", the words "three lakh rupees" shall be substituted.

- 8.** In section 48 of the principal Act, sub-section (5) shall be omitted. Amendment of section 48.
- 9.** In section 56 of the principal Act, for sub-section (6), the following sub-section shall be substituted, namely:— Amendment of section 56.
- "(6) Where any default is made in complying with the provisions of sub-sections (1) to (5), the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees."
- 10.** In section 59 of the principal Act, sub-section (5) shall be omitted. Amendment of section 59.
- 11.** In section 62 of the principal Act, in sub-section (1), in clause (a), in sub-clause (i), after the words "less than fifteen days", the words "or such lesser number of days as may be prescribed" shall be inserted. Amendment of section 62.
- 12.** In section 64 of the principal Act, in sub-section (2),— Amendment of section 64.
- (a) for the words "one thousand rupees", the words "five hundred rupees" shall be substituted;
- (b) for the words "or five lakh rupees whichever is less", the words "subject to a maximum of five lakh rupees in case of a company and one lakh rupees in case of an officer who is in default" shall be substituted.
- 13.** In section 66 of the principal Act, sub-section (11) shall be omitted. Amendment of section 66.
- 14.** In section 68 of the principal Act, in sub-section (11),— Amendment of section 68.
- (a) the words "with imprisonment for a term which may extend to three years or" shall be omitted;
- (b) for the words "three lakh rupees, or with both", the words "three lakh rupees" shall be substituted.
- 15.** In section 71 of the principal Act, sub-section (11) shall be omitted. Amendment of section 71.
- 16.** In section 86 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 86.
- "(1) If any company is in default in complying with any of the provisions of this Chapter, the company shall be liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees."
- 17.** In section 88 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:— Amendment of section 88.
- "(5) If a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of sub-section (1) or sub-section (2), the company shall be liable to a penalty of three lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees."
- 18.** In section 89 of the principal Act,— Amendment of section 89.
- (a) for sub-section (5), the following sub-section shall be substituted, namely:—
- "(5) If any person fails to make a declaration as required under sub-section (1) or sub-section (2) or sub-section (3), he shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of two hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.";

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) If a company, required to file a return under sub-section (6), fails to do so before the expiry of the time specified therein, the company and every officer of the company who is in default shall be liable to a penalty of one thousand rupees for each day during which such failure continues, subject to a maximum of five lakh rupees in the case of a company and two lakh rupees in case of an officer who is in default.";

(c) after sub-section (10), the following sub-section shall be inserted, namely:—

"(11) The Central Government may, by notification, exempt any class or classes of persons from complying with any of the requirements of this section, except sub-section (10), if it is considered necessary to grant such exemption in the public interest and any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification."

Amendment
of section 90.

19. In section 90 of the principal Act,—

(a) for sub-section (10), the following sub-section shall be substituted, namely:—

"(10) If any person fails to make a declaration as required under sub-section (1), he shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of one thousand rupees for each day after the first during which such failure continues, subject to a maximum of two lakh rupees.";

(b) for sub-section (11), the following sub-section shall be substituted, namely:—

"(11) If a company, required to maintain register under sub-section (2) and file the information under sub-section (4) or required to take necessary steps under sub-section (4A), fails to do so or denies inspection as provided therein, the company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day, after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of two hundred rupees for each day, after the first during which such failure continues, subject to a maximum of one lakh rupees."

Amendment
of section 92.

20. In section 92 of the principal Act,—

(a) in sub-section (5),—

(i) for the words "fifty thousand rupees", the words "ten thousand rupees" shall be substituted;

(ii) for the words "five lakh rupees", the words "two lakh rupees in case of a company and fifty thousand rupees in case of an officer who is in default" shall be substituted;

(b) in sub-section (6), for the words "punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees", the words "liable to a penalty of two lakh rupees" shall be substituted.

Amendment of
section 105.

21. In section 105 of the principal Act, in sub-section (5),—

(a) for the words "who knowingly issues the invitations as aforesaid or wilfully authorises or permits their issue shall be punishable with fine which may extend to one lakh rupees", the words "who issues the invitation as aforesaid or authorises or permits their issue, shall be liable to a penalty of fifty thousand rupees" shall be substituted;

(b) in the proviso, for the word "punishable", the word "liable" shall be substituted.

22. In section 117 of the principal Act,—

Amendment of section 117.

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) If any company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified therein, such company shall be liable to a penalty of ten thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of two lakh rupees and every officer of the company who is in default including liquidator of the company, if any, shall be liable to a penalty of ten thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of fifty thousand rupees.";

(ii) in sub-section (3), in clause (g), for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that nothing contained in this clause shall apply in respect of a resolution passed to grant loans, or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business by,—

(a) a banking company;

2 of 1934.

(b) any class of non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934, as may be prescribed in consultation with the Reserve Bank of India;

53 of 1987.

(c) any class of housing finance company registered under the National Housing Bank Act, 1987, as may be prescribed in consultation with the National Housing Bank; and".

23. In section 124 of the principal Act, for sub-section (7), the following sub-section shall be substituted, namely:—

Amendment of section 124.

"(7) If a company fails to comply with any of the requirements of this section, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of ten lakh rupees and every officer of the company who is in default shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of two lakh rupees.".

24. In section 128 of the principal Act, in sub-section (6),—

Amendment of section 128.

(a) the words "with imprisonment for a term which may extend to one year or" shall be omitted;

(b) the words "or with both" shall be omitted.

25. After section 129 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 129A.

"129A. The Central Government may, require such class or classes of unlisted companies, as may be prescribed,—

Periodical financial results.

(a) to prepare the financial results of the company on such periodical basis and in such form as may be prescribed;

(b) to obtain approval of the Board of Directors and complete audit or limited review of such periodical financial results in such manner as may be prescribed; and

(c) file a copy with the Registrar within a period of thirty days of completion of the relevant period with such fees as may be prescribed."

Amendment
of section
134.

26. In section 134 of the principal Act, for sub-section (8), the following sub-section shall be substituted, namely:—

"(8) If a company is in default in complying with the provisions of this section, the company shall be liable to a penalty of three lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees."

Amendment
of section
135.

27. In section 135 of the principal Act,—

(a) in sub-section (5), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed.";

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) If a company is in default in complying with the provisions of sub-section (5) or sub-section (6), the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.";

(c) after sub-section (8), the following sub-section shall be inserted, namely:—

"(9) Where the amount to be spent by a company under sub-section (5) does not exceed fifty lakh rupees, the requirement under sub-section (1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company."

Amendment of
section 137.

28. In section 137 of the principal Act, in sub-section (3),—

(a) for the words "one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees", the words "ten thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day during which such failure continues, subject to a maximum of two lakh rupees," shall be substituted;

(b) for the words "one lakh rupees", the words "ten thousand rupees" shall be substituted;

(c) for the words "five lakh rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of
section 140.

29. In section 140 of the principal Act, in sub-section (3), for the words "five lakh rupees", the words "two lakh rupees" shall be substituted.

- 30.** In section 143 of the principal Act, for sub-section (15), the following sub-section shall be substituted, namely:—
- Amendment of section 143.
- "(15) If any auditor, cost accountant, or company secretary in practice does not comply with the provisions of sub-section (12), he shall,—
- (a) in case of a listed company, be liable to a penalty of five lakh rupees; and
- (b) in case of any other company, be liable to a penalty of one lakh rupees."
- 31.** In section 147 of the principal Act,—
- Amendment of section 147.
- (a) in sub-section (1),—
- (i) the words "with imprisonment for a term which may extend to one year or" shall be omitted;
- (ii) for the words "one lakh rupees, or with both", the words "one lakh rupees" shall be substituted;
- (b) in sub-section (2), the word and figures, "section 143" shall be omitted.
- 32.** In section 149 of the principal Act, in sub-section (9), the following proviso shall be inserted, namely:—
- Amendment of section 149.
- "Provided that if a company has no profits or its profits are inadequate, an independent director may receive remuneration, exclusive of any fees payable under sub-section (5) of section 197, in accordance with the provisions of Schedule V."
- 33.** In section 165 of the principal Act, for sub-section (6), the following sub-section shall be substituted, namely:—
- Amendment of section 165.
- "(6) If a person accepts an appointment as a director in violation of this section, he shall be liable to a penalty of two thousand rupees for each day after the first during which such violation continues, subject to a maximum of two lakh rupees."
- 34.** In section 167 of the principal Act, in sub-section (2),—
- Amendment of section 167.
- (a) the words "with imprisonment for a term which may extend to one year or" shall be omitted;
- (b) for the words "five lakh rupees, or with both", the words "five lakh rupees" shall be substituted.
- 35.** For section 172 of the principal Act, the following section shall be substituted, namely:—
- Amendment of section 172.
- "172. If a company is in default in complying with any of the provisions of this Chapter and for which no specific penalty or punishment is provided therein, the company and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees, and in case of continuing failure, with a further penalty of five hundred rupees for each day during which such failure continues, subject to a maximum of three lakh rupees in case of a company and one lakh rupees in case of an officer who is in default."
- Penalty.
- 36.** In section 178 of the principal Act, in sub-section (8), for the words "punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees, or with both", the words "liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of one lakh rupees" shall be substituted.
- Amendment of section 178.

- Amendment of section 184. **37.** In section 184 of the principal Act, in sub-section (4), for the words "punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees, or with both", the words "liable to a penalty of one lakh rupees" shall be substituted.
- Amendment of section 187. **38.** In section 187 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—
"(4) If a company is in default in complying with the provisions of this section, the company shall be liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of fifty thousand rupees."
- Amendment of section 188. **39.** In section 188 of the principal Act, in sub-section (5),—
(a) in clause (i), for the words "punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees, or with both", the words "liable to a penalty of twenty-five lakh rupees" shall be substituted;
(b) in clause (ii), for the words "punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees", the words "liable to a penalty of five lakh rupees" shall be substituted.
- Amendment of section 197. **40.** In section 197 of the principal Act, in sub-section (3), after the words "whole-time director or manager,", the words "or any other non-executive director, including an independent director" shall be inserted.
- Amendment of section 204. **41.** In section 204 of the principal Act, in sub-section (4), for the words "punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees", the words "liable to a penalty of two lakh rupees" shall be substituted.
- Amendment of section 232. **42.** In section 232 of the principal Act, for sub-section (8), the following sub-section shall be substituted, namely:—
"(8) If a company fails to comply with sub-section (5), the company and every officer of the company who is in default shall be liable to a penalty of twenty thousand rupees, and where the failure is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such failure continues, subject to a maximum of three lakh rupees."
- Amendment of section 242. **43.** In section 242 of the principal Act, in sub-section (8),—
(a) the words "with imprisonment for a term which may extend to six months or" shall be omitted;
(b) for the words "one lakh rupees, or with both", the words "one lakh rupees" shall be substituted.
- Amendment of section 243. **44.** In section 243 of the principal Act, in sub-section (2),—
(a) the words "with imprisonment for a term which may extend to six months or" shall be omitted;
(b) for the words "five lakh rupees, or with both", the words "five lakh rupees" shall be substituted.
- Amendment of section 247. **45.** In section 247 of the principal Act, in sub-section (3), for the words "punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees", the words "liable to a penalty of fifty thousand rupees" shall be substituted.
- Amendment of section 284. **46.** In section 284 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—
"(2) If any person required to assist or cooperate with the Company Liquidator under sub-section (1) does not assist or cooperate, the Company Liquidator may make an application to the Tribunal for necessary directions.

(3) On receiving an application under sub-section (2), the Tribunal shall, by an order, direct the person required to assist or cooperate with the Company Liquidator to comply with the instructions of the Company Liquidator and to cooperate with him in discharging his functions and duties."

47. In section 302 of the principal Act,—

Amendment of section 302.

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Tribunal shall, within a period of thirty days from the date of the order,—

(a) forward a copy of the order to the Registrar who shall record in the register relating to the company a minute of the dissolution of the company; and

(b) direct the Company Liquidator to forward a copy of the order to the Registrar who shall record in the register relating to the company a minute of the dissolution of the company.";

(b) sub-section (4) shall be omitted.

48. In section 342 of the principal Act, sub-section (6) shall be omitted.

Amendment of section 342.

49. In section 347 of the principal Act, in sub-section (4),—

Amendment of section 347.

(a) the words "with imprisonment for a term which may extend to six months or" shall be omitted;

(b) for the words "fifty thousand rupees, or with both", the words "fifty thousand rupees" shall be substituted.

50. In section 348 of the principal Act,—

Amendment of section 348.

(a) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) Where a Company Liquidator, who is an insolvency professional registered under the Insolvency and Bankruptcy Code, 2016 is in default in complying with the provisions of this section, then such default shall be deemed to be a contravention of the provisions of the said Code, and the rules and regulations made thereunder for the purposes of proceedings under Chapter VI of Part IV of that Code.";

(b) sub-section (7) shall be omitted.

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51. In section 356 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 356.

"(2) The Tribunal shall—

(a) forward a copy of the order, within thirty days from the date thereof, to the Registrar who shall record the same; and

(b) direct the Company Liquidator or the person on whose application the order was made, to file a certified copy of the order, within thirty days from the date thereof or such further period as allowed by the Tribunal, with the Registrar who shall record the same.".

Insertion of
new Chapter
XXIA.

52. After section 378 of the principal Act, the following Chapter shall be inserted, namely:—

‘CHAPTER XXIA

PRODUCER COMPANIES

PART I

PRELIMINARY

Definitions.

378A. In this Chapter, unless the context otherwise requires,—

(a) "active Member" means a Member who fulfils the quantum and period of patronage of the Producer Company as may be required by the articles;

(b) "Chief Executive" means an individual appointed as such under sub-section (1) of section 378W;

(c) "inter-State co-operative society" means a multi-State co-operative society as defined in clause (p) of section 3 of the Multi-State Co-operative Societies Act, 2002 and includes any co-operative society registered under any other law for the time being in force, which has, subsequent to its formation, extended any of its objects to more than one State by enlisting the participation of persons or by extending any of its activities outside the State, whether directly or indirectly or through an institution of which it is a constituent; 39 of 2002.

(d) "limited return" means the maximum dividend as may be specified by the articles;

(e) "Member" means a person or Producer Institution (whether incorporated or not) admitted as a Member of a Producer Company and who retains the qualifications necessary for continuance as such;

(f) "mutual assistance principles" means the principles set out in sub-section (2) of section 378G;

(g) "officer" includes any director or Chief Executive or Secretary or any person in accordance with whose directions or instructions part or whole of the business of the Producer Company is carried on;

(h) "patronage" means the use of services offered by the Producer Company to its Members by participation in its business activities;

(i) "patronage bonus" means payments made by a Producer Company out of its surplus income to the Members in proportion to their respective patronage;

(j) "primary produce" means —

(i) produce of farmers, arising from agriculture (including animal husbandry, horticulture, floriculture, pisciculture, viticulture, forestry, forest products, re-vegetation, bee raising and farming plantation products), or from any other primary activity or service which promotes the interest of the farmers or consumers; or

(ii) produce of persons engaged in handloom, handicraft and other cottage industries; or

(iii) any product resulting from any of the above activities, including by-products of such products; or

(iv) any product resulting from an ancillary activity that may assist or promote any of the aforesaid activities or anything ancillary thereto; or

(v) any activity which is intended to increase the production of anything referred to in sub-clauses (i) to (iv) or improve the quality thereof;

(k) "producer" means any person engaged in any activity connected with or relatable to any primary produce;

(l) "Producer Company" means a body corporate having objects or activities specified in section 378B and registered as Producer Company under this Act or under the Companies Act, 1956;

1 of 1956.

(m) "Producer Institution" means a Producer Company or any other institution having only producer or producers or Producer Company or Producer Companies as its member whether incorporated or not having any of the objects referred to in section 378B and which agrees to make use of the services of the Producer Company or Producer Companies as provided in its articles;

(n) "withheld price" means part of the price due and payable for goods supplied by any Member to the Producer Company; and as withheld by the Producer Company for payment on a subsequent date.

PART II

INCORPORATION OF PRODUCER COMPANIES AND OTHER MATTERS

378B. (1) The objects of the Producer Company shall relate to all or any of the following matters, namely:—

Objects of
Producer
Company.

“(a) production, harvesting, procurement, grading, pooling, handling, marketing, selling, export of primary produce of the Members or import of goods or services for their benefit:

Provided that the Producer Company may carry on any of the activities specified in this clause either by itself or through other institution;

(b) processing including preserving, drying, distilling, brewing, vinting, canning and packaging of produce of its Members;

(c) manufacture, sale or supply of machinery, equipment or consumables mainly to its Members;

(d) providing education on the mutual assistance principles to its Members and others;

(e) rendering technical services, consultancy services, training, research and development and all other activities for the promotion of the interests of its Members;

(f) generation, transmission and distribution of power, revitalisation of land and water resources, their use, conservation and communications relatable to primary produce;

(g) insurance of producers or their primary produce;

(h) promoting techniques of mutuality and mutual assistance;

(i) welfare measures or facilities for the benefit of Members as may be decided by the Board;

(j) any other activity, ancillary or incidental to any of the activities referred to in clauses (a) to (i) or other activities which may promote the principles of mutuality and mutual assistance amongst the Members in any other manner;

(k) financing of procurement, processing, marketing or other activities specified in clauses (a) to (j) which include extending of credit facilities or any other financial services to its Members.”.

(2) Every Producer Company shall deal primarily with the produce of its active Members for carrying out any of its objects specified in this section.

Formation of
Producer
Company and
its
registration.

378C. (1) Any ten or more individuals, each of them being a producer or any two or more Producer Institutions, or a combination of ten or more individuals and Producer Institutions, desirous of forming a Producer Company having its objects specified in section 378B and otherwise complying with the requirements of this Chapter and the provisions of this Act in respect of registration, may form an incorporated company as a Producer Company under this Act.

(2) If the Registrar is satisfied that all the requirements of this Act have been complied with in respect of registration and matters precedent and incidental thereto, he shall, within thirty days of the receipt of the documents required for registration, register the memorandum, the articles and other documents, if any, and issue a certificate of incorporation under this Act.

(3) A Producer Company so formed shall have the liability of its Members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them and be termed a company limited by shares.

(4) The Producer Company may reimburse to its promoters all other direct costs associated with the promotion and registration of the company including registration, legal fees, printing of a memorandum and articles and the payment thereof shall be subject to the approval at its first general meeting of the Members.

(5) On registration under sub-section (2), the Producer Company shall become a body corporate as if it is a private limited company to which the provisions contained in this Chapter apply, without, however, any limit to the number of Members thereof, and the Producer Company shall not, under any circumstance, whatsoever, become or be deemed to become a public limited company under this Act.

Membership
and voting
rights of
Members of
Producer
Company.

378D. (1)(a) In a case where the membership consists solely of individual Members, the voting rights shall be based on a single vote for every Member, irrespective of his shareholding or patronage of the Producer Company.

(b) In a case where the membership consists of Producer Institutions only, the voting rights of such Producer Institutions shall be determined on the basis of their participation in the business of the Producer Company in the previous year, as may be specified by articles:

Provided that during the first year of registration of a Producer Company, the voting rights shall be determined on the basis of the shareholding by such Producer Institutions.

(c) In a case where the membership consists of individuals and Producer Institutions, the voting rights shall be computed on the basis of a single vote for every Member.

(2) The articles of any Producer Company may provide for the conditions, subject to which a Member may continue to retain his membership, and the manner in which voting rights shall be exercised by the Members.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), any Producer Company may, if so authorised by its articles, restrict the voting rights to active Members, in any special or general meeting.

(4) No person, who has any business interest which is in conflict with business of the Producer Company, shall become a Member of that Company.

(5) A Member, who acquires any business interest which is in conflict with the business of the Producer Company, shall cease to be a Member of that Company and be removed as a Member in accordance with the articles.

378E. (1) Subject to the provisions made in articles, every Member shall initially receive only such value for the produce or products pooled and supplied as the Board of Producer Company may determine, and the withheld price may be disbursed later in cash or in kind or by allotment of equity shares, in proportion to the produce supplied to the Producer Company during the financial year to such extent and in such manner and subject to such conditions as may be decided by the Board.

Benefits to Members.

(2) Every Member shall, on the share capital contributed, receive only a limited return:

Provided that every such Member may be allotted bonus shares in accordance with the provisions contained in section 378ZJ.

(3) The surplus if any, remaining after making provision for payment of limited return and reserves referred to in section 378ZI, may be disbursed as patronage bonus, amongst the Members, in proportion to their participation in the business of the Producer Company, either in cash or by way of allotment of equity shares, or both, as may be decided by the Members at the general meeting.

378F. The memorandum of association of every Producer Company shall state—

Memorandum of Producer Company.

(a) the name of the company with "Producer Company Limited" as the last words of the name of such Company;

(b) the State in which the registered office of the Producer Company is to situate;

(c) the main objects of the Producer Company shall be one or more of the objects specified in section 378B;

(d) the names and addresses of the persons who have subscribed to the memorandum;

(e) the amount of share capital with which the Producer Company is to be registered and division thereof into shares of a fixed amount;

(f) the names, addresses and occupations of the subscribers being producers, who shall act as the first directors in accordance with sub-section (2) of section 378J;

(g) that the liability of its members is limited;

(h) against the subscriber's name, the number of shares each subscriber takes:

Provided that no subscriber shall take less than one share;

(i) that in case the objects of the Producer Company are not confined to one State, the States to whose territories the objects extend.

378G. (1) There shall be presented, for registration to the Registrar of the State to which the registered office of the Producer Company is, stated by the memorandum of association, to be situate—

Articles of association.

(a) memorandum of the Producer Company;

(b) its articles duly signed by the subscribers to the memorandum.

(2) The articles shall contain the following mutual assistance principles, namely:—

(a) the membership shall be voluntary and available, to all eligible persons who, can participate or avail of the facilities or services of the Producer Company, and are willing to accept the duties of membership;

(b) each Member shall, save as otherwise provided in this Chapter, have only a single vote irrespective of the shareholding;

(c) the Producer Company shall be administered by a Board consisting of persons elected or appointed as directors in the manner consistent with the provisions of this Chapter and the Board shall be accountable to the Members;

(d) particulars on limited return on share capital;

(e) the surplus arising out of the operations of the Producer Company shall be distributed in an equitable manner by—

(i) providing for the development of the business of the Producer Company;

(ii) providing for common facilities; and

(iii) distributing amongst the Members, as may be admissible in proportion to their respective participation in the business;

(f) provision for the education of Members, employees and others, on the principles of mutuality and techniques of mutual assistance;

(g) the Producer Company shall actively co-operate with other Producer Companies (and other organisations following similar principles) at local, national or international level so as to best serve the interest of their Members and the communities it purports to serve.

(3) Without prejudice to the generality of the foregoing provisions of sub-sections (1) and (2), the articles shall contain the following provisions, namely:—

(a) the qualifications for membership, the conditions for continuance or cancellation of membership and the terms, conditions and procedure for transfer of shares;

(b) the manner of ascertaining the patronage and voting right based on patronage;

(c) subject to the provisions contained in sub-section (1) of section 378N, the manner of constitution of the Board, its powers and duties, the minimum and maximum number of directors, manner of election and appointment of directors and retirement by rotation, qualifications for being elected or continuance as such and the terms of office of the said directors, their powers and duties, conditions for election or co-option of directors, method of removal of directors and the filling up of vacancies on the Board, and the manner and the terms of appointment of the Chief Executive;

(d) the election of the Chairman, term of office of directors and the Chairman, manner of voting at the general or special meetings of Members, procedure for voting, by directors at meetings of the Board, powers of the Chairman and the circumstances under which the Chairman may exercise a casting vote;

(e) the circumstances under which, and the manner in which, the withheld price is to be determined and distributed;

(f) the manner of disbursement of patronage bonus in cash or by issue of equity shares, or both;

(g) the contribution to be shared and related matters referred to in sub-section (2) of section 378ZI;

(h) the matters relating to issue of bonus shares out of general reserves as set out in section 378ZJ;

(i) the basis and manner of allotment of equity shares of the Producer Company in lieu of the whole or part of the sale proceeds of produce or products supplied by the Members;

(j) the amount of reserves, sources from which funds may be raised, limitation on raising of funds, restriction on the use of such funds and the extent of debt that may be contracted and the conditions thereof;

(k) the credit, loans or advances which may be granted to a Member and the conditions for the grant of the same;

(l) the right of any Member to obtain information relating to general business of the company;

(m) the basis and manner of distribution and disposal of funds available after meeting liabilities in the event of dissolution or liquidation of the Producer Company;

(n) the authorisation for division, amalgamation, merger, creation of subsidiaries and the entering into joint ventures and other matters connected therewith;

(o) laying of the memorandum and articles of the Producer Company before a special general meeting to be held within ninety days of its registration;

(p) any other provision, which the Members may, by special resolution recommend to be included in the articles.

378H. (1) A Producer Company shall not alter the conditions contained in its memorandum except in the cases, by the mode and to the extent for which express provision is made in this Act.

Amendment
of
memorandum.

(2) A Producer Company may, by special resolution, not inconsistent with section 378B, alter its objects specified in its memorandum.

(3) A copy of the amended memorandum, together with a copy of the special resolution duly certified by two directors, shall be filed with the Registrar within thirty days from the date of adoption of any resolution referred to in sub-section (2):

Provided that in the case of transfer of the registered office of a Producer Company from the jurisdiction of one Registrar to another, certified copies of the special resolution certified by two directors shall be filed with both the Registrars within thirty days, and each Registrar shall record the same, and thereupon the Registrar from whose jurisdiction the office is transferred, shall forthwith forward to the other Registrar all documents relating to the Producer Company.

(4) The alteration of the provisions of memorandum relating to the change of the place of its registered office from one State to another shall not take effect unless it is approved by the Central Government on an application in such form and manner as may be prescribed.

378-I. (1) Any amendment of the articles shall be proposed by not less than two-thirds of the elected directors or by not less than one-third of the Members of the Producer Company, and adopted by the Members by a special resolution.

Amendment
of articles.

(2) A copy of the amended articles together with the copy of the special resolution, both duly certified by two directors, shall be filed with the Registrar within fifteen days from the date of its adoption.

Option to inter-State co-operative societies to become Producer Companies.

378J. (1) Notwithstanding anything contained in sub-section (1) of section 378C, any inter-State co-operative society with objects not confined to one State may make an application to the Registrar for registration as Producer Company under this Chapter.

(2) Every application under sub-section (1) shall be accompanied by—

(a) a copy of the special resolution, of not less than two-thirds of total members of inter-State co-operative society, for its incorporation as a Producer Company under this Act;

(b) a statement showing—

(i) names and addresses or the occupation of the directors and the Chief Executive, if any, by whatever name called, of such co-operative; and

(ii) list of members of such inter-State co-operative society;

(c) a statement indicating that the inter-State co-operative society is engaged in any one or more of the objects specified in section 378B;

(d) a declaration by two or more directors of the inter-State co-operative society certifying that particulars given in clauses (a) to (c) are correct.

(3) When an inter-State co-operative society is registered as a Producer Company, the words "Producer Company Limited" shall form part of its name with any word or expression to show its identity preceding it.

(4) On compliance with the requirements of sub-sections (1) to (3), the Registrar shall, within a period of thirty days of the receipt of application, certify under his hand that the inter-State co-operative society applying for registration is registered and thereby incorporated as a Producer Company under this Chapter.

(5) A co-operative society formed by producers, by federation or union of co-operative societies of producers or co-operatives of producers, registered under any law for the time being in force which has extended its objects outside the State, either directly or through a union or federation of co-operatives of which it is a constituent, as the case may be, and any federation or unions of such co-operatives, which has so extended any of its objects or activities outside the State, shall be eligible to make an application under sub-section (1) and to obtain registration as a Producer Company under this Chapter.

(6) The inter-State co-operative society shall, upon registration under sub-section (1), stand transformed into a Producer Company, and thereafter shall be governed by the provisions of this Chapter to the exclusion of the law by which it was earlier governed, save in so far as anything done or omitted to be done before its registration as a Producer Company, and notwithstanding anything contained in any other law for the time being in force, no person shall have any claim against the co-operative institution or the company by reason of such conversion or transformation.

(7) Upon registration as a Producer Company, the Registrar of Companies who registers the company shall forthwith intimate the Registrar with whom the erstwhile inter-State co-operative society was earlier registered for deletion of the society from its register.

378K. Every shareholder of the inter-State co-operative society immediately before the date of registration of Producer Company (hereafter in this Chapter referred to as the date of transformation) shall be deemed to be registered on and from that date as a shareholder of the Producer Company to the extent of the face value of the shares held by such shareholder.

Effect of incorporation of Producer Company.

378L. (1) All properties and assets, movable and immovable, of, or belonging to, the inter-State co-operative society as on the date of transformation, shall vest in the Producer Company.

Vesting of undertaking in Producer Company.

(2) All the rights, debts, liabilities, interests, privileges and obligations of the inter-State co-operative society as on the date of transformation shall stand transferred to, and be the rights, debts, liabilities, interests, privileges and obligations of, the Producer Company.

(3) Without prejudice to the provisions contained in sub-section (2), all debts, liabilities and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the society as on the date of transformation for or in connection with their purposes, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Producer Company.

(4) All sums of money due to the inter-State co-operative society immediately before the date of transformation, shall be deemed to be due to the Producer Company.

(5) Every organisation, which was being managed immediately before the date of transformation by the inter-State co-operative society shall be managed by the Producer Company for such period, to such extent and in such manner as the circumstances may require.

(6) Every organisation which was getting financial, managerial or technical assistance from the inter-State co-operative society, immediately before the date of transformation, may continue to be given financial, managerial or technical assistance, as the case may be, by the Producer Company, for such period, to such extent and in such manner as that company may deem fit.

(7) The amount representing the capital of the erstwhile inter-State co-operative society shall form part of the capital of the Producer Company.

(8) Any reference to the inter-State co-operative society in any law other than this Act or in any contract or other instrument, shall be deemed to be reference to the Producer Company.

(9) If, on the date of transformation, there is pending any suit, arbitration, appeal or other legal proceeding of whatever nature by or against the inter-State co-operative society, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the incorporation of the Producer Company under section 378C or transformation of the inter-State co-operative society as a Producer Company under section 378J, as the case may be, but the suit, arbitration, appeal or other proceeding, may be continued, prosecuted and enforced by or against the Producer Company in the same manner and to the same extent as it would have, or may have been continued, prosecuted and enforced by or against the inter-State co-operative society as if the provisions contained in this Chapter had not come into force.

378M. With effect from the date of transformation, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the inter-State co-operative society in connection with the affairs and business of the inter-State co-operative society under any law for the time being in force shall be deemed to have been granted to the Producer Company.

Concession, etc., to be deemed to have been granted to Producer Company.

Provisions in respect of officers and other employees of inter-State co-operative society.

378N. (1) Notwithstanding anything contained in section 378-O, all the directors in the inter-State co-operative society before the incorporation of the Producer Company shall continue in office for a period of one year from the date of transformation and in accordance with the provisions of this Act.

(2) Every officer or other employee of the inter-State co-operative society (except a director of the Board, Chairman or Managing Director) serving in its employment immediately before the date of transformation shall, in so far as such officer or other employee is employed in connection with the inter-State co-operative society which has vested in the Producer Company by virtue of this Act, become, as from the date of transformation, an officer or, as the case may be, other employee of the Producer Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave travel concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the erstwhile inter-State co-operative society if its undertaking had not vested in the Producer Company and shall continue to do so as an officer or, as the case may be, other employee of the Producer Company.

(3) Where an officer or other employee of the inter-State co-operative society opts under sub-section (2) not to be in employment or service of the Producer Company, such officer or other employee shall be deemed to have resigned.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the inter-State co-operative society to the Producer Company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

(5) The officers and other employees who have retired before the date of transformation from the service of the inter-State co-operative society and are entitled to any benefits, rights or privileges, shall be entitled to receive the same benefits, rights or privileges from the Producer Company.

(6) The trusts of the provident fund or the gratuity fund of the inter-State co-operative society and any other bodies created for the welfare of officers or employees shall continue to discharge functions in the Producer Company as was being done hitherto in the inter-State co-operative society and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Producer Company.

(7) Notwithstanding anything contained in this Act or in any other law for the time being in force or in the regulations of the inter-State co-operative society, no director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the inter-State co-operative society shall be entitled to any compensation against the inter-State co-operative society or the Producer Company for the loss of office or for the premature termination of any contract of management entered into by him with the inter-State co-operative society.

PART III

MANAGEMENT OF PRODUCER COMPANY

Number of directors.

378-O. Every Producer Company shall have at least five and not more than fifteen directors:

Provided that in the case of an inter-State co-operative society incorporated as

a Producer Company, such company may have more than fifteen directors for a period of one year from the date of its incorporation as a Producer Company.

378P. (1) Save as otherwise provided in section 378N, the Members who sign the memorandum and the articles may designate therein the Board of Directors, not less than five, who shall govern the affairs of the Producer Company until the directors are elected in accordance with the provisions of this section.

Appointment
of directors.

(2) The election of directors shall be conducted within a period of ninety days of the registration of the Producer Company:

Provided that in the case of an inter-State co-operative society which has been registered as a Producer Company under sub-section (4) of section 378J in which at least five directors [including the directors continuing in office under sub-section (1) of section 378N] hold office as such on the date of registration of such company, the provisions of this sub-section shall have effect as if for the words "ninety days", the words "three hundred and sixty-five days" had been substituted.

(3) Every person shall hold office of a director for a period not less than one year but not exceeding five years as may be specified in the articles.

(4) Every director, who retires in accordance with the articles, shall be eligible for re-appointment as a director.

(5) Save as otherwise provided in sub-section (2), the directors of the Board shall be elected or appointed by the Members in the annual general meeting.

(6) The Board may co-opt one or more expert directors or an additional director not exceeding one-fifth of the total number of directors or appoint any other person as additional director for such period as the Board may deem fit:

Provided that the expert directors shall not have the right to vote in the election of the Chairman but shall be eligible to be elected as Chairman, if so provided by its articles:

Provided further that the maximum period, for which the expert director or the additional director holds office, shall not exceed such period as may be specified in the articles.

378Q. (1) The office of the director of a Producer Company shall become vacant if,—

Vacation of
office by
directors.

(a) he is convicted by a court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months;

(b) the Producer Company, in which he is a director, has made a default in repayment of any advances or loans taken from any company or institution or any other person and such default continues for ninety days;

(c) he has made a default in repayment of any advances or loans taken from the Producer Company in which he is a director;

(d) the Producer Company, in which he is a director—

(i) has not filed the annual accounts and annual return for any continuous three financial years; or

(ii) has failed to, repay its deposit or withheld price or patronage bonus or interest thereon on due date, or pay dividend and such failure continues for one year or more;

(e) default is made in holding election for the office of director, in the Producer Company in which he is a director, in accordance with the provisions of this Act and articles;

(f) the annual general meeting or extraordinary general meeting of the Producer Company, in which he is a director, is not called in accordance with the provisions of this Act except due to natural calamity or such other reason.

(2) The provisions of sub-section (1) shall, as far as may be, apply to the director of a Producer Institution which is a member of a Producer Company.

Powers and functions of Board.

378R. (1) Subject to the provisions of this Act and articles, the Board of Directors of a Producer Company shall exercise all such powers and to do all such acts and things, as that Company is authorised so to do.

(2) In particular and without prejudice to the generality of the foregoing powers, such powers may include all or any of the following matters, namely:—

(a) determination of the dividend payable;

(b) determination of the quantum of withheld price and recommend patronage to be approved at general meeting;

(c) admission of new Members;

(d) pursue and formulate the organisational policy, objectives, establish specific long-term and annual objectives, and approve corporate strategies and financial plans;

(e) appointment of a Chief Executive and such other officers of the Producer Company, as may be specified in the articles;

(f) exercise superintendence, direction and control over Chief Executive and other officers appointed by it;

(g) cause proper books of account to be maintained; prepare annual accounts to be placed before the annual general meeting with the report of the auditor and the replies on qualifications, if any, made by the auditors;

(h) acquisition or disposal of property of the Producer Company in its ordinary course of business;

(i) investment of the funds of the Producer Company in the ordinary course of its business;

(j) sanction any loan or advance, in connection with the business activities of the Producer Company to any Member, not being a director or his relative;

(k) take such other measures or do such other acts as may be required in the discharge of its functions or exercise of its powers.

(3) All the powers specified in sub-sections (1) and (2) shall be exercised by the Board, by means of resolution passed at its meeting on behalf of the Producer Company.

Explanation.—For the removal of doubts, it is hereby declared that a director or a group of directors, who do not constitute the Board, shall not exercise any of the powers exercisable by it.

Matters to be transacted at general meeting.

378S. The Board of Directors of a Producer Company shall exercise the following powers on behalf of that Company, and it shall do so only by means of resolutions passed at the annual general meeting of its Members, namely:—

(a) approval of budget and adoption of annual accounts of the Producer Company;

(b) approval of patronage bonus;

(c) issue of bonus shares;

(d) declaration of limited return and decision on the distribution of patronage;

(e) specify the conditions and limits of loans that may be given by the Board to any director; and

(f) approval of any transaction of the nature as is to be reserved in the articles for approval by the Members.

378T. (1) When the directors vote for a resolution, or approve by any other means, anything done in contravention of the provisions of this Act or any other law for the time being in force or articles, they shall be jointly and severally liable to make good any loss or damage suffered by the Producer Company.

Liability of directors.

(2) Without prejudice to the provisions contained in sub-section (1), the Producer Company shall have the right to recover from its director—

(a) where such director has made any profit as a result of the contravention specified in sub-section (1), an amount equal to the profit so made;

(b) where the Producer Company incurred a loss or damage as a result of the contravention specified in sub-section (1), an amount equal to that loss or damage.

(3) The liability imposed under this section shall be in addition to and not in derogation of a liability imposed on a director under this Act or any other law for the time being in force.

378U. (1) The Board may constitute such number of committees as it may deem fit for the purpose of assisting the Board in the efficient discharge of its functions:

Committee of directors.

Provided that the Board shall not delegate any of its powers or assign the powers of the Chief Executive, to any committee.

(2) A committee constituted under sub-section (1) may, with the approval of the Board, co-opt such number of persons as it deems fit as members of the committee:

Provided that the Chief Executive appointed under section 378W or a director of the Producer Company shall be a member of such committee.

(3) Every such committee shall function under the general superintendence, direction and control of the Board, for such duration, and in such manner as the Board may direct.

(4) The fee and allowances to be paid to the members of the committee shall be such as may be determined by the Board.

(5) The minutes of each meeting of the committee shall be placed before the Board at its next meeting.

378V. (1) A meeting of the Board shall be held not less than once in every three months and at least four such meetings shall be held in every year.

Meetings of Board and quorum.

(2) Notice of every meeting of the Board of Directors shall be given in writing to every director for the time being in India, and at his usual address in India to every other director.

(3) The Chief Executive shall give notice as aforesaid not less than seven days prior to the date of the meeting of the Board and if he fails to do so, he shall be liable to a penalty of five thousand rupees:

Provided that a meeting of the Board may be called at shorter notice and the reasons thereof shall be recorded in writing by the Board.

(4) The quorum for a meeting of the Board shall be one-third of the total strength of directors, subject to a minimum of three.

(5) Save as provided in the articles, directors including the co-opted director, may be paid such fees and allowances for attendance at the meetings of the Board, as may be decided by the Members in the general meeting.

Chief Executive and his functions.

378W. (1) Every Producer Company shall have a full time Chief Executive, by whatever name called, to be appointed by the Board from amongst persons other than Members.

(2) The Chief Executive shall be *ex officio* director of the Board and such director shall not retire by rotation.

(3) Save as otherwise provided in articles, the qualifications, experience and the terms and conditions of service of the Chief Executive shall be such as may be determined by the Board.

(4) The Chief Executive shall be entrusted with substantial powers of management as the Board may determine.

(5) Without prejudice to the generality of sub-section (4), the Chief Executive may exercise the powers and discharge the functions, namely:—

(a) do administrative acts of a routine nature including managing the day-to-day affairs of the Producer Company;

(b) operate bank accounts or authorise any person, subject to the general or special approval of the Board in this behalf, to operate the bank account;

(c) make arrangements for safe custody of cash and other assets of the Producer Company;

(d) sign such documents as may be authorised by the Board, for and on behalf of the company;

(e) maintain proper books of account; prepare annual accounts and audit thereof; place the audited accounts before the Board and in the annual general meeting of the Members;

(f) furnish Members with periodic information to apprise them of the operation and functions of the Producer Company;

(g) make appointments to posts in accordance with the powers delegated to him by the Board;

(h) assist the Board in the formulation of goals, objectives, strategies, plans and policies;

(i) advise the Board with respect to legal and regulatory matters concerning the proposed and ongoing activities and take necessary action in respect thereof;

(j) exercise the powers as may be necessary in the ordinary course of business;

(k) discharge such other functions, and exercise such other powers, as may be delegated by the Board.

(6) The Chief Executive shall manage the affairs of the Producer Company under the general superintendence, direction and control of the Board and be accountable for the performance of the Producer Company.

Secretary of Producer Company.

378X. (1) Every Producer Company having an average annual turnover exceeding five crore rupees or such other amount as may be prescribed in each of three consecutive financial years shall have a whole-time secretary.

56 of 1980.

(2) No individual shall be appointed as whole-time secretary unless he possesses membership of the Institute of Company Secretaries of India constituted under the Company Secretaries Act, 1980.

(3) If a Producer Company fails to comply with the provisions of sub-section (1), the Company and every officer of the Company who is in default, shall be liable to a penalty of one hundred rupees for every day during which the default continues subject to a maximum of rupees one lakh:

Provided that in any proceedings against a person in respect of a default under this sub-section, no penalty shall be imposed if it is shown that all reasonable efforts to comply with the provisions of sub-section (1) were taken or that the financial position of the Company was such that it was beyond its capacity to engage a whole-time secretary.

378Y. Unless the articles require a larger number, one-fourth of the total membership shall constitute the quorum at a general meeting. Quorum.

378Z. Save as otherwise provided in sub-sections (1) and (3) of section 378D, every Member shall have one vote and in the case of equality of votes, the Chairman or the person presiding shall have a casting vote except in the case of election of the Chairman. Voting rights.

PART IV

GENERAL MEETINGS

378ZA. (1) Every Producer Company shall in each year, hold, in addition to any other meetings, a general meeting, as its annual general meeting and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a Producer Company and that of the next: Annual general meetings.

Provided that the Registrar may, for any special reason, permit extension of the time for holding any annual general meeting (not being the first annual general meeting) by a period not exceeding three months.

(2) A Producer Company shall hold its first annual general meeting within a period of ninety days from the date of its incorporation.

(3) The Members shall adopt the articles of the Producer Company and appoint directors of its Board in the annual general meeting.

(4) The notice calling the annual general meeting shall be accompanied by the following documents, namely:—

(a) the agenda of the annual general meeting;

(b) the minutes of the previous annual general meeting or the extraordinary general meeting;

(c) the names of candidates for election, if any, to the office of director including a statement of qualifications in respect of each candidate;

(d) the audited balance-sheet and profit and loss accounts of the Producer Company and its subsidiary, if any, together with a report of the Board of Directors of such Company with respect to—

(i) the state of affairs of the Producer Company;

(ii) the amount proposed to be carried to reserve;

(iii) the amount to be paid as limited return on share capital;

(iv) the amount proposed to be disbursed as patronage bonus;

(v) the material changes and commitments, if any, affecting the financial position of the Producer Company and its subsidiary, which have occurred in between the date of the annual accounts of the Producer Company to which the balance-sheet relates and the date of the report of the Board;

(vi) any other matter of importance relating to energy conservation, environmental protection, expenditure or earnings in foreign exchanges;

(vii) any other matter which is required to be, or may be, specified by the Board;

(e) the text of the draft resolution for appointment of auditors;

(f) the text of any draft resolution proposing amendment to the memorandum or articles to be considered at the general meeting, alongwith the recommendations of the Board.

(5) The Board of Directors shall, on the requisition made in writing, duly signed and setting out the matters for the consideration, made by one-third of the Members entitled to vote in any general meeting, proceed to call an extraordinary general meeting in accordance with the relevant provisions contained in Chapter VII.

(6) Every annual general meeting shall be called, for a time during business hours, on a day that is not a public holiday and shall be held at the registered office of the Producer Company or at some other place within the city, town or village in which the registered office of the Company is situate.

(7) A general meeting of the Producer Company shall be called by giving not less than fourteen days prior notice in writing.

(8) The notice of the general meeting indicating the date, time and place of the meeting shall be sent to every Member and auditor of the Producer Company.

(9) Unless the articles of the Producer Company provide for a larger number, one-fourth of the total number of members of the Producer Company shall be the quorum for its annual general meeting.

(10) The proceedings of every annual general meeting alongwith the report of the Board of Directors, the audited balance-sheet and the profit and loss account shall be filed with the Registrar within sixty days of the date on which the annual general meeting is held, with an annual return alongwith the filing fees as applicable under the Act.

(11) In the case where a Producer Company is formed by Producer Institutions, such Institutions shall be represented in the general body through the Chairman or the Chief Executive thereof who shall be competent to act on its behalf:

Provided that a Producer Institution shall not be represented if such Institution is in default or failure referred to in clauses (d) to (f) of sub-section (1) of section 378Q.

PART V

SHARE CAPITAL AND MEMBERS RIGHTS

Share capital.

378ZB. (1) The share capital of a Producer Company shall consist of equity shares only.

(2) The shares held by a Member in a Producer Company, shall as far as may be, be in proportion to the patronage of that company.

378ZC. (1) The producers, who are active Members may, if so provided in the articles, have special rights and the Producer Company may issue appropriate instruments to them in respect of such special rights.

Special user rights.

(2) The instruments of the Producer Company issued under sub-section (1) shall, after obtaining approval of the Board in that behalf, be transferable to any other active Member of that Producer Company.

Explanation.—For the purposes of this section, the expression "special right" means any right relating to supply of additional produce by the active Member or any other right relating to his produce which may be conferred upon him by the Board.

378ZD. (1) Save as otherwise provided in sub-sections (2) to (4), the shares of a Member of a Producer Company shall not be transferable.

Transferability of shares and attendant rights.

(2) A Member of a Producer Company may, after obtaining the previous approval of the Board, transfer the whole or part of his shares alongwith any special rights, to an active Member at par value.

(3) Every Member shall, within three months of his becoming a Member in the Producer Company, nominate, in the manner specified in articles, a person to whom his shares in the Producer Company shall vest in the event of his death.

(4) The nominee shall, on the death of the Member, become entitled to all the rights in the shares of the Producer Company and the Board of that Company shall transfer the shares of the deceased Member to his nominee:

Provided that in a case where such nominee is not a producer, the Board shall direct the surrender of shares together with special rights, if any, to the Producer Company at par value or such other value as may be determined by the Board.

(5) Where the Board of a Producer Company is satisfied that—

(a) any Member has ceased to be a primary producer; or

(b) any Member has failed to retain his qualifications to be a Member as specified in articles,

the Board shall direct the surrender of shares together with special rights, if any, to the Producer Company at par value or such other value as may be determined by the Board:

Provided that the Board shall not direct such surrender of shares unless the Member has been served with a written notice and given an opportunity of being heard.

PART VI

FINANCE, ACCOUNTS AND AUDIT

378ZE. (1) Every Producer Company shall keep at its registered office proper books of account with respect to—

Books of account.

(a) all sums of money received and expended by the Producer Company and the matters in respect of which the receipts and expenditure take place;

(b) all sales and purchase of goods by the Producer Company;

(c) the instruments of liability executed by or on behalf of the Producer Company;

(d) the assets and liabilities of the Producer Company;

(e) in case of a Producer Company engaged in production, processing and manufacturing, the particulars relating to utilisation of materials or labour or other items of costs.

(2) The balance-sheet and profit and loss accounts of the Producer Company shall be prepared, as far as may be, in accordance with the provisions contained in section 129.

Internal audit.

378ZF. Every Producer Company shall have internal audit of its accounts carried out, at such interval and in such manner as may be specified in articles, by a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949.

38 of 1949.

Duties of auditor under this Chapter.

378ZG. Without prejudice to the provisions contained in section 143, the auditor shall report on the following additional matters relating to the Producer Company, namely:—

- (a) the amount of debts due alongwith particulars of bad debts, if any;
- (b) the verification of cash balance and securities;
- (c) the details of assets and liabilities;
- (d) all transactions which appear to be contrary to the provisions of this Chapter;
- (e) the loans given by the Producer Company to the directors;
- (f) the donations or subscriptions given by the Producer Company;
- (g) any other matter as may be considered necessary by the auditor.

Donation or subscription by Producer Company.

378ZH. A Producer Company may, by special resolution, make donation or subscription to any institution or individual for the purposes of—

- (a) promoting the social and economic welfare of Producer Members or producers or general public; or
- (b) promoting the mutual assistance principles:

Provided that the aggregate amount of all such donations and subscriptions in any financial year shall not exceed three per cent. of the net profit of the Producer Company in the financial year immediately preceding the financial year in which the donation or subscription was made:

Provided further that no Producer Company shall make directly or indirectly to any political party or for any political purpose to any person any contribution or subscription or make available any facilities including personnel or material.

General and other reserves.

378Z-I. (1) Every Producer Company shall maintain a general reserve in every financial year, in addition to any reserve maintained by it as may be specified in articles.

(2) In a case where the Producer Company does not have sufficient funds in any financial year for transfer to maintain the reserves as may be specified in articles, the contribution to the reserve shall be shared amongst the Members in proportion to their patronage in the business of that Company in that year.

Issue of bonus shares.

378ZJ. Any Producer Company may, upon recommendation of the Board and passing of resolution in the general meeting, issue bonus shares by capitalisation of amounts from general reserves referred to in section 378Z-I in proportion to the shares held by the Members on the date of the issue of such shares.

PART VII

LOANS TO MEMBERS AND INVESTMENTS

Loan, etc., to Members.

378ZK. The Board may, subject to the provisions made in articles, provide financial assistance to the Members of the Producer Company by way of—

- (a) credit facility, to any Member, in connection with the business of the Producer Company, for a period not exceeding six months;

(b) loans and advances, against security specified in articles to any Member, repayable within a period exceeding three months but not exceeding seven years from the date of disbursement of such loan or advances:

Provided that any loan or advance to any director or his relative shall be granted only after the approval by the Members in general meeting.

378ZL. (1) The general reserves of any Producer Company shall be invested to secure the highest returns available from approved securities, fixed deposits, units, bonds issued by the Government or co-operative or scheduled bank or in such other mode as may be prescribed.

Investment in other companies, formation of subsidiaries, etc.

(2) Any Producer Company may, for promotion of its objectives acquire the shares of another Producer Company.

(3) Any Producer Company may subscribe to the share capital of, or enter into any agreement or other arrangement, whether by way of formation of its subsidiary company, joint venture or in any other manner with any body corporate, for the purpose of promoting the objects of the Producer Company by special resolution in this behalf.

(4) Any Producer Company, either by itself or together with its subsidiaries, may invest, by way of subscription, purchase or otherwise, shares in any other company, other than a Producer Company, specified under sub-section (2), or subscription of capital under sub-section (3), for an amount not exceeding thirty per cent. of the aggregate of its paid-up capital and free reserves:

Provided that a Producer Company may, by special resolution passed in its general meeting and with prior approval of the Central Government, invest in excess of the limits specified in this section.

(5) All investments by a Producer Company may be made if such investments are consistent with the objects of the Producer Company.

(6) The Board of a Producer Company may, with the previous approval of Members by a special resolution, dispose of any of its investments referred to in sub-sections (3) and (4).

(7) Every Producer Company shall maintain a register containing particulars of all the investments, showing the names of the companies in which shares have been acquired, number and value of shares; the date of acquisition; and the manner and price at which any of the shares have been subsequently disposed of.

(8) The register referred to in sub-section (7) shall be kept at the registered office of the Producer Company and the same shall be open to inspection by any Member who may take extracts therefrom.

PART VIII

PENALTIES

378ZM. (1) If any person, other than a Producer Company registered under this Chapter, carries on business under any name which contains the words "Producer Company Limited", he shall be punishable with fine which may extend to ten thousand rupees for every day during which such name has been used by him.

Penalty for contravention.

(2) If a director or an officer of a Producer Company, who wilfully fails to furnish any information relating to the affairs of the Producer Company required by a Member or a person duly authorised in this behalf, he shall be liable to imprisonment for a term which may extend to six months and with fine equivalent to five per cent. of the turnover of that Company during the preceding financial year.

(3) If a director or officer of a Producer Company—

(a) fails to hand over the custody of books of account and other documents or property in his custody to the Producer Company of which he is a director or officer; or

(b) fails to convene annual general meeting or other general meetings, he shall be punishable with fine which may extend to one lakh rupees, and in the case of a continuing default or failure, with an additional fine which may extend to ten thousand rupees for every day during which such default or failure continues.

PART IX

AMALGAMATION, MERGER OR DIVISION

Amalgamation, merger or division, etc., to form new Producer Companies.

378ZN. (1) A Producer Company may, by a resolution passed at its general meeting,—

(a) decide to transfer its assets and liabilities, in whole or in part, to any other Producer Company, which agrees to such transfer by a resolution passed at its general meeting, for any of the objects specified in section 378B;

(b) divide itself into two or more new Producer Companies.

(2) Any two or more Producer Companies may, by a resolution passed at any general or special meetings of its Members, decide to—

(a) amalgamate and form a new Producer Company; or

(b) merge one Producer Company (hereafter in this Chapter referred to as "merging company") with another Producer Company (hereafter in this Chapter referred to as "merged company").

(3) Every resolution of a Producer Company under this section shall be passed at its general meeting by a majority of total Members, with right of vote not less than two-thirds of its Members present and voting and such resolution shall contain all particulars of the transfer of assets and liabilities, or division, amalgamation, or merger, as the case may be.

(4) Before passing a resolution under this section, the Producer Company shall give notice thereof in writing together with a copy of the proposed resolution to all the Members and creditors who may give their consent.

(5) Notwithstanding anything contained in articles or in any contract to the contrary, any Member, or any creditor not consenting to the resolution shall, during the period of one month of the date of service of the notice on him, have the option,—

(a) in the case of any such Member, to transfer his shares with the approval of the Board to any active Member thereby ceasing to continue as a Member of that Company; or

(b) in the case of a creditor, to withdraw his deposit or loan or advance, as the case may be.

(6) Any Member or creditor, who does not exercise his option within the period specified in sub-section (5), shall be deemed to have consented to the resolution.

(7) A resolution passed by a Producer Company under this section shall not take effect until the expiry of one month or until the assent thereto of all the Members and creditors has been obtained, whichever is earlier.

(8) The resolution referred to in this section shall provide for—

(a) the regulation of conduct of the affairs of the Producer Company in future;

(b) the purchase of shares or interest of any Members of the Producer Company by other Members or by the Producer Company;

(c) the consequent reduction of its share capital, in case of purchase of shares of one Producer Company by another Producer Company;

(d) termination, setting aside or modification of any agreement, howsoever arrived between the company on the one hand and the directors, secretaries and manager on the other hand, apart from such terms and conditions as may, in the opinion of the majority of shareholders, be just and equitable in the circumstances of the case;

(e) termination, setting aside or modification of any agreement between the Producer Company and any person not referred to in clause (d):

Provided that no such agreement shall be terminated, set aside or modified except after giving due notice to the party concerned:

Provided further that no such agreement shall be modified except after obtaining the consent of the party concerned;

(f) the setting aside of any transfer, delivery of goods, payment, execution or other act relating to property, made or done by or against the Producer Company within three months before the date of passing of the resolution, which would if made or done against any individual, be deemed in his insolvency to be a fraudulent preference;

(g) the transfer to the merged company of the whole or any part of the undertaking, property or liability of the Producer Company;

(h) the allotment or appropriation by the merged company of any shares, debentures, policies, or other like interests in the merged company;

(i) the continuation by or against the merged company of any legal proceedings pending by or against any Producer Company;

(j) the dissolution, without winding up, of any Producer Company;

(k) the provision to be made for the Members or creditors who make dissent;

(l) the taxes, if any, to be paid by the Producer Company;

(m) such incidental, consequential and supplemental matters as are necessary to secure that the division, amalgamation or merger shall be fully and effectively carried out.

(9) When a resolution passed by a Producer Company under this section takes effect, the resolution shall be a sufficient conveyance to vest the assets and liabilities in the transferee.

(10) The Producer Company shall make arrangements for meeting in full or otherwise satisfying all claims of the Members and the creditors who exercise the option, within the period specified in sub-section (4), not to continue as the Member or creditor, as the case may be.

(11) Where the whole of the assets and liabilities of a Producer Company are transferred to another Producer Company in accordance with the provisions of sub-section (9), or where there is merger under sub-section (2), the registration of the first mentioned Company or the merging company, as the case may be, shall stand cancelled and that Company shall be deemed to have been dissolved and shall cease to exist forthwith as a corporate body.

(12) Where two or more Producer Companies are amalgamated into a new Producer Company in accordance with the provisions of sub-section (2) and the Producer Company so formed is duly registered by the Registrar, the registration of each of the amalgamating companies shall stand cancelled forthwith on such registration and each of the Companies shall thereupon cease to exist as a corporate body.

(13) Where a Producer Company divides itself into two or more Producer Companies in accordance with the provisions of clause (b) of sub-section (1) and the new Producer Companies are registered in accordance with the provisions of this Chapter, the registration of the erstwhile Producer Company shall stand cancelled forthwith and that Company shall be deemed to have been dissolved and cease to exist as a corporate body.

(14) The amalgamation, merger or division of companies under the foregoing sub-sections shall not in any manner whatsoever affect the pre-existing rights or obligations and any legal proceedings that might have been continued or commenced by or against any erstwhile company before the amalgamation, merger or division, may be continued or commenced by, or against, the concerned resulting company, or merged company, as the case may be.

(15) The Registrar shall strike off the names of every Producer Company deemed to have been dissolved under sub-sections (11) to (14).

(16) Any member or creditor or employee aggrieved by the transfer of assets, division, amalgamation or merger may, within thirty days of the passing of the resolution, prefer an appeal to the Tribunal.

(17) The Tribunal shall, after giving a reasonable opportunity to the person concerned, pass such orders thereon as it may deem fit.

(18) Where an appeal has been filed under sub-section (16), the transfer of assets, division, amalgamation or merger of the Producer Company shall be subject to the decision of the Tribunal.

PART X

RESOLUTION OF DISPUTES

Disputes.

378Z-O. (1) Where any dispute relating to the formation, management or business of a Producer Company arises—

(a) amongst Members, former Members or persons claiming to be Members or nominees of deceased Members; or

(b) between a Member, former Member or a person claiming to be a Member, or nominee of deceased Member and the Producer Company, its Board of Directors, office-bearers, or liquidator, past or present; or

(c) between the Producer Company or its Board, and any director, office-bearer or any former director, or the nominee, heir or legal representative of any deceased director of the Producer Company,

such dispute shall be settled by conciliation or by arbitration as provided under the Arbitration and Conciliation Act, 1996 as if the parties to the dispute have consented in writing for determination of such disputes by conciliation or by arbitration and the provisions of the said Act shall apply accordingly.

26 of 1996.

Explanation.—For the purposes of this section, a dispute shall include—

(a) a claim for any debt or other amount due;

(b) a claim by surety against the principal debtor, where the Producer Company has recovered from the surety amount in respect of any debtor or

other amount due to it from the principal debtor as a result of the default of the principal debtor whether such debt or amount due be admitted or not;

(c) a claim by Producer Company against a Member for failure to supply produce as required of him;

(d) a claim by a Member against the Producer Company for not taking goods supplied by him.

(2) If any question arises whether the dispute relates to formation, management or business of the Producer Company, the question shall be referred to the arbitrator, whose decision thereon shall be final.

PART XI

MISCELLANEOUS PROVISIONS

378ZP. (1) Where a Producer Company fails to commence business within one year of its registration or ceases to transact business with the Members or if the Registrar is satisfied, after making such inquiry as he thinks fit, that the Producer Company is no longer carrying on any of its objects specified in section 378B, he shall make an order striking off the name of the Producer Company, which shall thereupon cease to exist forthwith:

Strike off name of Producer Company.

Provided that no such order cancelling the registration as aforesaid shall be passed until a notice to show cause has been given by the Registrar to the Producer Company with a copy to all its directors on the proposed action and reasonable opportunity to represent its case has been given.

(2) Where the Registrar has reasonable cause to believe that a Producer Company is not maintaining any of the mutual assistance principles specified, he shall strike its name off the register in accordance with the provisions contained in section 248.

(3) Any Member of a Producer Company, who is aggrieved by an order made under sub-section (1), may appeal to the Tribunal within sixty days of the order.

(4) Where an appeal is filed under sub-section (3), the order of striking off the name shall not take effect until the appeal is disposed of.

378ZQ. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in this Act or any other law for the time being in force or any instrument having effect by virtue of any such law; but the provisions of any such Act or law or instrument in so far as the same are not varied by, or are inconsistent with, the provisions of this Chapter shall apply to the Producer Company.

Provisions of this Chapter to override other laws.

378ZR. All the limitations, restrictions and provisions of this Act, other than those specified in this Chapter, applicable to a private company, shall, as far as may be, apply to a Producer Company, as if it is a private limited company under this Act in so far as they are not in conflict with the provisions of this Chapter.

Application of provisions relating to private companies.

PART XII

RE-CONVERSION OF PRODUCER COMPANY TO INTER-STATE CO-OPERATIVE SOCIETY

378ZS. (1) Any Producer Company, being an erstwhile inter-State co-operative society, formed and registered under this Chapter, may make an application—

Re-conversion of Producer Company to inter-State co-operative society.

(a) after passing a resolution in the general meeting by not less than two-thirds of its Members present and voting; or

(b) on request by its creditors representing three-fourths value of its total creditors,

to the Tribunal for its re-conversion to the inter-State co-operative society.

(2) The Tribunal shall, on the application made under sub-section (1), direct holding meeting of its Members or such creditors, as the case may be, to be conducted in such manner as it may direct.

(3) If a majority in number representing three-fourths in value of the creditors, or Members, as the case may be, present and voting in person at the meeting conducted in pursuance of the directions of the Tribunal under sub-section (2), agree for re-conversion, if sanctioned by the Tribunal, be binding on all the Members and all the creditors, as the case may be, and also on the company which is being converted:

Provided that no order sanctioning re-conversion shall be made by the Tribunal unless the Tribunal is satisfied that the company or any other person by whom an application has been made under sub-section (1) has disclosed to the Tribunal, by affidavit or otherwise, all material facts relating to the company, such as the latest financial position of the company, the latest report of the auditor on the accounts of the company, the pendency of any investigation proceedings in relation to the company under Chapter XIV, and the like.

(4) An order made by the Tribunal under sub-section (3) shall have no effect until a certified copy of the order has been filed with the Registrar.

(5) A copy of every such order shall be annexed to every copy of the memorandum of the company issued after the certified copy of the order has been filed as aforesaid, or in the case of a company not having a memorandum, to every copy so issued of the instrument constituting or defining the constitution of the company.

(6) If default is made in complying with sub-section (4), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to one hundred rupees, for each copy in respect of which default is made.

(7) The Tribunal may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the company on such terms as the Tribunal thinks fit, until the application is finally disposed of.

(8) Every Producer Company, which has been sanctioned re-conversion by the Tribunal, shall make an application under the Multi-State Co-operative Societies Act, 2002 or any other law for the time being in force for its registration as multi-State co-operative society or co-operative society, as the case may be, within six months of sanction by the Tribunal and file a report thereof to the Tribunal and the Registrar of Companies and to the Registrar of the Co-operative Societies under which it has been registered as a multi-State co-operative society or co-operative society, as the case may be.

39 of 2002.

Power to
modify Act in
its application
to Producer
Companies.

378ZT. (1) The Central Government may, by notification, direct that any of the provisions of this Act (other than those contained in this Chapter) specified in the said notification—

(a) shall not apply to the Producer Companies or any class or category thereof; or

(b) shall apply to the Producer Companies or any class or category thereof with such exception or adaptation as may be specified in the notification.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total

period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

378ZU. The Central Government may make rules for carrying out the purposes of this Chapter.'

Power to make rules.

53. In section 379 of the principal Act, in sub-section (1), the proviso shall be omitted.

Amendment of section 379.

54. In section 392 of the principal Act,—

Amendment of section 392.

(a) the words "with imprisonment for a term which may extend to six months or" shall be omitted;

(b) for the words "five lakh rupees, or with both", the words "five lakh rupees" shall be substituted.

55. After section 393 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 393A.

"393A. The Central Government may, by notification, exempt any class of—

Exemptions under this Chapter.

(a) foreign companies;

(b) companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India,

as may be specified in the notification, from any of the provisions of this Chapter and a copy of every such notification shall, as soon as may be after it is made, be laid before both Houses of Parliament."

56. In section 403 of the principal Act, in sub-section (1), for the third proviso, the following proviso shall be substituted, namely:—

Amendment of section 403.

"Provided also that where there is default on two or more occasions in submitting, filing, registering or recording of such document, fact or information, as may be prescribed, it may, without prejudice to any other legal action or liability under this Act, be submitted, filed, registered or recorded, as the case may be, on payment of such higher additional fee, as may be prescribed."

57. In section 405 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 405.

"(4) If any company fails to comply with an order made under sub-section (1) or sub-section (3), or furnishes any information or statistics which is incorrect or incomplete in any material respect, the company and every officer of the company who is in default shall be liable to a penalty of twenty thousand rupees and in case of continuing failure, with a further penalty of one thousand rupees for each day after the first during which such failure continues, subject to a maximum of three lakh rupees."

58. In section 410 of the principal Act,—

Amendment of section 410.

(i) in the opening portion, the words "not exceeding eleven" shall be omitted;

(ii) in clause (b), for the word, figures and letter "section 53N", the word, figures and letter "section 53A" shall be substituted.

Insertion of new section 418A.

Benches of Appellate Tribunal.

59. After section 418 of the principal Act, the following section shall be inserted, namely:—

"418A. (1) The powers of the Appellate Tribunal may be exercised by the Benches thereof to be constituted by the Chairperson:

Provided that a Bench of the Appellate Tribunal shall have at least one Judicial Member and one Technical Member.

(2) The Benches of the Appellate Tribunal shall ordinarily sit at New Delhi or such other places as the Central Government may, in consultation with the Chairperson, notify:

Provided that the Central Government may, by notification, after consultation with the Chairperson, establish such number of Benches of the Appellate Tribunal, as it may consider necessary, to hear appeals against any direction, decision or order referred to in section 53A of the Competition Act, 2002 and under section 61 of the Insolvency and Bankruptcy Code, 2016."

12 of 2003.
31 of 2016.

Amendment of section 435.

60. In section 435 of the principal Act, in sub-section (1), for the words "offences under this Act, by notification", the words and figures "offences under this Act, except under section 452, by notification" shall be substituted.

Amendment of section 441.

61. In section 441 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) If any officer or other employee of the company who fails to comply with any order made by the Tribunal or the Regional Director or any officer authorised by the Central Government under sub-section (4), the maximum amount of fine for the offence proposed to be compounded under this section shall be twice the amount provided in the corresponding section in which punishment for such offence is provided."

Substitution of new section for section 446B.

Lesser penalties for certain companies.

62. For section 446B of the principal Act, the following section shall be substituted, namely:—

'446B. Notwithstanding anything contained in this Act, if penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be.

Explanation.—For the purposes of this section,—

(a) "Producer Company" means a company as defined in clause (1) of section 378A;

(b) "start-up company" means a private company incorporated under this Act or under the Companies Act, 1956 and recognised as start-up in accordance with the notification issued by the Central Government in the Department for Promotion of Industry and Internal Trade.'

1 of 1956.

Amendment of section 450.

63. In section 450 of the principal Act, for the words "punishable with fine which may extend to ten thousand rupees, and where the contravention is continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues", the words "liable to a penalty of ten thousand rupees, and in case of continuing contravention, with a further penalty of one thousand rupees for

each day after the first during which the contravention continues, subject to a maximum of two lakh rupees in case of a company and fifty thousand rupees in case of an officer who is in default or any other person" shall be substituted.

64. In section 452 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:— Amendment of section 452.

"Provided that the imprisonment of such officer or employee, as the case may be, shall not be ordered for wrongful possession or withholding of a dwelling unit, if the court is satisfied that the company has not paid to that officer or employee, as the case may be, any amount relating to—

(a) provident fund, pension fund, gratuity fund or any other fund for the welfare of its officers or employees, maintained by the company;

(b) compensation or liability for compensation under the Workmen's Compensation Act, 1923 in respect of death or disablement."

19 of 1923.

65. In section 454 of the principal Act, in sub-section (3), the following proviso shall be inserted, namely:— Amendment of section 454.

"Provided that in case the default relates to non-compliance of sub-section (4) of section 92 or sub-section (1) or sub-section (2) of section 137 and such default has been rectified either prior to, or within thirty days of, the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded."

66. In section 465 of the principal Act, in sub-section (1),—

Amendment of section 465.

(a) the first proviso shall be omitted;

(b) in the second proviso, for the words "Provided further that", the words "Provided that" shall be substituted;

(c) in the third proviso, for the words "Provided also that", the words "Provided further that" shall be substituted.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE FOREIGN CONTRIBUTION (REGULATION) AMENDMENT ACT, 2020

No. 33 OF 2020

[28th September, 2020.]

An Act further to amend the Foreign Contribution (Regulation) Act, 2010.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Foreign Contribution (Regulation) Amendment Act, 2020.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

42 of 2010.

2. In section 3 of the Foreign Contribution (Regulation) Act, 2010 (hereinafter referred to as the principal Act), in sub-section (1),—

Amendment
of section 3.

(i) for clause (c), the following clause shall be substituted, namely:—

"(c) public servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;"

(ii) for the *Explanation*, the following *Explanations* shall be substituted, namely:—

Explanation 1.—For the purpose of clause (c), "public servant" means a public servant as defined in section 21 of the Indian Penal Code.

45 of 1860.

Explanation 2.—In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in clause (45) of section 2 of the Companies Act, 2013.!

18 of 2013.

Substitution of new section for section 7.

3. For section 7 of the principal Act, the following section shall be substituted, namely:—

Prohibition to transfer foreign contribution to other person.

"7. No person who—

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution,

shall transfer such foreign contribution to any other person."

Amendment of section 8.

4. In section 8 of the principal Act, in sub-section (1), for the words "fifty per cent.", at both the places where they occur, the words "twenty per cent." shall be substituted.

Amendment of section 11.

5. In section 11 of the principal Act, in sub-section (2), in the proviso, for the words, brackets and figures "Provided that if the person referred to in sub-sections (1) and (2) has been found guilty", the following shall be substituted, namely:—

"Provided that the Central Government, on the basis of any information or report, and after holding a summary inquiry, has reason to believe that a person who has been granted prior permission has contravened any of the provisions of this Act, it may, pending any further inquiry, direct that such person shall not utilise the unutilised foreign contribution or receive the remaining portion of foreign contribution which has not been received or, as the case may be, any additional foreign contribution, without prior approval of the Central Government:

Provided further that if the person referred to in sub-section (1) or in this sub-section has been found guilty".

Amendment of section 12.

6. In section 12 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

‘(1A) Every person who makes an application under sub-section (1) shall be required to open “FCRA Account” in the manner specified in section 17 and mention details of such account in his application.’.

Insertion of new section 12A.

7. After section 12 of the principal Act, the following section shall be inserted, namely:—

Power of Central Government to require Aadhaar number, etc., as identification document.

"12A. Notwithstanding anything contained in this Act, the Central Government may require that any person who seeks prior permission or prior approval under section 11, or makes an application for grant of certificate under section 12, or, as the case may be, for renewal of certificate under section 16, shall provide as identification document, the Aadhaar number of all its office bearers or Directors or other key functionaries, by whatever name called, issued under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, or a copy of the Passport or Overseas Citizen of India Card, in case of a foreigner."

18 of 2016.

Amendment of section 13.

8. In section 13 of the principal Act, in sub-section (1), for the words "for such period not exceeding one hundred and eighty days as may be specified", the words "for a period of one hundred and eighty days, or such further period, not exceeding one hundred and eighty days, as may be specified" shall be substituted.

- 9.** After section 14 of the principal Act, the following section shall be inserted, namely:—
- Insertion of
new section
14A.
- "14A. On a request being made in this behalf, the Central Government may permit any person to surrender the certificate granted under this Act, if, after making such inquiry as it deems fit, it is satisfied that such person has not contravened any of the provisions of this Act, and the management of foreign contribution and asset, if any, created out of such contribution has been vested in the authority as provided in sub-section (1) of section 15."
- Surrender of
certificate.
- 10.** In section 15 of the principal Act,—
- Amendment
of section 15.
- (i) in the marginal heading, after the word "cancelled", the words "or surrendered" shall be inserted;
- (ii) in sub-section (1), after the word and figures "section 14", the words, figures and letter "or surrendered under section 14A" shall be inserted.
- 11.** In section 16 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—
- Amendment
of section 16.
- "Provided that the Central Government may, before renewing the certificate, make such inquiry, as it deems fit, to satisfy itself that such person has fulfilled all conditions specified in sub-section (4) of section 12."
- 12.** For section 17 of the principal Act, the following section shall be substituted, namely:—
- Substitution of
new section
for section 17.
- '17. (1) Every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as "FCRA Account" by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf:
- Foreign
contribution
through
scheduled
bank.
- Provided that such person may also open another "FCRA Account" in any of the scheduled bank of his choice for the purpose of keeping or utilising the foreign contribution which has been received from his "FCRA Account" in the specified branch of State Bank of India at New Delhi:
- Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilising any foreign contribution received by him in his "FCRA Account" in the specified branch of the State Bank of India at New Delhi or kept by him in another "FCRA Account" in a scheduled bank of his choice:
- Provided also that no funds other than foreign contribution shall be received or deposited in any such account.
- (2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-section (1) has opened his foreign contribution account or the authorised person in foreign exchange, shall report to such authority as may be specified,—
- (a) the prescribed amount of foreign remittance;

(b) the source and manner in which the foreign remittance was received; and
(c) other particulars,
in such form and manner as may be prescribed.'

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 53] नई दिल्ली, सोमवार, सितम्बर 28, 2020/आश्विन 6, 1942 (शक)
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE INDIAN INSTITUTES OF INFORMATION TECHNOLOGY LAWS (AMENDMENT) ACT, 2020

No. 28 OF 2020

[28th September, 2020.]

An Act further to amend the Indian Institutes of Information Technology Act, 2014 and to amend the Indian Institutes of Information Technology (Public-private Partnership) Act, 2017.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Institutes of Information Technology Laws (Amendment) Act, 2020.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT TO THE INDIAN INSTITUTES OF INFORMATION TECHNOLOGY ACT, 2014

Amendment of section 41 of Act 30 of 2014.

2. In the Indian Institutes of Information Technology Act, 2014, in section 41, in sub-section (3), for the word "elected" at both the places where they occur, the word "nominated" shall be substituted.

CHAPTER III

AMENDMENT TO THE INDIAN INSTITUTES OF INFORMATION TECHNOLOGY (PUBLIC-PRIVATE PARTNERSHIP) ACT, 2017

Amendment of Schedule to Act 23 of 2017.

3. In the Schedule to the Indian Institutes of Information Technology (Public-private Partnership) Act, 2017,—

(a) after serial number 2 and the entries relating thereto, the following shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)
"2A.	Bihar	Indian Institute of Information Technology, Bhagalpur being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Bhagalpur	Indian Institute of Information Technology, Bhagalpur.";

(b) after serial number 3 and the entries relating thereto, the following shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)
"3A.	Gujarat	Indian Institute of Information Technology, Surat being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Surat	Indian Institute of Information Technology, Surat.";

(c) after serial number 7 and the entries relating thereto, the following shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)
"7A.	Karnataka	Indian Institute of Information Technology, Raichur being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Raichur	Indian Institute of Information Technology, Raichur.";

(d) after serial number 8 and the entries relating thereto, the following shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)
"8A.	Madhya Pradesh	Indian Institute of Information Technology, Bhopal being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Bhopal	Indian Institute of Information Technology, Bhopal.";

(e) after serial number 13 and the entries relating thereto, the following shall be inserted, namely:—

(1)	(2)	(3)	(4)	(5)
"13A.	Tripura	Indian Institute of Information Technology, Agartala being a society registered under the Societies Registration Act, 1860 (21 of 1860)	Indian Institute of Information Technology, Agartala	Indian Institute of Information Technology, Agartala.".

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE NATIONAL FORENSIC SCIENCES UNIVERSITY ACT, 2020

No. 32 OF 2020

[28th September, 2020.]

An Act to establish and declare an institution to be known as the National Forensic Sciences University as an institution of national importance to facilitate and promote studies and research and to achieve excellence in the field of forensic science in conjunction with applied behavioural science studies, law, criminology and other allied areas and technology and other related fields, and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Forensic Sciences University Act, 2020.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Declaration of
National
Forensic
Sciences
University as
an institution
of national
importance.

2. Whereas the objects of the National Forensic Sciences University are such as to make it an institution of national importance, it is hereby declared that the National University of Forensic Sciences is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Academic Council" means the Academic Council of the University referred to in section 18;

(b) "academic staff" means teachers and such categories of staff as are designated to be academic staff by the Statutes;

(c) "affiliated college" means an institution recognised as such by the Board of Governors in accordance with the provisions of this Act and the Statutes made thereunder;

(d) "Board of Governors" means the Board of Governors of the University referred to in section 15;

(e) "campus" means the campus of the Gujarat Forensic Sciences University situated at Gandhinagar, Gujarat, and that of the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences situated at Rohini, New Delhi, or such other campus as may be established by the University at any place within India or outside India;

(f) "Chancellor" means the Chancellor of the University;

(g) "college" means a college or institution maintained or admitted to the privileges of the University for imparting education and training in forensic sciences or its related disciplines;

(h) "Court" means the Court of the University referred to in section 14;

(i) "Dean", in relation to any School campus, means the Dean of such School campus;

(j) "department" means an academic department of the University;

(k) "distance education system" means the system of imparting education through any means of communication such as broadcasting, telecasting, internet, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(l) "employee" means any person appointed by the University and includes teachers, other academic and non-academic staff of the University;

(m) "Executive Registrar" means the Executive Registrar of the University referred to in section 25;

(n) "Finance Committee" means the Finance Committee of the University referred to in section 28;

(o) "Fund" means the Fund of University referred to in section 35;

(p) "notification" means a notification published in the Official Gazette;

(q) "School" means a school of study of the University;

(r) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University made under this Act;

(s) "student" means a student of the University and its affiliated colleges, and

includes any person who has enrolled for pursuing any course of study in the University;

(*t*) "teachers" means Directors, Deans, professors, associate professors, assistant professors and such other persons as may be appointed for imparting instruction or conducting research or for giving guidance for research or rendering assistance to students, in the University or in any college or institution maintained by the University;

(*u*) "University" means the National Forensic Sciences University established under this Act;

(*v*) "Vice-Chancellor" means the Vice-Chancellor of the University referred to in section 21.

CHAPTER II

ESTABLISHMENT OF UNIVERSITY

Gujarat Act 17
of 2008.

4. (1) The Gujarat Forensic Sciences University, Gandhinagar, Gujarat established under the Gujarat Forensic Sciences University Act, 2008, and the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi shall be established as an University by the name of National Forensic Sciences University.

Establishment
and
incorporation
of University.

(2) The National Forensic Sciences University shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall, by the said name, sue or be sued.

(3) The headquarters of the University shall be at Gandhinagar, Gujarat.

(4) The campuses of the University shall include the campuses situated at Gujarat Forensic Sciences University, Gandhinagar, Gujarat and the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi and such other campuses as the Central Government may, by notification, specify.

(5) The first Chancellor, Vice-Chancellor, Board of Governors, Academic Council, Directors, Deans, Executive Registrar and all other persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, shall constitute the University.

5. On and from the commencement of this Act,—

Effect of
incorporation
of University.

(*a*) any reference to the Gujarat Forensic Sciences University, Gandhinagar, Gujarat or the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi in any other law for the time being in force or in any contract or other instrument, shall be deemed as a reference to the University;

(*b*) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted or other things done under the provisions of the Gujarat Forensic Sciences University Act, 2008, in so far as it relates to the Gujarat Forensic Sciences University, Gandhinagar, shall be deemed to have been, respectively, made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act, and, except as otherwise provided by or under this Act or the Statutes or Ordinances or regulations, continue in force unless and until they are superseded by the Statutes or Ordinances made under this Act;

(*c*) the status of "Centre of Excellence" and "Institute of Strategic or Security related Interest" granted to the Gujarat Forensic Sciences University, Gandhinagar by the Government of Gujarat and the status of "Center of Excellence for Narcotics Drugs and Psychotropic Substances" conferred by the Ministry of Home Affairs, Government of India, to the Gujarat Forensic Sciences University, Gandhinagar, shall be applicable to the University;

Gujarat Act 17
of 2008.

(d) all properties, movable and immovable, of or belonging to the Gujarat Forensic Sciences University, Gandhinagar, Gujarat or the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi shall vest in the University;

(e) all rights, debts and other liabilities of the Gujarat Forensic Sciences University, Gandhinagar, Gujarat or the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi shall be transferred to and be the rights, debts and liabilities of the University;

(f) every person employed by the Gujarat Forensic Sciences University, Gandhinagar, Gujarat or the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi, immediately before such commencement, shall hold his office or service in the University by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund, and other matters as he would have held if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes, not detrimental to the service conditions of such employee:

Provided that any reference, by whatever form of words, to the Registrar and other officers of the Gujarat Forensic Sciences University, Gandhinagar, Gujarat or the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi, in any law for the time being in force, or in any instrument or other document, shall be deemed to be reference to the Executive Registrar and other officers of the University;

(g) any activity for appointment or promotion of academic or non-academic staff underway in the Gujarat Forensic Sciences University, Gandhinagar at the time of commencement of this Act shall be deemed to be valid, and further proceeding in such appointment or promotion shall be taken in accordance with the provisions of this Act and be continued from the stage at the time of commencement of this Act;

(h) every person pursuing, before the commencement of this Act, any academic or research course or programmes of study in the Gujarat Forensic Sciences University, Gandhinagar, shall be deemed to have migrated and registered with the University, on such commencement, at the same level of course or programme and shall continue to pursue such academic or research course and programmes of study in the University;

(i) every person pursuing, before the commencement of this Act, any academic or research course in the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi, shall continue to pursue their academic courses and programmes of study under the enrolment and affiliation of the Guru Gobind Singh Indraprastha University, Delhi which shall conduct examinations and award degrees to them upon successful completion of such courses and programmes of study;

(j) all suits and other legal proceedings instituted or which could have been instituted by or against the Gujarat Forensic Sciences University, Gandhinagar or the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi, immediately before the commencement of this Act, shall be continued or instituted by or against the University.

Objects of
University.

6. The objects of the University shall be—

(i) to facilitate and promote academic learning and practices in the field of forensic science in conjunction with applied behavioural science studies, law, legal studies, criminology and other allied areas and technology, including training,

skill-development, research and extension of work with focus on emerging areas in the said fields for strengthening criminal justice institutions in the country;

(ii) to foster research and applied applications in forensic science, applied behavioural science studies, law, legal studies and other allied areas and technology for training, research and development by promoting innovations and best practices;

(iii) to promote and provide advanced institutional and research facilities in the fields of forensic science, applied behavioural science, law, legal studies and other allied areas and technology;

(iv) to create capacities and capabilities of global standards of education, training and research for development of aptitude, skills and knowledge within and outside the country at various levels in the fields of forensic science, applied behavioural science, law, legal studies and other allied areas and technology;

(v) to coordinate with the Central Government and State Governments to improve investigation, crime detection and prevention through projects and research, funded by grants-in-aid from the Central Government and State Governments, in fields of forensic science, applied behavioural science, law, legal studies, criminology and other allied areas and technology;

(vi) to advice and assist the Central Government, State Governments and Union territory Administrations in formulation of relevant policies including their review in the fields of forensic science, applied behavioural science, law, legal studies, criminology and other allied areas and technology;

(vii) to coordinate and network with the institutions having specialisation so as to expand the fields of forensic science, applied behavioural science, law, legal studies, criminology and other allied areas and technology, for promoting academics and research work through various pursuits;

(viii) to administer, maintain and manage the University and to establish such off-site campus and off-shore centres for education, training and research as are necessary for the furtherance of the objects of the University within and outside the country;

(ix) to assist the Central Government or State Governments to accredit forensic science laboratories, provide standard operating procedures, and lay down specifications for forensic equipment and kits to be used for forensic work in the country;

(x) to set-up campus, colleges, schools, centres and institutions of excellence for imparting State of-the-art education, training and research in the fields of forensic science, cyber security and digital forensics, behavioural science, technology and management;

(xi) to assist the Central Government to create and maintain national forensic data base required for criminal investigation, including fingerprints, voice, Deoxyribonucleic Acid (DNA), firearms, counterfeit currency, narcotic drugs and psychotropic substances, cyber security, cyber defence and internal security;

(xii) to undertake special projects for Central Government and State Governments; and

(xiii) to undertake any other objects, not inconsistent with the provisions of this Act which the Central Government may, by notification, specify in this behalf.

7. (1) Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely:—

(a) to provide for studies, training, skill-development, research and extension of work in forensic science, applied behavioural science, law, legal studies, criminology

Powers and
functions of
University.

and other allied areas and technology with focus on emerging areas of forensic science studies and related technologies;

(b) to establish and maintain campuses, colleges, institutions, schools, departments, laboratories, libraries, centres of research, training, skill-development, research and specialised studies within and outside the country;

(c) to plan and prescribe courses of study or skill-development, such as degrees, diplomas, and certificates;

(d) to hold examinations and grant degrees, diplomas, certificates and other academic distinctions;

(e) to confer honorary degrees or other distinctions;

(f) to grant, subject to such conditions as the University may determine, diplomas or certificates to, of evaluation or any other method of testing, and to withdraw any such diplomas, certificates, degrees or other academic distinction for good and sufficient cause;

(g) to provide facilities through the distance education system to such persons as it may determine;

(h) to introduce semester system, continuous evaluation and choice-based credit system and enter into agreements with other Universities and academic institutions for credit transfer and joint degree programmes;

(i) to make provisions for research and advisory services and for that purpose to enter into such arrangements with other institutions or bodies, national or international, as the University may deem necessary;

(j) to receive grants-in-aid to undertake projects for research and special assignments for the Central Government and State Governments;

(k) to determine, specify and receive payment of fees and other charges as the University may deem fit, from students and any other person, institution or body corporate for instruction and other services, including training, consultancy and advisory services, provided by the University;

(l) to establish, maintain and manage University buildings, halls, hostels and other campuses for the University in any other place;

(m) to affiliate colleges and institutions of higher learning for such purposes as the University may determine and to withdraw such recognition;

(n) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health, general welfare, cultural and corporate life;

(o) to create academic and other teaching posts and to make appointments thereto (except the posts of Chancellor and Vice-Chancellor) as may be necessary for imparting instruction and managing the affairs of the University;

(p) to appoint on contract or otherwise visiting professors, emeritus professors, consultants, scholars including those located outside the country, and such other persons who may contribute to the advancement of the University;

(q) to create non-teaching, administrative, ministerial and other posts in the University and to make appointment thereto;

(r) to cooperate, collaborate or partner or associate with educational or other institutions and organisations, public and private, including those located outside the country having objects wholly or partly similar to those of the University by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(s) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(t) to provide for the preparation of instructional material including related software and other audio-visual aids;

(u) to sponsor and make provision for research and development in areas of core competence of the University;

(v) to enter into, carry out, vary or cancel contracts;

(w) to demand and receive such fees and other charges as may be specified by Ordinances;

(x) to receive benefactions, donations and gifts from persons and to name after them such chairs, institutions, buildings and the like, as the University may determine, whose gift and donations to the University is worth such as the University may decide;

(y) to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(z) to initiate measures to enlist the cooperation of the industry to provide complementary facilities;

(za) to establish off-shore campus at any place outside the country as and when it is considered necessary for advancing the aims and objectives of the University;

(zb) to provide for printing, reproduction and publication of research and other work;

(zc) to provide, control and maintain discipline among the students and all categories of employees and to lay down the conditions of service of such employees, including their code of conduct;

(zd) to conduct innovative experiments and develop new methods and technologies in the field of science, technology and management in relation to the domains of investigation, prevention and detection of crimes and furthering the cause of criminal justice systems in order to achieve international standards of such education, training research and consultancy;

(ze) to admit students for courses in Institute and its affiliated centers and institutes on an all India basis in such manner as may be laid down in the Statutes;

(zf) to admit foreign students, Overseas Citizen of India card holder, Person of Indian Origin, non-resident Indian, children of Indian workers in Gulf and South-East Asian Countries, in such manner and as may be laid down in the Statutes;

(zg) to purchase or to take on lease any land or building or works which may be necessary or convenient for the purpose of the University on such terms and conditions as it may think fit and proper and to construct, alter and maintain any such buildings or works;

(zh) to raise and borrow moneys on bonds, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of moneys, to repay and redeem any money borrowed after taking prior permission of the Board of Governors;

(zi) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of University; and

(zj) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the University.

(2) Notwithstanding anything contained in sub-section (1), the University shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

Jurisdiction of University.

8. The jurisdiction of the University shall extend to the whole of India.

University to be open to all races, creeds and classes.

9. (1) The University shall be open to all persons irrespective of gender, race, caste, creed, disability, domicile, ethnicity, social or economic background.

(2) No bequest, donation or transfer of any property shall be accepted by the University which in the opinion of the Board of Governors involves conditions or obligations opposed to the spirit and object of this section.

(3) Admissions to every academic programme of study in the University shall be based on merit assessed through transparent and reasonable criteria disclosed prior to the commencement of the process of admission by the University:

Provided that the University shall be a Central Educational Institution for the purposes of the Central Educational Institutions (Reservation in Admission) Act, 2006.

5 of 2007.

Admission of students.

10. (1) It shall be the endeavor of the University to maintain an all-India character, and high standards of teaching and research.

(2) Admission of students for courses in University shall be made on an all-India basis in such manner as may be specified in the Ordinances.

Teaching at University.

11. All teaching at the University and its campuses or affiliated colleges shall be conducted by and in the name of the University in accordance with the Statutes and Ordinances made in this behalf.

CHAPTER III

AUTHORITIES OF UNIVERSITY

Authorities of University.

12. The following shall be the authorities of the University, namely:—

- (a) Chancellor;
- (b) Court;
- (c) Board of Governors;
- (d) Academic Council;
- (e) Board for Affiliation and Recognition;
- (f) Finance Committee; and

(g) such other authorities as may laid down in the Statutes to be the authorities of the University.

Chancellor.

13. (1) The Central Government may, by notification, appoint a person of eminence as the Chancellor of the University in consultation with such State Governments as it deems fit.

(2) The Chancellor shall, by virtue of his office, be the Head of the University and shall preside at the convocations of the University held for conferring degrees.

(3) The Chancellor may invite any person or persons of eminence to advise the University in relation to the affairs of the University as and when necessary.

(4) Notwithstanding anything contained in this Act, the Chancellor may order or undertake an inspection or inquiry, if he deems it necessary.

(5) The Chancellor shall have such other powers as may be laid down in the Statutes.

14. (1) The Central Government shall, by notification, constitute a Court for the University to be headed by the Chancellor. Court.

(2) The members of the Court shall be nominated by the Central Government, in consultation with such State Governments as it deems fit, from amongst persons of eminence, including from the fields of forensics, bio-technology, criminal justice, law enforcement, technology and academia.

(3) The term of office of members of the Court shall be such as may be laid down in the Statutes.

(4) The Vice-Chancellor shall be the convenor of the Court.

(5) Subject to the provisions of this Act, the Court shall have the following powers and perform the following functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University, and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts; and

(c) to perform such other functions as may be laid down in the Statutes.

(6) The Court shall meet at least once in a year.

15. (1) The Board of Governors of the University shall consist of the following members, namely:— Board of
Governors.

(a) Vice-Chancellor—Chairperson, *ex officio*;

(b) Financial Adviser, Ministry of Home Affairs, Government of India—member, *ex officio*;

(c) one representative of the Ministry of Home Affairs in the Government of India not below the rank of Joint Secretary—member, *ex officio*;

(d) an officer of the Home Department, not below the rank of the Secretary to the Government of Gujarat—member, *ex officio*;

(e) Registrar General of the High Court of Gujarat—member, *ex officio*;

(f) Director-cum-Chief Forensic Scientist, Director of Forensic Science Services, Ministry of Home Affairs, Government of India—member, *ex officio*;

(g) five persons of eminence selected from the fields of forensic science, law, enforcement, criminology, computer science, engineering, technology, management, forensic medicine and pharmacy, to be nominated by the Central Government, in consultation with such State Governments as it deems fit—members;

(h) all Campus Directors of the University—members, *ex officio*.

(2) The Executive Registrar shall be the Secretary of the Board.

(3) The Chairperson shall exercise such other powers and perform such other functions as may be assigned to him by or under this Act or the Statutes.

16. (1) Subject to the provisions of this Act, the Board of Governors shall be responsible for the general superintendence, direction and the control of affairs of the University and shall exercise all the powers of the University not otherwise provided by this Act, Statutes or Ordinances and shall have the power to review the acts of the Academic Council and the Finance Committee and other committees or authorities of the University. Powers of
Board of
Governors.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and perform the following functions, namely:—

(i) take decisions on question of policy relating to the administration and working of the University;

(ii) institute courses of study in the University;

(iii) make Statutes;

(iv) modify or cancel Statutes;

(v) create posts and appoint persons to academic as well as other posts in the University and determine salary structure and the terms and conditions of different cadres of employees;

(vi) consider and pass resolutions on the annual report, annual accounts and the budget estimates of the University for every financial year;

(vii) invest money and funds of the University and to take decision on the recommendations of the Finance Committee;

(viii) publish or finance the publication of studies, treaties, books, periodicals, reports and other literature from time to time and to sell or arrange for the sale as it may deem fit;

(ix) appoint such committees as it considers necessary for the exercise of its powers and performance of its duties under this Act;

(x) appoint Campus Directors;

(xi) consider and approve the proposals recommended by the Board for Affiliation and Recognition;

(xii) delegate any of its power to the Directors, Deans, Executive Registrar or any other officer, employee or to any authority of the University or to a committee appointed by it; and

(xiii) exercise such other powers and perform such other functions as may be conferred or imposed upon it by or under this Act or the Statutes or Ordinances made thereunder for achieving the objects of the University.

(3) The Board of Governors shall meet at least two times in a year and the presence of at least six members shall form the quorum for a meeting of the Board of Governors.

17. (1) Save as otherwise provided in this section, the term of a nominated member of the Board of Governors under clause (g) of sub-section (1) of section 15 shall be three years from the date of his nomination.

(2) A nominated member of the Board of Governors shall be eligible for re-nomination for the next term.

(3) A nominated member of the Board of Governors may resign from his office by writing under his hand addressed to the Chairperson and his resignation shall take effect from the date it is accepted by the Chairperson.

(4) The term of office of an *ex officio* member of the Board of Governors shall continue so long as he holds the office by the virtue of which he is a member.

18. (1) The Academic Council of the University shall consist of the following members, namely:—

(i) Vice-Chancellor—Chairperson, *ex officio*;

(ii) two academicians or professionals to be nominated by the Board of Governors—members;

Terms of office of members of Board of Governors.

Academic Council.

(iii) two academicians or professionals in the field of forensic science to be nominated by the Board of Governors—members;

(iv) Director-cum-Chief Forensic Scientist, Directorate of Forensic Science Services, Ministry of Home Affairs, Government of India—member, *ex officio*;

(v) Campus Directors—members, *ex officio*;

(vi) one Dean or professor or associate professor from each discipline of the School, by rotation, to be nominated by the Vice-Chancellor—members, *ex officio*;

(vii) two representatives of industry or industry bodies in related sectors to be nominated by the Board of Governors—members.

(2) The Executive Registrar shall be the Secretary of the Council.

(3) The term of office of the members nominated under clauses (ii), (iii), (vi) and (vii) of sub-section (1) shall be three years, and the members shall be eligible for re-nomination for the next term.

19. Subject to the provisions of this Act and the Statutes made thereunder, the Academic Council of the University shall exercise the following powers and perform following functions, namely:—

Powers of
Academic
Council.

(i) to specify the academic policies of the University and be responsible for the maintenance and improvement of standards of instruction, education and evaluation in the University;

(ii) to consider matters of general academic interest either on its own initiative or on a reference from the faculty of the University or the Board of Governors and to take appropriate action thereof;

(iii) to review and recommend to the Board of Governors regarding proposals received from the Board for Affiliation and Recognition;

(iv) to make Ordinances;

(v) to recommend to the Board of Governors, to make such Statutes as are consistent with this Act regarding the academic functioning of the Institute including discipline of students; and

(vi) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Statutes or Ordinances.

20. The following shall be the officers of the University, namely:—

Officers of
University.

(a) Vice-Chancellor;

(b) Campus Directors;

(c) Deans;

(d) Executive Registrar; and

(e) such other persons in the service of the University as may be laid down in the Statutes, to be the officers of the University.

21. (1) The Central Government may, in consultation with such State Governments as it deems fit, by notification, appoint the Vice-Chancellor of the University.

Vice-
Chancellor.

(2) A person shall be qualified to be appointed as the Vice-Chancellor of the University, if he is—

(i) a person of eminence in the field of forensic sciences;

(ii) associated in administration of criminal justice, development matters, education, philanthropy, industrial or business development or exemplary

administration in the central services, State services, corporations or public bodies at national and international levels.

(3) The Vice-Chancellor shall hold office for a period of three years and shall be eligible for reappointment for another term or till he attains the age of seventy years.

(4) The other terms and conditions of the Vice-Chancellor shall be such as may be laid down in the Statutes.

(5) The Vice-Chancellor may resign from his office by writing under his hand addressed to the Chancellor and such a resignation shall take effect from the date of acceptance by the Chancellor.

Powers of
Vice-
Chancellor.

22. (1) The Vice-Chancellor shall have, subject to the provisions of this Act, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, hostels, libraries, equipment and systems and processes and of any institution or center maintained by the University, and also of the examinations, teaching, research and other works conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration, academic affairs and finance of the University.

(2) Without prejudice to the generality of the foregoing provisions, the Vice-Chancellor shall—

(i) preside at the meetings of the Board of Governors, Academic Council, Board for Affiliation and Recognition and Finance Committee;

(ii) be the principal academic and executive officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University;

(iii) be responsible for imparting of instructions and maintenance of discipline in the University;

(iv) submit annual reports and accounts to the Board of Governors;

(v) ensure that decisions taken by the Board of Governors are implemented;

(vi) have the power to delegate some of his powers to any of his subordinates under intimation to the Board of Governors;

(vii) nominate a Director of the University to perform his functions during the period of his leave;

(viii) have all financial powers of the Secretary to the Government of India for the purposes of rules of the Government, in so far as they are applicable or may be made applicable to the conduct of the business of the University, subject to the additional power that may be delegated by the Board of Governors from time to time;

(ix) exercise such other powers and perform such other duties as may be assigned to him by or under this Act or the Statutes or Ordinances or as may be delegated to him by the Board of Governors.

(3) If the post of the Vice-Chancellor remains vacant for any reason, it shall be open to the Chancellor to authorise a senior regular professor in the service of the University or any other appropriate person possessing the qualification provided under sub-section (2) of section 21 to exercise such powers, functions and duties of the Vice-Chancellor during such vacancy.

(4) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the authority or body of the University empowered under this Act to deal with it, the Vice-Chancellor may take such action as he may deem fit and shall forthwith report the action so taken by him to the authority or body of the University who or which, in the ordinary course, would have dealt with the matter:

Provided that if such authority or other body is of the opinion that such action ought not to have been taken by the Vice-Chancellor, it may refer the matter to the Board of Governors which may either confirm the action taken by the Vice-Chancellor or annul the same or modify it in such manner as it thinks fit, and thereupon the action shall cease to have effect or, as the case may be, shall take effect in such modified form, and such modification or annulment shall be without prejudice to the validity of anything previously done by or under the order of the Vice-Chancellor.

(5) Where the exercise of the power by the Vice-Chancellor under sub-section (4) involves the appointment of any person, such appointment shall be confirmed by the competent authority in the University empowered to approve such appointment in accordance with the provisions of this Act and the Statutes made thereunder, within a period of one year from the date of order of the Vice-Chancellor, otherwise such appointment shall cease to have effect on the expiration of a period of one year from the date of order of the Vice-Chancellor.

23. (1) The Campus Directors of the University shall be appointed by the Vice-Chancellor with the approval of the Board of Governors in such manner and on such terms and conditions as may be laid down in the Statutes. Campus Directors.

(2) The Campus Directors shall assist the Vice-Chancellor in managing the academic, administrative and other affairs of the campus of University, and shall exercise such powers and perform such functions as may be laid down in the Statutes or entrusted to them by the Vice-Chancellor.

24. (1) The Deans of each School of the University shall be appointed by the Vice-Chancellor on such terms and conditions as may be laid down in the Statutes. Dean.

(2) The Deans shall assist the Vice-Chancellor, Executive Registrar and respective Campus Directors in managing the academic and other affairs of the Schools of the University and shall exercise such powers and perform such functions as may be laid down in the Statutes or entrusted to them by the Vice-Chancellor.

25. (1) The Executive Registrar shall be appointed by the University in such manner and on such terms and conditions as may be laid down in the Statutes. Executive Registrar.

(2) The Executive Registrar shall exercise the following powers and perform the following duties, namely:—

(i) be responsible for the custody of records, common seal, the funds and properties of the University;

(ii) place before the Board of Governors and other authorities of the University all such information and documents as may be necessary for transaction of its business;

(iii) be responsible to the Vice-Chancellor for the proper discharge of his functions;

(iv) be responsible for the administration of the University and conduct the examinations and make all other arrangements necessary thereof and be responsible for the execution of all processes connected therewith;

(v) attest and execute all documents on behalf of the University;

(vi) verify and sign the pleadings in all suits and other legal proceedings by or against the University and all processes in such suits and proceedings shall be issued to and served on the Executive Registrar;

(vii) act as the Secretary of the Board of Governors, the Academic Council, the Finance Committee and such committees as may be specified by the Board of Governors; and

(viii) exercise such other powers and perform such other duties as may be laid down in the Statutes or as may be delegated to him by the Board of Governors or the Vice-Chancellor.

Finance Officer.

26. The Finance Officer shall be appointed by the University in such manner, on such emoluments and on such other terms and conditions of service and shall exercise such powers and perform such duties as may be laid down in the Statutes.

Other officers.

27. The manner of appointment and powers and duties of other officers of the University shall be such as may be laid down in the Statutes.

Finance Committee.

28. (1) The Finance Committee shall consist of the following members, namely:—

(a) Vice-Chancellor, who shall be the Chairperson of the Committee;

(b) two members of the Board of Governors, of which one shall be *ex officio* member to be nominated by the Board of Governors;

(c) all Campus Directors;

(d) one expert in the field of finance to be nominated by the Board of Governors;

(e) Dean of any one School of the University, in rotation, as may be nominated by the Board of Governors.

(2) The Executive Registrar shall be the Secretary of the Finance Committee.

(3) The term of office of the members nominated under clauses (b), (d) and (e) shall be three years and the said members shall be eligible for renomination.

Powers of Finance Committee.

29. Save as otherwise provided in this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:—

(a) to examine the annual accounts and annual budget estimates of the University and to advise the Board of Governors thereof;

(b) to review from time to time the financial position of the University;

(c) to make recommendations to the Board of Governors on all financial policy matters of the University;

(d) to make recommendations to the Board of Governors on all proposals involving raising of funds, receipts and expenditure;

(e) to provide guidelines for investment of surplus funds;

(f) to make recommendations to the Board of Governors on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget needs to be incurred;

(g) to examine all proposals relating to the revision of pay scales, upgradation of the pay scales and those items which are not included in the budget prior to placing before the Board of Governors; and

(h) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by this Act or the Statutes or Ordinances made thereunder.

Board for Affiliation and Recognition.

30. (1) The Board for Affiliation and Recognition shall be responsible for admitting colleges and institutions to the privileges of the University.

(2) The constitution of the Board for Affiliation and Recognition, the term of office of its members and its powers and functions shall be such as may be laid down in the Statutes.

31. The Board of Governors may, by Statutes, declare such other authorities or officers of the University and specify the powers, functions and duties of each such authority or officer, as the case may be. Other officers of University.

32. For the purpose of enabling the University to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the University, in each financial year, such sums of money in such manner as it may deem fit. Grants by Central Government.

33. The University may receive such sums of money as grants-in-aid annually or as one-time grant from any State Government. Grants by State Governments.

CHAPTER IV

ACCOUNTS AND AUDIT

34. The University may receive funds from the Central Government or State Governments or other sources or use its funds to maintain and operate a corpus of the University. Corpus of University.

35. (1) The University shall maintain a Fund to which shall be credited— Fund.

(a) all moneys provided by the Central Government;

(b) all moneys received from State Governments;

(c) all fees and other charges received by the University;

(d) all moneys received by the University by way of grants, gifts, donations, benefactions, bequests or transfers;

(e) all interest from corpus, or any other such earnings;

(f) any loans taken by the University;

(g) the moneys received by the University from the collaborating industries in terms of the provisions of the Memorandum of Understanding entered between the University and such industry for establishment of sponsored chairs, fellowships or infrastructure facilities of the University; and

(h) all moneys received by the University in any other manner or from any other source.

(2) All moneys credited to the Fund of the University shall be deposited in such banks or invested in such manner as the University may, with the approval of the Finance Committee, decide.

(3) The Fund of the University shall be applied towards the expenses of the University including expenditure incurred in the exercise of its powers and discharge of its functions by or under this Act.

36. (1) The University shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet, in such form and accounting standard as may be specified, by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India. Accounts and audit.

(2) The accounts of the University shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by it in connection with such audit shall be payable by it to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the University shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the University.

(4) The accounts of the University as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Pension and provident funds.

37. (1) The University may constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be laid down in the Statutes.

(2) Where any provident fund has been constituted under sub-section (1), the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government provident fund. 19 of 1925.

CHAPTER V

ANNUAL REPORT AND APPOINTMENTS

Annual report of University.

38. (1) The annual report of the University shall be prepared by the Vice-Chancellor, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and an outcome based assessment of the research being undertaken by it, and be submitted to the Board of Governors on or before such date as may be specified and the Board of Governors shall consider the report in its annual meeting.

(2) The annual report, as approved by the Board of Governors, shall be published and placed on the website of the University.

(3) The Vice-Chancellor shall prepare and release for every year a report, in English and in Hindi, the working of the University in the previous year on or before the expiry of nine months from the close of financial year, and a copy of the same, together with an audited statement of accounts showing the income and expenditure for the previous year shall be submitted to the Central Government within that stipulated time, and the same may be caused to be laid before each House of Parliament.

Appointments of officers of University.

39. All appointments of the employees of the University, except the Vice-Chancellor, shall be made in accordance with the procedure laid down in the Statutes, by—

(a) the Board of Governors, if the appointment is made on the academic staff in the post of Assistant Professor or above, or if the appointment is made on the non-academic staff in any post equivalent to Group 'A' and above, as the case may be;

(b) by the Vice-Chancellor, in any other case.

CHAPTER VI

STATUTES AND ORDINANCES

Statutes.

40. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff from within the country or from outside the country, and other employees of the University, their emoluments and conditions of service;

- (e) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;
- (f) the conditions of service of employees including provisions for pension, insurance, provident fund, manner of termination of service and disciplinary action;
- (g) the principles governing the seniority of service of the employees of the University;
- (h) the procedure for arbitration in cases of dispute between employees or students and the University;
- (i) the procedure for appeal to the Board of Governors by any employee or student against the action of any officer or authority of the University;
- (j) the conferment of affiliation to a college or an institution or a Department under the University;
- (k) the establishment and abolition of Schools, departments, centers, halls, colleges and institutions;
- (l) the conferment of honorary degrees;
- (m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (n) the management of campuses and affiliated colleges by the University;
- (o) the delegation of powers vested in the authorities or officers of the University;
- (p) the maintenance of discipline among the employees and students; and
- (q) any other matter, which by this Act are to be, or may be, laid down in the Statutes.

41. (1) The first Statutes of the University shall be made by the Board of Governors with the prior approval of the Central Government and a copy of the same shall be laid as soon as may be it is made, before each House of Parliament:

Statutes how to be made.

Provided that till such Statutes are made, the provisions of existing regulations of the Gujarat Forensic Sciences University, Gandhinagar shall continue to be applicable:

Provided further that till the Statutes for the administrative functioning of Delhi campus of the University is made, the functions in Delhi campus shall continue in the same manner presently being followed by the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi.

(2) The Board of Governors may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Board of Governors shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Board of Governors.

(3) Notwithstanding anything contained in this section, the Central Government may direct the University to make provisions in the Statutes in respect of any matter as it may specify.

(4) The power to make Statutes shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes or any of them, but no retrospective effect shall be given to any Statute so as to prejudicially affect the interests of any person to whom such Statute may be applicable.

Ordinances.

42. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to examinations, degrees and diplomas to the University;
- (f) the conditions and institution for award of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examination including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (h) the conditions of residence of the students of the University;
- (i) the special arrangements, if any, which may be made for the residence and teaching of women students and the specifying of special courses of studies for them;
- (j) the establishment of centers of studies, boards of studies, specialised laboratories and other committees;
- (k) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;
- (l) the setting up of machinery for redressal of grievances of employees and students; and
- (m) any other matter which by this Act or Statutes, is to be, or may be, specified in the Ordinances.

Ordinances
how made.

43. (1) Save as otherwise provided in this section, Ordinances shall be made by the Academic Council.

(2) All Ordinances made by the Academic Council shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board of Governors and shall be considered by the Board of Governors at its next succeeding meeting.

(3) The Board of Governors shall have power by resolution to approve, modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

CHAPTER VII

TRIBUNAL OF ARBITRATION

Tribunal of
Arbitration.

44. (1) Every employee of the University shall be appointed under a written contract, which shall be retained by the University and a copy of which shall be given to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Board of Governor, one member nominated by the employee concerned and chaired by an umpire appointed by the Central Government.

(3) The decision of the Tribunal of Arbitration shall be final and no suit shall lie in any civil court in respect of the matters decided by the said Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

26 of 1996.

(5) The procedure for regulating the work of the Tribunal of Arbitration shall be laid down in the Statutes.

45. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by an order or resolution of the Vice-Chancellor and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such order or copy of such resolution by him, appeal to the Board of Governors and the Board of Governors may confirm, modify or reverse the decision of the Vice-Chancellor, as the case may be.

Redressal for debarment from examination and disciplinary action against students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 44 shall apply to a reference made under this sub-section.

CHAPTER VIII

MISCELLANEOUS

46. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Board of Governors for decision.

Disputes as to constitution of authorities and bodies.

47. (1) The Central Government may, after previous publication, make rules to carry out the purposes relating to the Board of Governors.

Power of Central Government to make rules in respect of matters relating to Board of Governors.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of filling vacancies among the members of the Board of Governors;

(b) the disqualifications for being chosen as, and for being a member of the Board of Governors;

(c) the circumstances in which, and the authority by which, members may be removed;

(d) the meetings of the Board of Governors and the procedure for conduct of business;

(e) the travelling and other allowances payable to members of the Board of Governors; and

(f) the manner in which functions of the Board of Governors may be exercised.

Acts and proceeding not to be invalidated by vacancies, etc.

48. No act of the Board of Governors or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

(a) any vacancy in, or defect in the constitution thereof; or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

University to be a public authority under Right to Information Act.

49. The provisions of Right to Information Act, 2005 shall apply to the University, as if it were a public authority defined in clause (h) of section 2 of that Act. 22 of 2005.

Protection of action taken in good faith.

50. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or Statutes or Ordinances made thereunder.

Power of Central Government to issue directions.

51. (1) The University shall, in discharge of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

Residuary provision.

52. (1) The Board of Governors shall have the authority to deal with any matter pertaining to the University and not specifically dealt with in this Act.

(2) The decision of the Board of Governors on all such matters shall be final.

Laying of rules, Statutes, Ordinances and notifications.

53. (1) Every rule, Statute or Ordinance made and every notification issued under this Act shall be published in the Official Gazette.

(2) Every rule, Statute or Ordinance made and every notification issued under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, Statute, Ordinance or notification or both Houses agree that the rule, Statute, Ordinance or notification should not be made, the rule, Statute, Ordinance or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, Statute, Ordinance or notification.

Power to remove difficulties.

54. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

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

Transitional provisions.

55. Notwithstanding anything contained in this Act and the Statutes made thereunder,—

(a) the existing Director General of the Gujarat Forensic Sciences University,

Gandhinagar shall be appointed by the Central Government as the first Vice-Chancellor of the University for a period of three years and he shall be eligible for re-appointment for a further period of three years;

(b) till such time the University constitutes such authorities or committees as may be required under the provisions of this Act, the existing committee or Board in the Gujarat Forensic Sciences University, Gandhinagar shall continue to exercise the respective roles or, as the case may be, till the Board of Governors determine;

(c) the existing Director of Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi shall be appointed as the Campus Director for Delhi campus of the University till a regular Director is appointed by the University;

(d) the existing Registrar of the Gujarat Forensic Sciences University, Gandhinagar shall be appointed as the first Executive Registrar of the University, or, as the case may be, till the Board of Governors determine.

56. (1) The Gujarat Forensic Sciences University Act, 2008 is hereby repealed.

Repeal of
Gujarat Act 17
of 2008.

(2) Notwithstanding such repeal,—

(a) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted, or other things done under the Gujarat Forensic Sciences University Act, 2008, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act and, except as otherwise provided by or under this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and

(b) all the proceedings of selection committee or any other authority, if any, for the appointment or promotion of teachers and other employees that took place before the commencement of this Act and all actions of the concerned authorities in respect of the recommendations of such selection committee or authority, if any, where no orders of appointment on the basis thereof were passed before the commencement of this Act shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceeding in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take a decision to the contrary.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2020/Asvina 6, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE RASHTRIYA RAKSHA UNIVERSITY ACT, 2020

No. 31 OF 2020

[28th September, 2020.]

An Act to establish and declare an institution to be known as the Rashtriya Raksha University as an institution of national importance and to provide for its incorporation and matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Rashtriya Raksha University Act, 2020.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. Whereas the objects of the Rashtriya Raksha University are such as to make it an institution of national importance, it is hereby declared that the Rashtriya Raksha University is an institution of national importance.

Declaration of Rashtriya Raksha University as an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Academic Council" means the Academic Council of the University referred to in section 17;

(b) "affiliated college" means an institution recognised as such by the Executive Council in accordance with the provisions of this Act and the Statutes made thereunder;

(c) "college" means an institution maintained by or admitted to the privileges of the University and includes an affiliated college;

(d) "Dean" means the Dean of the University appointed under section 25;

(e) "department" means an academic department of the University;

(f) "distance education system" means the system of imparting education through any means of communication, such as, broadcasting, telecasting, internet, correspondence courses, seminars, contact programmes or the combination of any two or more such modes;

(g) "employee" means any person appointed by the University and includes teachers, other academic and non-academic staff of the University;

(h) "Executive Council" means the Executive Council of the University constituted under section 16;

(i) "Finance Committee" means the Finance Committee of the University constituted under section 19;

(j) "Fund" means the Fund of University referred to in section 31;

(k) "Governing Body" means the Governing Body of the University constituted under section 13;

(l) "notification" means a notification published in the Official Gazette;

(m) "Pro Vice-Chancellor" means the Pro Vice-Chancellor of the University appointed under section 23;

(n) "Registrar" means the Registrar of the University appointed under section 24;

(o) "School" means a school of study of the University;

(p) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University made under this Act;

(q) "student" means a student of the University and includes any person who has enrolled for pursuing any course of study in the University;

(r) "teachers" means professors, associate professors and assistant professors appointed or recognised as such by Statutes for the purposes of imparting instruction in the University or for giving guidance for research or rendering assistance to students for pursuing any course of study in the University;

(s) "University" means the Rashtriya Raksha University established under section 4;

(t) "Vice-Chancellor" means the Vice-Chancellor of the University appointed under section 22.

CHAPTER II

ESTABLISHMENT OF UNIVERSITY

Establishment
and
incorporation
of University.

4. (1) The Raksha Shakti University in the State of Gujarat, established under the Raksha Shakti University Act, 2009, shall be established as a body corporate under this Act by the name of Rashtriya Raksha University.

Gujarat Act
14 of 2009.

(2) The Rashtriya Raksha University shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall, by the said name, sue or be sued.

(3) The Headquarters of the University shall be at Gandhinagar in the State of Gujarat.

(4) The University may establish and maintain centres and campuses at such other places in India and abroad as it may deem fit.

5. On and from the date of commencement of this Act,—

Effect of
incorporation
of University.

(a) any reference to the Raksha Shakti University in any contract or other instrument shall be deemed as a reference to the University;

(b) all property, movable and immovable, of or belonging to the Raksha Shakti University shall vest in the University;

(c) all rights and liabilities of the Raksha Shakti University shall be transferred to, and be the rights and liabilities of, the University;

(d) every person employed by the Raksha Shakti University immediately before the commencement of this Act shall hold his office or service in the University by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been enacted, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the University in accordance with the term of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the University of compensation equivalent to three months' remuneration in case of permanent employees and one month's remuneration in the case of other employees:

Provided further that every person employed before the commencement of this Act, pending the execution of a contract, shall be deemed to have been appointed in accordance with the provisions of a contract consistent with the provisions of this Act and the Statutes:

Provided also that any reference, by whatever form of words, to the Vice-Chancellor of the Raksha Shakti University in any law for the time being in force, or in any instrument or other document, shall be construed as a reference to the Vice-Chancellor of the University;

(e) every person pursuing any academic or research course in every existing institute or department under Raksha Shakti University, immediately before commencement of this Act, shall be deemed to have migrated and registered with the corresponding institute or department, on such commencement at the same level of course in the University from which such person migrated and shall continue to pursue such academic or research course in the University;

(f) all suits and other legal proceedings instituted by or against Raksha Shakti University, immediately before the commencement of this Act, shall be continued or instituted by or against the University;

(g) all colleges, institutions, faculties and departments affiliated to, or admitted to the privileges of, or maintained by, the Raksha Shakti University shall stand affiliated to, or admitted to the privilege of, or maintained by, the University.

Objects of
University.

6. The objects of the University shall be to promote global standards and to provide—

(a) dynamic and high standards of learning and research;

(b) working environment dedicated to the advancement and dissemination of education, research, training and scholarship of the highest quality in the domain of policing including coastal policing, security, law enforcement, criminal justice, cyber security, cyber crime, artificial intelligence and related areas of internal security; and

(c) public safety with a view to build human capital having the highest ideals of citizenship and citizen centric services with special reference to women, weaker sections and minorities, who are endowed with the necessary intellectual acumen, moral commitment and professional competence to meet hands-on, the challenges of crime, justice and public safety in a free society.

Powers and
functions of
University.

7. (1) Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely:—

(a) to provide instructions and research in such branches of police sciences including coastal policing, security, cyber security, artificial intelligence, cyber crime, risk management, social sciences including studies related to gender sensitisation, minorities and weaker sections, juvenile justice and such other subjects relevant for the Government as well as private sector, as the University may think fit, and for the advancement of learning, research and dissemination of knowledge in such branches;

(b) to plan and prescribe courses of study such as degrees, diplomas and certificates including in-service courses of short and long duration;

(c) to endeavour to design and conduct through its affiliated colleges, integrated courses including post-matriculation in policing related or allied subjects;

(d) to hold examinations and grant degrees, diplomas, certificates and other academic distinctions;

(e) to confer honorary degrees or other distinctions;

(f) to grant, subject to such conditions as the University may determine, diplomas or certificates to, of evaluation or any other method of testing, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(g) to provide facilities through distance education system to such persons as it may determine;

(h) to introduce semester system, continuous evaluation and choice-based credit system and enter into agreements with other Universities and academic institutions for credit transfer and joint degree programmes;

(i) to obtain accreditation from the National Assessment and Accreditation Council or any other accrediting agency at the national level;

(j) to introduce e-governance with an effective management information system;

(k) to fix, demand and receive fees and other charges;

(l) to establish, maintain and manage colleges, institutions and halls in other States and Union territories and hostels for the residence of students;

(m) to establish such centres and specialised laboratories or other units for research and instructions as are, in the opinion of the University, necessary for the furtherance of its objects;

(n) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health, general welfare, cultural and corporate life;

(o) to institute academic and other posts and to make appointments thereto (except in the case of the Vice-Chancellor) as may be necessary for imparting instructions and managing all affairs of the University;

(p) to appoint persons working in any other University or academic institution, including those located outside the country as teachers of the University for a specified period;

(q) to co-operate, collaborate or partner or associate with educational or other institutions and organisations, public and private, including those located outside the country having objects wholly or partly similar to those of the University by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(r) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(s) to provide for the preparation of instructional material, including related software and other audio-visual aids;

(t) to make provisions for research and development in areas of core competence of the University;

(u) to enter into, carry out, vary or cancel contracts;

(v) to provide, control and maintain discipline among the students and all categories of employees and to lay down the conditions of service of such employees including their code of conduct;

(w) to establish and maintain such infrastructure as may be necessary;

(x) to set up campuses across the country and off-shore campuses as per requirement;

(y) to admit foreign students, Overseas Citizen of India card holder, Person of Indian Origin, non-resident Indian, children of Indian workers in Gulf and South-East Asian Countries, in such manner and as may be laid down in the Statutes;

(z) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the University.

(2) Notwithstanding anything contained in sub-section (1), the University shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

8. The jurisdiction of the University shall extend to the whole of India.

Jurisdiction of University.

9. (1) The University shall be open to all persons irrespective of gender, race, caste, creed, disability, domicile, ethnicity, social or economic background.

University to be open to all races, creeds and classes.

(2) No bequest, donation or transfer of any property shall be accepted by the University which in the opinion of the Executive Council involves conditions or obligations opposed to the spirit and object of this section.

(3) Admissions to every academic programme of study in the University shall be based on merit assessed through transparent and reasonable criteria disclosed prior to the commencement of the process of admission by the University:

Provided that the University shall be a Central Educational Institution for the purposes of the Central Educational Institutions (Reservation in Admission) Act, 2006.

5 of 2007.

10. (1) It shall be the endeavour of the University to take necessary measures to maintain an all-India character, high standard of teaching and research.

Admission of students.

(2) Admission of students for courses in the University shall be made on an all-India basis in such manner as may be specified in the Ordinances.

(3) Admission of students on international basis may be made in such manner as may be laid down in the Statutes and the directions or instructions or guidelines issued by the Central Government in this behalf.

Teaching at University.

11. All teaching at the University shall be in accordance with the Statutes and Ordinances made in this behalf.

CHAPTER III

AUTHORITIES OF UNIVERSITY

Authorities of University.

12. The following shall be the authorities of the University, namely:—

- (a) Governing Body;
- (b) Executive Council;
- (c) Academic Council;
- (d) Finance Committee; and
- (e) such other authorities as may be laid down in the Statutes to be the authorities of the University.

Governing Body.

13. (1) The Central Government may, by the notification in the Official Gazette, constitute a Governing Body of the University from such date as it may specify therein.

(2) The Governing Body shall consist of not more than fifteen members including the Chairperson, with majority of members from academia, industry and relevant professional fields, to be nominated by the Central Government including the following, namely:—

- (a) Chairperson;
- (b) Vice-Chancellor of the University, *ex officio*;
- (c) one representative of the Ministry of Home Affairs not below the rank of Joint Secretary, *ex officio*;
- (d) an officer of Indian Legal Service, not below the rank of Joint Secretary, to be nominated by the Central Government, *ex officio*;
- (e) two representatives of the Government of Gujarat being officers not below the rank of Secretary in that Government;
- (f) one representative of State Police Universities by rotation;
- (g) one person of eminence from the academia or field of education;
- (h) one person of eminence or expertise from the industry or corporate sector;
- (i) one person to be an expert of global eminence from a field having relevance to the objects of the University;
- (j) not more than three persons having expertise in defence, policing, internal security and allied fields.

(3) The Central Government may, in consultation with such State Governments as it deems fit, appoint the Chairperson of the Governing Body, who shall be an eminent person from the field of academia, defence, security, law enforcement or internal security.

Term of office, vacancies among, and allowances payable to, members of Governing Body.

14. (1) Save as otherwise provided in this section, the term of office of a member of the Governing Body, other than an *ex officio* member, shall be for a period of three years from the date of nomination.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(4) Notwithstanding anything contained in this section, an outgoing member shall, unless the Governing Body otherwise directs, continue in office until another person is nominated as a member in his place.

(5) The members of the Governing Body shall be entitled to such travelling and other allowances as may be laid down in the Statutes, but no member shall be entitled to any salary by reason of this sub-section.

15. (1) Subject to the provisions of this Act, the Governing Body of the University shall be responsible for the general policy making, superintendence, direction and control of the affairs of the University and shall exercise all the powers of the University not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Academic Council.

Powers and
functions of
Governing
Body.

(2) It shall be the general duty of the Governing Body to co-ordinate the activities of the University.

(3) Without prejudice to the provisions of sub-section (2), the Governing Body shall perform the following functions, namely:—

(a) to formulate and review the broad policies and programmes of the University and suggest measures for the development of the University;

(b) to advise on matters relating to the duration of the courses, degrees and other academic distinctions to be conferred by the University, admission standards and other academic matters;

(c) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and fellowships, levying of fees and other matters of common interest;

(d) to examine the development plans of the University and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(e) to examine the annual budget estimates of the University and to recommend to the Central Government the allocation of funds for that purpose;

(f) to lay down the policy and take decisions on questions of policy relating to the administration and working of the University;

(g) to institute courses of study;

(h) to make Statutes;

(i) to institute and appoint persons to academic as well as other posts;

(j) to make necessary recommendation in matters for the furtherance of the objective of the University;

(k) to consider and direct the Executive Council to amend or repeal Ordinances;

(l) to consider and pass resolutions on the annual report, annual accounts and the budget estimates of the University for the next financial year, together with a statement of its development plans, submitted by the Executive Council and Academic Council, as it thinks fit;

(m) to delegate any of its powers to the Executive Council, Vice-Chancellor, Pro Vice-Chancellors, Deans, Registrar or any authority of the University or to a committee or to any other officer or employee, of the University;

(n) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

(4) The Governing Body shall have the power to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

Executive Council.

16. (1) The Executive Council shall be the principal executive body of the University.

(2) The Vice-Chancellor shall be the *ex officio* Chairperson of the Executive Council.

(3) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be such as may be laid down in the Statutes:

Provided that such number of members as may be laid down in the Statutes shall be from among the members of the Governing Body.

Academic Council.

17. The Academic Council of the University shall consist of the following persons, namely:—

(a) the Vice-Chancellor shall be the *ex officio* Chairperson of the Academic Council;

(b) the professors appointed or recognised as such by the University for the purpose of imparting instruction;

(c) three persons to be appointed by the Governing Body from among persons of national or international eminence in the industry or academia having relevance to the objects of the University;

(d) two persons, not being employees of the University, to be nominated by the Vice-Chancellor, from amongst educationists of repute;

(e) one person with wide experience in policing and internal security on rotation from States and Union territories to be nominated by the Central Government; and

(f) two persons from international universities to be nominated by the Governing Body.

Functions of Academic Council.

18. The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and Ordinances made thereunder, co-ordinate and exercise control and general supervision over the academic policies of the University and shall be responsible for the maintenance of standards of learning, education, instruction, evaluation and examinations within the University and shall exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Statutes.

Finance Committee.

19. The constitution, powers and functions of the Finance Committee shall be such as may be laid down in the Statutes.

Board for Affiliation and Recognition.

20. (1) The Board for Affiliation and Recognition shall be responsible for admitting colleges and institutions to the privileges of the University.

(2) The constitution of the Board for Affiliation and Recognition, the term of office of its members and its powers and duties shall be such as may be laid down in the Statutes.

Officers of University.

21. The following shall be the officers of the University, namely:—

(a) Vice-Chancellor;

(b) Pro Vice-Chancellor;

(c) Registrar;

(d) Dean;

(e) Finance Officer; and

(f) such other officers as may be laid down in the Statutes to be officers of the University.

22. (1) The Central Government may, in consultation with such State Governments as it deems fit, appoint the Vice-Chancellor of the University, who shall be a person possessing the highest level of competence, integrity, moral and institutional commitment, with extensive knowledge in policing or research or administration or social sciences, preferably having wide experience in police training and internal security or a distinguished academician with a minimum of ten years administrative experience in a reputed research or academic organisation.

Vice-Chancellor.

(2) The Vice-Chancellor shall be principal academic and chief executive officer of the University and shall be responsible for the proper administration of the University and for the imparting of instruction and maintenance of discipline therein.

(3) The Vice-Chancellor shall submit annual reports and accounts to the Governing Body.

(4) It shall be the duty of the Vice-Chancellor to ensure that decisions taken by the Governing Body are implemented.

(5) The Vice-Chancellor shall ordinarily preside over the meetings of the Academic Council and convocations of the University.

(6) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be assigned to him by this Act or laid down in the Statutes or Ordinances.

23. The Pro Vice-Chancellor of the University shall be appointed in such manner, on such emoluments and other conditions of service and shall exercise such powers and perform such duties, as may be laid down in the Statutes.

Pro Vice-Chancellor.

24. (1) The Registrar of the University shall be appointed in such manner and on such terms and conditions as may be laid down in the Statutes.

Registrar.

(2) The Registrar shall be the custodian of records, common seal, funds of the University and such other property of the University as the Governing Body shall commit to his charge.

(3) The Registrar shall act as the Secretary of the Governing Body, the Executive Council, the Academic Council and such other committees as may be laid down in the Statutes.

(4) The Registrar shall be responsible to the Vice-Chancellor for the proper discharge of his functions.

(5) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Vice-Chancellor.

25. The Dean of the University shall be appointed in such manner, on such emoluments and other conditions of service and shall exercise such powers and perform such duties, as may be laid down in the Statutes.

Dean.

26. The Finance Officer shall be appointed in such manner, on such emoluments and other conditions of service and shall exercise such powers and perform such duties, as may be laid down in the Statutes.

Finance Officer.

27. The powers and duties of other authorities and officers, other than those hereinbefore mentioned, of the University including their terms and conditions of service shall be such as may be laid down in the Statutes.

Other authorities and officers.

28. For the purpose of enabling the University to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the University in each financial year such sums of money in such manner as it may think fit.

Grants by Central Government.

Grants by
State
Governments.

29. The University may receive such sums of money as grants-in-aid annually or as one-time grant from any State Government.

CHAPTER IV

ACCOUNTS AND AUDIT

Corpus of
University.

30. The University may receive funds from the Central Government or State Governments or other sources or use its funds to maintain and operate a corpus of the University.

Fund.

31. (1) The University shall maintain a Fund to which shall be credited—

(a) all moneys provided by the Central Government;

(b) all moneys received from State Governments;

(c) all fees and other charges received by the University;

(d) all moneys received by the University by way of grants, gifts, donations, benefactions, bequests or transfers; and

(e) all moneys received by the University in any other manner or from any other source.

(2) All moneys credited to the Fund of the University shall be deposited in such banks or invested in such manner as the University may, with the approval of the Central Government, decide.

(3) The Fund of the University shall be applied towards meeting its expenses including expenditure incurred in the exercise of its powers and discharge of its duties under this Act.

Accounts and
audit.

32. (1) The University shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form and accounting standard as may be specified, by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the University shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by it in connection with such audit shall be payable by it to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the University shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the University.

(4) The accounts of the University as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Pension and
provident
fund.

33. (1) The University may constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be laid down in the Statutes.

(2) Where any provident fund has been constituted under sub-section (1), the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government provident fund.

19 of 1925.

CHAPTER V

ANNUAL REPORT AND APPOINTMENTS

34. (1) The annual report of the University shall be prepared by the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and an outcome based assessment of the research being undertaken by it, and be submitted to the Governing Body on or before such date as may be specified and the Governing Body shall consider the report in its annual meeting. Annual report of University.

(2) The annual report as approved by the Governing Body shall be published and placed on the website of the University.

(3) The Executive Council shall prepare and release for every year a report, in English and in Hindi, the working of the University in the previous year on or before the expiry of nine months from the close of financial year, and a copy of the same, together with an audited statement of accounts showing the income and expenditure for the previous year shall be submitted to the Central Government within that stipulated time, and the same may be caused to be laid before each House of Parliament.

35. All appointments of the employees of the University, except that of the Vice-Chancellor, shall be made in accordance with the procedure laid down in the Statutes, by— Appointments.

(a) the Governing Body, if the appointment is made on the academic staff in the post of Assistant Professor or above, or if the appointment is made on the non-academic staff, in any post equivalent to Group 'A' and above;

(b) by the Vice-Chancellor, in any other case.

CHAPTER VI

STATUTES AND ORDINANCES

36. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:— Statutes.

(a) the manner of recognition of an institution by the Executive Council as affiliated college;

(b) the constitution, powers and functions of, authorities and other bodies including disciplinary committee and examination committee, of the University as may be constituted from time to time;

(c) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(d) the appointment, powers and duties of the officers of the University and their emoluments;

(e) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(f) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(g) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(h) the principles governing the seniority of service of the employees of the University;

- (i) the procedure for arbitration in cases of dispute between employees or students and the University;
- (j) the procedure for appeal to the Governing Body by any employee or student against the action of any officer or authority of the University;
- (k) the conferment of autonomous status on a college or an institution or a department;
- (l) the establishment and abolition of Schools, departments, centers, halls, colleges and institutions;
- (m) the manner of co-operation and collaboration with other Universities, institutions and other agencies including learned bodies, associations and the private sector;
- (n) the conferment of honorary degrees;
- (o) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (p) the management of colleges and institutions established by the University;
- (q) the delegation of powers vested in the authorities or officers of the University;
- (r) the maintenance of discipline among the employees and students; and
- (s) any other matter which by this Act is to be, or may be, laid down in the Statutes.

Statutes how made.

37. (1) The first Statute of the University shall be made by the Governing Body with the prior approval of the Central Government and a copy of the same shall be laid, as soon as may be it is made, before each House of Parliament.

(2) The Governing Body may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Governing Body shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Governing Body.

Ordinances.

38. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to examinations, degrees and diplomas to the University;
- (f) the conditions and institution for award of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examination including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence and teaching of women students and the specifying of special courses of studies for them;

(j) the establishment of centers of studies, boards of studies, specialised laboratories and other committees;

(k) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(l) the setting up of machinery for redressal of grievances of employees and students; and

(m) any other matter which by this Act or Statutes, is to be, or may be, specified in the Ordinances.

39. (1) Save as otherwise provided in this section, Ordinances shall be made by the Executive Council. Ordinances
how made.

(2) All Ordinances made by the Executive Council shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Governing Body and shall be considered by the Governing Body at its next succeeding meeting.

(3) The Governing Body shall have power by resolution to approve, modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

CHAPTER VII

TRIBUNAL OF ARBITRATION

40. (1) Every employee of the University shall be appointed under a written contract, which shall be retained by the University and a copy of the same shall be given to the employee concerned. Tribunal of
Arbitration
for
employees.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and chaired by an umpire appointed by the Governing Body.

(3) The decision of the Tribunal of Arbitration shall be final and no suit shall lie in any civil court in respect of the matters decided by the said Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

26 of 1996.

(5) The procedure for regulating the work of the Tribunal shall be laid down in the Statutes.

41. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by an order of the Vice-Chancellor on the recommendation of the disciplinary committee or examination committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such order by him, appeal to the Governing Body and the Governing Body may confirm, modify or reverse the decision of the Vice-Chancellor. Redressal for
debarment
from
examination
and
disciplinary
action against
students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 40 shall apply to a reference made under this sub-section.

CHAPTER VIII

MISCELLANEOUS

Disputes as to constitution of authorities and bodies.

42. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Central Government, and the decision of that Government thereon shall be final.

Power of Central Government to make rules in respect of matters relating to Governing Body.

43. (1) The Central Government may, after previous publication, make rules to carry out the purposes relating to Governing Body.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of filling vacancies among the members of the Governing Body;

(b) the disqualifications for being chosen as, and for being a member of the Governing Body;

(c) the circumstances in which, and the authority by which, members may be removed;

(d) the meetings of the Governing Body and the procedure for conduct of business;

(e) the travelling and other allowances payable to members of the Governing Body; and

(f) the manner in which functions of the Governing Body may be exercised.

Acts and proceeding not to be invalidated by vacancies, etc.

44. No act of the Governing Body or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

(a) any vacancy in, or defect in the constitution thereof; or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

University to be public authority under Right to Information Act.

45. The provisions of the Right to Information Act, 2005 shall apply to the University, as if it were a public authority defined in clause (h) of section 2 of that Act.

22 of 2005.

Power of Central Government to review work and progress made and to hold enquiries.

46. (1) The Central Government may, from time to time, appoint one or more persons to review the work and progress of the University, including colleges and institutions administered by it, and hold enquiries thereof and to submit a report thereon in such manner as the Central Government may direct.

(2) Upon receipt of any such report, the Central Government may, after obtaining the views of the Governing Body thereon through the Vice-Chancellor, take such action and issue such directions as it considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

47. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances made thereunder.

Protection of action taken in good faith.

48. (1) The Governing Body shall have the authority to deal with any matter pertaining to the University and not specifically dealt with in this Act.

Residuary provisions.

(2) The decision of the Governing Body on all such matters shall, subject to revision by the Central Government, be final.

49. The University shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Power of Central Government to issue directions.

50. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

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

51. (1) Every rule, Statute or Ordinance made and every notification issued under this Act shall be published in the Official Gazette.

Laying of rules, Statutes, Ordinances and notifications.

(2) Every rule, Statute or Ordinance made and every notification issued under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, Statute, Ordinance or notification or both Houses agree that the rule, Statute, Ordinance or notification should not be made, the rule, Statute, Ordinance or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, Statute, Ordinance or notification.

52. (1) The existing Board of Governors, Finance Committee and other committees functioning in the Raksha Shakti University, Gujarat shall continue to function till such time the University constitutes the authorities or committees under the provisions of this Act.

Transitional provisions.

(2) The existing officers of the Raksha Shakti University, Gujarat such as, Vice-Chancellor, Registrar or Finance Officer, shall continue to function till such time the officers are appointed under the provisions of this Act.

53. (1) The Raksha Shakti University Act, 2009 is hereby repealed.

Repeal of Gujarat Act 14 of 2009.

(2) Notwithstanding such repeal,—

(a) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted, or other things done under the Raksha Shakti University Act, 2009, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act and, except as otherwise provided by or under this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and

(b) all the proceedings of selection committee or any other authority, if any, for the appointment or promotion of teachers and other employees that took place before the commencement of this Act and all actions of the concerned authorities in respect of the recommendations of such selection committee or authority, if any, where no orders of appointment on the basis thereof were passed before the commencement of this Act shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceedings in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take a decision to the contrary.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 64] नई दिल्ली, मंगलवार, सितम्बर 29, 2020/ आश्विन 7, 1942 (शक)
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 29th September, 2020/Asvina 7, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 29th September, 2020 and is hereby published for general information:—

THE BANKING REGULATION (AMENDMENT) ACT, 2020

No. 39 OF 2020

[29th September, 2020.]

An Act further to amend the Banking Regulation Act, 1949.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Banking Regulation (Amendment) Act, 2020.

Short title
and
commencement.

(2) It shall be deemed to have come into force on the 26th day of June, 2020, except section 4, which, in so far as it relates to—

(i) primary co-operative banks, be deemed to have come into force on the 29th day of June, 2020;

(ii) state co-operative banks and central co-operative banks, come into force on such date as the Central Government may by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for state co-operative banks and central co-operative banks and any reference in any such provision to the

commencement of this Act shall be construed as a reference to the coming into force of that provision.

Substitution of new section for section 3.

2. In the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act), for section 3, the following section shall be substituted, namely:— 10 of 1949.

Act not to apply to certain co-operative societies.

“3. Notwithstanding anything contained in the National Bank for Agriculture and Rural Development Act, 1981, this Act shall not apply to— 61 of 1981.

(a) a primary agricultural credit society; or

(b) a co-operative society whose primary object and principal business is providing of long-term finance for agricultural development,

if such society does not use as part of its name, or in connection with its business, the words “bank”, “banker” or “banking” and does not act as drawee of cheques.”.

Amendment of section 45.

3. In section 45 of the principal Act,—

(i) in the marginal heading, for the word “reconstitution”, the word “reconstruction” shall be substituted;

(ii) in sub-section (3), after the words “other creditors”, the words “or grant any loans or advances or make investments in any credit instruments” shall be inserted;

(iii) in sub-section (4), after the words “During the period of moratorium”, the words “or at any other time” shall be inserted;

(iv) in sub-section (5), in clauses (e), (i) and (j), for the words “date of the order of moratorium”, the words “reconstruction or amalgamation” shall be substituted;

(v) in sub-section (6), in clause (a), for the word “amalgamation”, the words “reconstruction or amalgamation” shall be substituted;

(vi) in sub-section (15), the words “or a subsidiary bank” shall be omitted.

Amendment of section 56.

4. In section 56 of the principal Act,—

(A) in the opening portion, for the words “The provisions of this Act, as in force for the time being,”, the words “Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act” shall be substituted;

(B) in clause (a), after sub-clause (ii), the following sub-clauses shall be inserted, namely:—

‘(iii) references to “memorandum of association” or “articles of association” shall be construed as references to bye-laws;

(iv) references to the provisions of the Companies Act, 1956, except in Part III and Part IIIA, shall be construed as references to the corresponding provisions, if any, of the law under which a co-operative bank is registered; 1 of 1956.

(v) references to “Registrar” or “Registrar of Companies” shall be construed as references to “Central Registrar” or “Registrar of Co-operative Societies”, as the case may be, under the law under which a co-operative bank is registered;’;

(C) clause (d) shall be omitted;

(D) in clause (e), sub-clauses (i) and (iii) shall be omitted;

(E) in clause (f), in section 7 as so substituted, in sub-section (2),—

(I) in clause (b), the words “or co-operative land mortgage banks” shall be omitted;

(II) in clause (c), in sub-clause (ii), the words “or a co-operative land mortgage bank” shall be omitted;

(F) clauses (fi), (fii) and (g) shall be omitted;

(G) for clause (i), the following clause shall be substituted, namely:—

‘(i) for section 12, the following section shall be substituted, namely:—

“12. (I) A co-operative bank may, with the prior approval of the Reserve Bank, issue, by way of public issue or private placement,—

(i) equity shares or preference shares or special shares, on face value or at premium; and

(ii) unsecured debentures or bonds or other like securities with initial or original maturity of not less than ten years,

to any member of such co-operative bank or any other person residing within its area of operation, subject to such conditions and ceiling, limit or restriction on its issue or subscription or transfer, as may be specified by the Reserve Bank in this behalf.

(2) Save as otherwise provided in this Act,—

(i) no person shall be entitled to demand payment towards surrender of shares issued to him by a co-operative bank; and

(ii) a co-operative bank shall not withdraw or reduce its share capital, except to the extent and subject to such conditions as the Reserve Bank may specify in this behalf.”;

(H) clauses (l), (n) and (p) shall be omitted;

(I) in clause (q), sub-clauses (ii) and (iv) shall be omitted;

(J) clauses (r), (ria) and (sa) shall be omitted;

(K) in clause (t), sub-clause (i) shall be omitted;

(L) clauses (u), (v), (x), (y), (z) and (za) shall be omitted;

(M) in clause (zaa),—

(a) in section 36AAA as so inserted,—

(i) for the words “multi-State co-operative bank”, wherever they occur, the words “co-operative bank” shall be substituted;

(ii) in sub-section (I), the following proviso shall be inserted, namely:—

“Provided that in the case of a co-operative bank registered with the Registrar of Co-operative Societies of a State, the Reserve Bank shall issue such order in consultation with the concerned State Government seeking its comments, if any, within such period as the Reserve Bank may specify.”;

(iii) after sub-section (9), the following sub-section shall be inserted, namely:—

“(10) The provisions of section 36ACA shall not apply to a co-operative bank.”;

(b) section 36AAB as so inserted shall be omitted;

(N) for clause (zb), the following clause shall be substituted, namely:—

“(zb) Part IIC shall be omitted.”;

Issue and regulation of paid-up share capital and securities by co-operative banks.

(O) in clause (zc), sub-clause (i) shall be omitted;

(P) clauses (zd) and (zf) shall be omitted;

(Q) for clause (zg), the following clause shall be substituted, namely:—

‘(zg) in section 49B, references to “Central Government” shall be construed as references to “Central Registrar” or “Registrar of Co-operative Societies”, as the case may be, under the law under which a co-operative bank is registered;’;

(R) clause (zh) shall be omitted;

(S) for clause (zj), the following clause shall be substituted, namely:—

‘(zj) after section 53, the following section shall be inserted, namely:—

“53A. Notwithstanding anything contained in any other provisions of this Act, the Reserve Bank may, from time to time, on being satisfied that it is necessary so to do, declare, by notification in the Official Gazette, that the provisions of item (iii) of clause (b) of sub-section (1) and sub-section (2), of section 10, clause (a) of sub-section (2) of section 10A, sub-section (1A) of section 10B and clause (b) of sub-section (1) of section 35B of this Act shall not apply to a co-operative bank or class of co-operative banks, either generally or for such period as may be specified therein, subject to such conditions, limitations or restrictions as it may think fit to impose.”;

Powers to exempt co-operative banks in certain cases.

Repeal and savings.

5. (1) The Banking Regulation (Amendment) Ordinance, 2020 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Banking Regulation Act, 1949, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act as amended by this Act.

Ord. 12 of 2020.

10 of 1949.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 29th September, 2020/Asvina 7, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE CODE ON SOCIAL SECURITY, 2020

No. 36 OF 2020

[28th September, 2020.]

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

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Code on Social Security, 2020.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

Short title,
extent,
commencement
and application.

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

(5) Notwithstanding anything contained in sub-section (4), where it appears to the Central Provident Fund Commissioner, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter III should be made applicable to that establishment, the Central Provident Fund Commissioner, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement:

Provided that where the employer of an establishment to which the provisions of Chapter III applied under this sub-section desires to come out of such applicability, he may make an application to the Central Provident Fund Commissioner and the Central Provident Fund Commissioner shall, if satisfied that there is an agreement between the employer and majority of the employees to this effect, make the provisions of that Chapter inapplicable to such establishment, in such manner and subject to such conditions as may be prescribed by the Central Government.

(6) The Central Government may, after giving not less than two months' notice of its intention so to do, by notification, apply the provisions of this Code to any establishment employing not less than such number of persons as may be specified in the notification.

(7) Notwithstanding anything contained in sub-section (4), where it appears to the Director General of the Corporation, whether on an application made to him by the employer of an establishment or otherwise, that the employer and majority of employees of that establishment have agreed that the provisions of Chapter IV should be made applicable to that establishment, the Director General of the Corporation, may, by notification, apply the provisions of the said Chapter to that establishment on and from the date of such agreement or from any subsequent date specified in the agreement:

Provided that where the employer of an establishment to which the provisions of Chapter IV applied under this sub-section desires to come out of such applicability, he may make an application to the Director General of the Corporation and Director General of the Corporation shall, if satisfied that there is an agreement between the employer and majority of the employees to this effect, make the provisions of that Chapter inapplicable to such establishment, in such manner and subject to such conditions as may be prescribed by the Central Government.

(8) Notwithstanding anything contained in sub-section (4), an establishment to which any Chapter applies at the first instance shall continue to be applied thereafter even if the number of employees therein at any subsequent time falls below the threshold specified in the First Schedule in respect of that Chapter.

Definitions.

2. In this Code, unless the context otherwise requires,—

(1) "agent" when used in relation to an establishment, means every person, whether appointed as such or not, who acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such establishment or part thereof;

(2) "aggregator" means a digital intermediary or a market place for a buyer or user of a service to connect with the seller or the service provider;

(3) "appropriate Government" means—

(a) in relation to, an establishment carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified by notification in this behalf, by the Central Government or the establishment of railways including metro railways, mines, oil field, major

ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or the central public sector undertaking or subsidiary companies set up by the central public sector undertakings, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, subsidiary companies or autonomous bodies or any company in which not less than fifty-one per cent. of the paid up share capital is held by the Central Government, as the case may be, or in relation to an establishment having departments or branches in more than one State, as the case may be, the Central Government; and

(b) in relation to any other establishment, the State Government.

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

60 of 2002.

Explanation 2.—For the purposes of this clause, the Central Government shall continue to be the appropriate Government for the central public sector undertakings even if the holding of the Central Government reduces to less than fifty per cent. equity in that public sector undertaking after the commencement of this Code;

(4) "audio-visual production" means audio-visual produced wholly or partly in India and includes—

(i) animation, cartoon depiction, audio-visual advertisement;

(ii) digital production or any of the activities in respect of making thereof; and

(iii) features films, non-feature films, television, web-based serials, talk shows, reality shows and sport shows;

(5) "Authorised Officer" means such officer of the Central Board, or as the case may be, of the Corporation notified by the Central Government;

(6) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include any building or other construction work which is related to any factory or mine or any building or other construction work employing less than ten workers in the preceding twelve months or where such work is related to own residential purposes of an individual or group of individuals for their own residence and the total cost of such work does not exceed fifty lakhs rupees or such higher amount and employing more than such number of workers as may be notified by the appropriate Government;

(7) "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;

(8) "Building Workers' Welfare Board" means the State Building and other Construction Workers' Welfare Board constituted under sub-section (1) of section 7;

(9) "career centre" means any office (including employment exchange, place or portal) established and maintained in the manner prescribed by the Central Government for providing such career services (including registration, collection and furnishing of information, either by the keeping of registers or otherwise, manually, digitally, virtually or through any other mode) as may be prescribed by the Central Government, which may, *inter alia*, relate generally or specifically to—

(i) persons who seek to employ employees;

(ii) persons who seek employment;

(iii) occurrence of vacancies; and

(iv) persons who seek vocational guidance and career counselling or guidance to start self-employment;

(10) "Central Board" means the Board of Trustees of the Employees' Provident Fund constituted under section 4;

(11) "Central Provident Fund Commissioner" means the Central Provident Fund Commissioner of the Central Board appointed under sub-section (1) of section 14;

(12) "child", for the purposes of Chapter VI, includes a stillborn child;

(13) "Commissioning mother" means a biological mother who uses her egg to create an embryo implanted in any other woman;

(14) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;

18 of 2013.

(15) "compensation" means compensation as provided under Chapter VII;

(16) "competent authority" means any authority appointed under section 58 for the purposes of Chapter V or notified for the purposes of Chapter VI or appointed under section 91 for the purposes of Chapter VII, as the case may be, as competent authority by the appropriate Government or the State Government, as the case may be;

(17) "completed year of service" means continuous service for twelve months;

(18) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

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

(20) "contractor", in relation to an establishment means a person, who—

(i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment through contract labour; or

(ii) supplies contract labour for any work of the establishment as mere human resource,

and includes a sub-contractor;

(21) "contribution" means the sum of money payable by the employer, under this Code, to the Central Board and to the Corporation, as the case may be, and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Code;

(22) "Corporation" means the Employees' State Insurance Corporation constituted under section 5;

(23) "delivery" means the birth of a child;

(24) "dependant" means any of the following relatives of deceased employee, namely:—

(a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother:

Provided that for the purposes of Chapter IV, a legitimate adopted son, who has not attained the age of twenty-five years, shall be dependant of the deceased employee;

(b) if wholly dependant on the earnings of the employee at the time of his death, a legitimate or adopted son or a daughter who has attained the age of eighteen years and who is infirm; except for the purposes of Chapter IV wherein the word "eighteen" occurring in this sub-clause shall be deemed to have been substituted by the word "twenty-five";

(c) if wholly or in part dependent on the earnings of the employee at the time of his death,—

(i) a widower;

(ii) a parent other than a widowed mother;

(iii) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;

(iv) a minor brother or an unmarried sister or a widowed sister if a minor;

(v) a widowed daughter-in-law;

(vi) a minor child of a pre-deceased son;

(vii) a minor child of a pre-deceased daughter where no parent of the child is alive, or;

(viii) a grandparent if no parent of the employee is alive.

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

(25) "dock work" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—

(i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;

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

(iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area in board the ship or in the docks;

(26) "employee" means any person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment, either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory,

managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:

Provided that for the purposes of Chapter III, except in case of the Employees' Provident Fund Scheme and Chapter IV, the term "employee" shall mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government and includes such other persons or class of persons as the Central Government may by notification, specify to be employee, for the purposes of those Chapters:

Provided further that for the purposes of counting of employees for the coverage of an establishment under Chapter III and Chapter IV, as the case may be, the employees, whose wages are more than the wage ceiling so notified by the Central Government, shall also be taken into account:

Provided also that for the purposes of Chapter VII, the term "employee" shall mean only such persons as specified in the Second Schedule and such other persons or class of persons as the Central Government, or as the case may be, the State Government may add to the said Schedule, by notification, for the purposes of that Government;

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

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

(b) in relation to mine, the owner of the mine or agent or manager having requisite qualification under the law for the time being in force and appointed by the owner or agent of the mine as such;

(c) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

(d) contractor; and

(e) legal representative of a deceased employer;

(28) "employment injury" means a personal injury to an employee, caused by accident or an occupational disease, as the case may be, arising out of and in the course of his employment,—

(i) for the purposes of Chapter IV, if the employee is an insured or insurable employee under section 28 whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India; and

(ii) for the purposes of Chapter VII, whether such accident occurs or the occupational disease is contracted within or outside the territorial limits of India;

(29) "establishment" means—

(a) a place where any industry, trade, business, manufacture or occupation is carried on; or

(b) a factory, motor transport undertaking, newspaper establishment, audio-visual production, building and other construction work or plantation; or

(c) a mine, port or vicinity of port where dock work is carried out.

Explanation.—For the purposes of Chapter III, where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment;

(30) "executive officer" means such officer of the appropriate Government as may be notified by that Government for the purposes of Chapter XIII or an officer authorised in writing by such executive officer to discharge his duties under that Chapter;

(31) "exempted employee" for the purposes of Chapter III, means an employee to whom any of the schemes referred to in section 15, but for the exemption granted under this Code, would have applied and for the purposes of Chapter IV, means an employee, whose wage is specified in the notification by the Central Government and who is not liable to pay employee's contribution;

(32) "factory" means any premises including the precincts thereof—

(a) whereon ten or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(b) whereon twenty or more employees are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

but does not include a mine, or a mobile unit belonging to the Armed Forces of the Union, railways running shed or a hotel, restaurant or eating place.

Explanation 1.—For computing the number of employees for the purposes of this clause, all the employees in (different groups and relays) a day shall be taken into account.

Explanation 2.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(33) "family" means all or any of the following relatives of an employee or an unorganised worker, as the case may be, namely:—

(a) a spouse;

(b) a minor legitimate or adopted child dependent upon the employee or an unorganised worker, as the case may be;

(c) a child who is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, and who is—

(i) receiving education, till he attains the age of twenty-one years; and

(ii) an unmarried daughter;

(d) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the employee or an unorganised worker, as the case may be, so long as the infirmity continues;

(e) dependent parents (including father-in-law and mother-in-law of a woman employee), whose income from all sources does not exceed such income as may be prescribed by the Central Government;

(f) in case the employee or an unorganised worker, as the case may be, is unmarried and his parents are not alive, a minor brother or sister wholly dependent upon the earnings of the Insured Person;

(34) "fixed term employment" means the engagement of an employee on the basis of a written contract of employment for a fixed period:

Provided that—

(a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent employee doing the same work or work of a similar nature; and

(b) he shall be eligible for all benefits, under any law for the time being in force, available to a permanent employee proportionately according to the period of service rendered by him even if his period of employment does not extend to the required qualifying period of employment;

(35) "gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship;

(36) "home-based worker" means a person engaged in, the production of goods or services for an employer in his home or other premises of his choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

(37) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under section 122;

(38) "Insurance Fund" means the Deposit-Linked Insurance Fund established under clause (c) of sub-section (1) of section 16;

(39) "Insured Person" means the Insured Person referred to in section 28;

(40) "Insurance Scheme" means the Deposit-Linked Insurance Scheme framed under clause (c) of sub-section (1) of section 15;

(41) "inter-State migrant worker" means a person who is employed in an establishment and who—

(i) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or

(ii) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State,

under an agreement or other arrangement for such employment and drawing wages not exceeding eighteen thousand rupees per month or such higher amount as may be notified by the Central Government from time to time;

(42) "manufacturing process" means any process for—

(i) making, altering, repairing, ornamenting, finishing, oiling, washing, cleaning, breaking up, demolishing, refining, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(ii) pumping oil, water, sewage or any other substance; or

(iii) generating, transforming or transmitting power; or

(iv) composing, offset printing, printing by letter press, lithography, photogravure screen printing, three or four dimensional printing, prototyping, flexography or other types of printing process or book binding; or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(vi) preserving or storing any article in cold storage; or

(vii) such other activities as the Central Government may notify;

(43) "maternity benefit", in respect of Chapter VI, means the payment referred to in sub-section (1) of section 60;

(44) "medical practitioner" means a person registered under any law for the time being in force, or, any person declared by the State Government, by notification, to be qualified as medical practitioner for the purposes of this Code:

Provided that different class or classes of medical practitioner having specific qualification may be notified by the Central Government for the purposes of Chapter IV and by the appropriate Government for other Chapters of this Code;

34 of 1971. (45) "medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of the Medical Termination of Pregnancy Act, 1971;

35 of 1952. (46) "mine" shall have the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952;

(47) "minor" means a person who has not attained the age of eighteen years;

45 of 1860. (48) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy, but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code;

(49) "National Social Security Board" means the National Social Security Board for Unorganised Workers constituted under sub-section (1) of section 6;

(50) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(51) "occupational disease" means a disease specified in the Third Schedule as a disease peculiar to the employment of the employee;

(52) "occupier" in respect of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

(a) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

18 of 2013. (b) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;

(c) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

shall be deemed to be the occupier:

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

53 of 1948. (53) "oilfield" shall have the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948;

(54) "organised sector" means an enterprise which is not an unorganised sector;

(55) "permanent partial disablement" means, where the disablement is of a permanent nature, such disablement as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement:

Provided that every injury specified in Part II of the Fourth Schedule shall be deemed to result in permanent partial disablement;

(56) "permanent total disablement" means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Fourth Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent.;

(57) "Pension Fund" means the Pension Fund established under clause (b) of sub-section (1) of section 16;

(58) "Pension Scheme" means the Employees' Pension Scheme framed under clause (b) of sub-section (1) of section 15;

(59) "plantation" means—

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

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

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

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

(b) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares:

Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and

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

(60) "platform work" means a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment;

(61) "platform worker" means a person engaged in or undertaking platform work;

- 15 of 1908. (62) "port" shall have the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908;
- (63) "Provident Fund" means the Employees' Provident Fund established under clause (a) of sub-section (1) of section 16;
- (64) "Provident Fund Scheme" means the Employees' Provident Fund Scheme framed under clause (a) of sub-section (1) of section 15;
- (65) "prescribed" means prescribed by rules made under this Code;
- 24 of 1989. (66) "railway" shall have the meaning assigned to it in clause (31) of section 2 of the Railways Act, 1989;
- (67) "railway company" includes any persons whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway;
- (68) "Recovery Officer" means any officer of the Central Government, the State Government, the Central Board or the Corporation, who may be authorised by the Central Government or the State Government, as the case may be, by notification, to discharge the functions and to exercise the powers of a Recovery Officer under this Code;
- (69) "regulations" means regulations made by the Corporation under this Code;
- (70) "retirement" means termination of the service of an employee otherwise than on superannuation;
- 11 of 1976. (71) "sales promotion employees" means the sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976;
- (72) "Schedule" means a Schedule to this Code;
- (73) "seamen" means any person forming part of the crew of any ship, but does not include the master of the ship;
- (74) "seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of ground-nuts, the manufacture of indigo, lac, sugar (including gur) or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year in a manufacturing process as the Central Government may, by notification, specify;
- (75) "self-employed worker" means any person who is not employed by an employer, but engages himself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government, as the case may be, from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;
- (76) "shop", in respect of a State, means a shop as defined in any law for the time being in force dealing with the shop in that State;
- (77) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical ground;
- (78) "social security" means the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code;

(79) "Social Security Organisation" means any of the following organisations established under this Code, namely:—

(a) the Central Board of Trustees of Employees' Provident Fund constituted under section 4;

(b) the Employees' State Insurance Corporation constituted under section 5;

(c) the National Social Security Board for Unorganised Workers constituted under section 6;

(d) the State Unorganised Workers' Social Security Board constituted under section 6;

(e) the State Building and other Construction Workers' Welfare Boards constituted under section 7; and

(f) any other organisation or special purpose vehicle declared to be the social security organisation by the Central Government;

(80) "State Government" includes—

(a) in relation to a Union territory with legislature, the Government of the Union territory; and

(b) in relation to a Union territory without legislature, the administrator appointed under article 239 of the Constitution as an administrator thereof;

(81) "State Unorganised Workers' Board" means the State Unorganised Workers' Social Security Board constituted under sub-section (9) of section 6;

(82) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service, as the age on the attainment of which the employee shall vacate the employment:

Provided that for the purposes of Chapter III, the age of superannuation shall be fifty-eight years;

(83) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of the injury;

(84) "Tribunal" means the Industrial Tribunal constituted by the appropriate Government under section 7A of the Industrial Disputes Act, 1947;

14 of 1947.

(85) "unorganised sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;

(86) "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act, 1947 or Chapters III to VII of this Code;

14 of 1947.

(87) "vacancy", for the purposes of Chapter XIII, means an unoccupied post (including newly created post, post of trainee, post to be filled through apprentice or any unoccupied post created in an establishment by any other means) in a cadre or occupation for the purpose of employing a person and carrying remuneration;

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

(a) basic pay;

(b) dearness allowance; and

(c) retaining allowance, if any,

but does not include—

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

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

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

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

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

(f) house rent allowance;

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

(h) any overtime allowance;

(i) any commission payable to the employee;

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

(k) any retrenchment compensation or other retirement benefit payable to the employee or any *ex gratia* payment made to him on the termination of employment, under any law for the time being in force:

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

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

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

(89) "wage ceiling" means such amount of wages as may be notified by the Central Government, for the purposes of becoming a member under Chapter III and Chapter IV;

(90) "wage worker" means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and the State Government, as the case may be;

(91) "woman" means a woman employed, whether directly or through any contractor, for wages in any establishment:

Provided that for the purposes of Chapter IV, a woman who is or was an employee in respect of whom contribution is or were payable under the said Chapter and who is by

reason thereof, entitled to any of the benefits provided under the said Chapter shall be called “insured woman” and shall include—

(i) a commissioning mother who as biological mother wishes to have a child and prefers to get embryo implanted in any other woman;

(ii) a woman who legally adopts a child of up to three months of age.

Registration and cancellation of an establishment.

3. (1) Every establishment to which this Code applies shall be electronically or otherwise, registered within such time and in such manner as may be prescribed by the Central Government:

Provided that the establishment which is already registered under any other Central labour law for the time being in force shall not be required to obtain registration again under this Code and such registration shall be deemed to be registration for the purposes of this Code:

(2) Any establishment to which Chapter III or Chapter IV applies, and whose business activities are in the process of closure, may make an application for cancellation of registration granted under this section.

(3) The manner of making application for cancellation of the registration under sub-section (2), the conditions subject to which the registration shall be cancelled and the procedure of cancellation and other matters relating thereto, shall be such as may be prescribed by the Central Government.

CHAPTER II

SOCIAL SECURITY ORGANISATIONS

Constitution of Board of Trustees of Employees' Provident Fund.

4. (1) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Board of Trustees of the Employees' Provident Fund to be called the Central Board, for the purposes of Chapter III and the provisions of this Code relating to that Chapter, for the administration of the funds vested in it in such manner as may be prescribed by the Central Government, consisting of the following members, namely:—

(a) a Chairperson and a Vice-Chairperson to be appointed by the Central Government;

(b) not more than five persons appointed by the Central Government from amongst its officials;

(c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, to be appointed by the Central Government;

(d) ten persons representing employers of the establishments to which the schemes referred to in sub-section (1) of section 15 applies, to be appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf;

(e) ten persons representing employees in the establishments to which schemes referred to in sub-section (1) of section 15 applies, who shall be appointed by the Central Government after consultation with such organisations of employees as may be recognised by that Government in this behalf; and

(f) the Central Provident Fund Commissioner, *ex officio*.

(2) The Central Board shall be a body corporate by the name of Board of Trustees of the Employees' Provident Fund, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, an Executive Committee from amongst the members of the Central Board to assist the Central Board in performance of its functions in such manner as may be prescribed by the Central Government.

(4) The Central Board may, by order, constitute one or more committees of such composition as may be specified in the order to assist it in the discharge of its functions.

(5) The Central Board may, by order, delegate to its Chairperson or to its Executive Committee or to any of its officers and a State Board constituted under section 12 may, by order, delegate to its Chairperson or to any of its officers, subject to such conditions and limitations, if any, as it may specify in such order, such of its powers and functions under this Code as it may deem necessary for efficient administration of the schemes referred to in sub-section (1) of section 15.

(6) The terms and conditions, including tenure of office, subject to which a member of the Central Board and Executive Committee shall discharge their respective duties may be such as may be prescribed by the Central Government:

Provided that a member of the Central Board shall, notwithstanding the expiry of the tenure of his office, continue to hold office until his successor is appointed.

(7) The Central Board, apart from the functions specified in this Code, shall also perform such other functions in such manner as may be prescribed by the Central Government.

5. (1) The Central Government may, by notification, constitute with effect from such date as may be specified therein, the Employees' State Insurance Corporation to be called the Corporation, for the purposes of Chapter IV and the provisions of this Code relating to that Chapter and the administration thereof, in such manner as may be prescribed by the Central Government, consisting of the following members, namely:—

Constitution of Employees' State Insurance Corporation.

(a) a Chairperson to be appointed by the Central Government;

(b) a Vice-Chairperson to be appointed by the Central Government;

(c) not more than five persons to be appointed by the Central Government from amongst its officials;

(d) one person representing each of such States in such manner, as may be prescribed by the Central Government;

(e) one person to be appointed by the Central Government to represent the Union territories;

(f) ten persons representing employers to be appointed by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;

(g) ten persons representing employees to be appointed by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;

(h) two persons representing the medical profession to be appointed by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government;

(i) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States; and

(j) the Director General of the Corporation, *ex officio*.

(2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Standing Committee from amongst the members of the Corporation, in such manner as may be prescribed by the Central Government.

(4) Subject to the general superintendence and control of the Corporation, the Standing Committee—

(a) shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation in such manner as may be prescribed by the Central Government;

(b) shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf; and

(c) may, in its discretion, submit any other case or matter for the decision of the Corporation.

(5) (a) The Central Government may, by notification, constitute, with effect from such date as may be specified therein, a Medical Benefit Committee of such composition as may be specified therein, to assist the Corporation and the Standing Committee in performance of its functions relating to administration of medical benefits.

(b) the Medical Benefit Committee shall perform such duties and exercise such powers as may be prescribed by the Central Government.

(6) The Corporation may, by order, constitute one or more committees of such composition as may be specified in the regulations to assist it in the discharge of its functions.

(7) The terms and conditions, including tenure of office, subject to which a member of the Corporation and Standing Committee shall discharge their respective duties may be such as may be prescribed by the Central Government:

Provided that a member of the Corporation shall, notwithstanding the expiry of the tenure of his office, continue to hold office until his successor is appointed.

6. (1) The Central Government shall, by notification, constitute a National Social Security Board for unorganised workers to exercise the powers conferred on, and to perform the functions assigned to, it under this Code, in such manner as may be prescribed by the Central Government.

(2) The National Social Security Board shall consist of the following members, namely:—

(a) Union Minister for Labour and Employment as Chairperson;

(b) Secretary, Ministry of Labour and Employment as Vice-Chairperson;

(c) forty members to be nominated by the Central Government, out of whom—

(i) seven members representing unorganised sector workers;

(ii) seven members representing employers of unorganised sector;

(iii) seven members representing eminent persons from civil society;

(iv) two members representing the Lok Sabha and one from the Rajya Sabha;

(v) ten members representing Central Government Ministries and Departments concerned;

(vi) five members representing State Governments;

(vii) one member representing the Union territories; and

(d) the Director General Labour Welfare, as Member-Secretary, *ex officio*.

(3) All members except Chairperson of the National Social Security Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

National
Social Security
Board and
State
Unorganised
Workers'
Board.

(4) The manner in which members shall be nominated from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the National Social Security Board shall be such as may be prescribed by the Central Government:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.

(5) The term of the National Social Security Board shall be three years.

(6) The National Social Security Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed by the Central Government.

(7) The National Social Security Board shall perform the following functions, namely:—

(a) recommend to the Central Government for framing suitable schemes for different sections of unorganised workers, gig workers and platform workers;

(b) advise the Central Government on such matters arising out of the administration of this Code as may be referred to it;

(c) monitor such social welfare schemes for unorganised workers, gig workers and platform workers as are administered by the Central Government;

(d) review the record keeping functions performed at the State level;

(e) review the expenditure from the fund and account; and

(f) undertake such other functions as are assigned to it by the Central Government from time to time.

(8) The Central Government may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the Central Government upon such matters arising out of the administration of this Code relating to unorganised workers and such other matters as the Central Government may refer to it for advice.

(9) Every State Government shall, by notification, constitute a State Board to be known as (name of the State) Unorganised Workers' Social Security Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Code, in such manner as may be prescribed by the State Government.

(10) Every State Unorganised Workers' Board shall consist of the following members, namely:—

(a) Minister of Labour and Employment of the concerned State as Chairperson, *ex officio*;

(b) Principal Secretary or Secretary (Labour) as Vice-Chairperson;

(c) one member representing the Central Government in the Ministry of Labour and Employment;

(d) thirty-one members to be nominated by the State Government, out of whom—

(i) seven representing the unorganised workers;

(ii) seven representing employers of unorganised workers;

(iii) two members representing the Legislative Assembly of the concerned State;

(iv) five members representing eminent persons from civil society;

(v) ten members representing the State Government Departments concerned; and

(e) Member-Secretary as notified by the State Government.

(11) All members except Chairperson of the State Unorganised Workers' Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(12) The manner in which members shall be nominated from each of the categories specified in clause (d) of sub-section (10), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Unorganised Workers' Board shall be such as may be prescribed by the State Government:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women.

(13) The term of the State Unorganised Workers' Board shall be three years.

(14) The State Unorganised Workers' Board shall meet at least once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed by the State Government.

(15) The State Board shall perform the following functions, namely:—

(a) recommend the State Government for framing suitable schemes for different sections of the unorganised sector workers;

(b) advise the State Government on such matters arising out of the administration of this Code as may be referred to it;

(c) monitor such social welfare schemes for unorganised workers as are administered by the State Government;

(d) review the record keeping functions performed at the district level;

(e) review the progress of registration and issue of cards to unorganised sector workers;

(f) review the expenditure from the funds under various schemes; and

(g) undertake such other functions as are assigned to it by the State Government from time to time.

(16) The State Government may, by notification, constitute with effect from such date as may be specified therein, one or more advisory committee to advise the State Government upon such matters arising out of the administration of this Code relating to unorganised workers and such other matters as the State Government may refer to it for advice.

Constitution
of State
Building
Workers'
Welfare
Boards.

7. (1) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the.....(name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this section and Chapter VIII.

(2) The Building Workers' Welfare Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Building Workers' Welfare Board shall consist of a chairperson to be nominated by the State Government, one member to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:

Provided that the Building Workers' Welfare Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman.

(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Building Workers' Welfare Board, and the manner of filling of casual vacancies of the members of the Building Workers' Welfare Board, shall be such as may be prescribed by the State Government.

(5) (a) The Building Workers' Welfare Board shall appoint a Secretary and such officers and employees as it considers necessary for the efficient discharge of its functions under this Code.

(b) The Secretary of the Building Workers' Welfare Board shall be its chief executive officer.

(c) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Building Workers' Welfare Board shall be such as may be prescribed by the State Government.

(6) The Building Workers' Welfare Board shall perform the following functions, namely:—

(a) provide death and disability benefits to a beneficiary or his dependants;

(b) make payment of pension to the beneficiaries who have completed the age of sixty years;

(c) pay such amount in connection with premium for Group Insurance Scheme of the beneficiaries as may be prescribed by the appropriate Government;

(d) frame educational schemes for the benefit of children of the beneficiaries as may be prescribed by the appropriate Government;

(e) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed by the appropriate Government;

(f) make payment of maternity benefit to the beneficiaries;

(g) frame skill development and awareness schemes for the beneficiaries;

(h) provide transit accommodation or hostel facility to the beneficiaries;

(i) formulation of any other welfare scheme for the building worker beneficiaries by State Government in concurrence with the Central Government; and

(j) make provision and improvement of such other welfare measures and facilities as may be prescribed by the Central Government.

(7) The State Government may, by notification, constitute with effect from such date as may be specified therein one or more advisory committee to advise the State Government upon such matters arising out of the administration of this Code relating to building workers and such other matters as the State Government may refer to it for advice.

8. (1) No person shall be chosen as, or continue to be, a member of a Social Security Organisation, or any Committee thereof who,—

(a) is or at any time has been adjudged an insolvent; or

(b) is found to be a lunatic or becomes of unsound mind; or

(c) is or has been convicted of any offence involving moral turpitude; or

(d) is an employer in an establishment and has defaulted in the payment of any dues under this Code;

(e) is a member of a Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, when he ceases to be such member of the Parliament or State Legislative Assembly, as the case may be; or

(f) is a member of Social Security Organisation being a member of the Parliament or a member of a State Legislative Assembly, and he becomes a—

(i) Minister of Central or State Government; or

(ii) Speaker or Deputy Speaker of House of the People or a State Legislative Assembly; or

(iii) Deputy Chairman of the Council of States.

Disqualification and removal of a member of any Social Security Organisation.

Explanation 1.—If any question arises whether any person is disqualified under clause (d), it shall be referred to the appropriate Government and the decision of the appropriate Government on any such question shall be final.

Explanation 2.—Clause (f) shall not apply in case of persons who are members of the Social Security Organisation *ex officio*, by virtue of being a Minister.

(2) The Central Government, in case of the Central Board, the Corporation and the National Social Security Board and the State Government in case of the State Unorganised Workers' Board and the Building Workers' Welfare Board, may remove any member of such Social Security Organisation from his office, who,—

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or

(b) is absent without leave of the Social Security Organisation of which he is a member for more than three consecutive meetings of the Social Security Organisation or a Committee thereof;

(c) in the opinion of such Government, has so abused the position of his office as to render that member's continuation in the office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such member in the opinion of such Government:

Provided that no person shall be removed under clauses (b) and (c), unless that person has been given an opportunity to show cause as to why he should not be removed:

Provided further that a member of the Executive Committee of the Central Board or the Standing Committee of the Corporation shall cease to hold office if he ceases to be a member of the Central Board or the Corporation, as the case may be.

(3) Any member of a Social Security Organisation or a Committee thereof may at any time resign from his office in writing under his hand addressed to the Central Government or the State Government, as the case may be, which had made his appointment and on acceptance of such resignation, his office shall become vacant.

(4) If in a Social Security Organisation or a Committee thereof, the Central Government or the State Government, as the case may be, is of the opinion that—

(a) any member thereof representing employers or the employees or the unorganised workers, as the case may be, ceases to adequately represent so; or

(b) any member thereof representing to be an expert in a specified area, is later on found not to possess sufficient expertise in that area; or

(c) having regard to exigencies of circumstances or services in such Government, the member thereof representing such Government cannot continue to represent the Government,

then, such Government may, by order, remove such member from his office:

Provided that no person shall be removed under clause (a) or clause (b), unless that person has been given an opportunity to show cause as to why he should not be removed.

(5) If any member of a Social Security Organisation or a Committee thereof, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration of the Social Security Organisation or a Committee thereof, then, he shall, as soon as may be possible after such fact of interest has come to his knowledge, disclose the nature of the interest and such disclosure shall be recorded in the proceedings of the Social Security Organisation or the Committee thereof, as the case may be, and such member, thereafter, shall not take part in any proceeding or decision of the Social Security Organisation, or a Committee thereof relating to that matter.

9. (1) A Social Security Organisation or any Committee thereof shall meet at such intervals and observe such procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed by the Central Government.

Procedure for transaction of business of Social Security Organisation, etc.

(2) All orders and decisions of the Social Security Organisation shall be authenticated by the Central Provident Fund Commissioner, Director General, Director General Labour Welfare, State Principal Secretary or Secretary (Labour) of the respective Social Security Organisations or such other officer as may be notified by the appropriate Government and all other instruments issued by the Social Security Organisation shall be authenticated by the signature of such officer as may be authorised by an order by the respective Social Security Organisations.

(3) No act done or proceeding taken by a Social Security Organisation or any Committee thereof shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Social Security Organisation or the Committee thereof, as the case may be.

(4) Such members of a Social Security Organisation or any Committee thereof shall be entitled for such fee and allowances as may be prescribed by the Central Government.

10. The Central Provident Fund Commissioner and the Director General shall be the whole-time officer of the Central Board and the Corporation, respectively, and such officer shall not undertake any work unconnected with his office without the prior approval of the Central Government.

Executive
Heads of
Central Board
and
Corporation.

11. (1) If the Central Government in case of the Central Board, the Corporation or the National Social Security Board and the State Government, in case of the State Unorganised Workers' Board or the Building Workers' Welfare Board, is of the opinion that the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board or any of the Committee thereof, as the case may be, is unable to perform its functions, or, has persistently made delay in the discharge of its functions or has exceeded or abused its powers or jurisdiction, then such Government may, by notification, supersede the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board, or any of the Committees thereof, as the case may be, and reconstitute it in such manner as may be prescribed by the Central Government:

Supersession
of Corporation,
Central
Board,
National
Social
Security
Board or
State
Unorganised
Workers'
Board or the
Building
Workers'
Welfare
Board.

Provided that, before issuing a notification under this sub-section on any of the grounds specified herein, such Government shall give an opportunity to the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board or any Committee thereof, as the case may be, to show cause as to why it should not be superseded and shall consider the explanations and objections raised by it and take appropriate action thereon.

(2) After the supersession of the Corporation, or the Central Board or the National Social Security Board, the State Unorganised Workers' Board or the Building Workers' Welfare Board, or any of the Committee thereof, as the case may be, and until it is reconstituted, the Central Government or the State Government, as the case may be, shall make such alternate arrangements for the purpose of administration of the relevant provisions of this Code, as may be prescribed by the Central Government.

(3) The Central Government or the State Government, as the case may be, shall cause, a full report of any action taken by it under this section and the circumstances leading to such action, to be laid before each House of Parliament or the State Legislature, as the case may be, at the earliest opportunity and in any case not later than three months from the date of the notification of supersession issued under sub-section (1).

12. (1) The Central Government may, by notification,—

State Board,
Regional
Boards, local
committees,
etc.

(i) after consultation with the Government of any State, constitute for that State, a Board of Trustees (hereinafter in this Code referred to as a State Board) which shall exercise such powers and perform such functions as may be assigned by notification, to it by the Central Government from time to time;

(ii) specify the manner of constitution of a State Board, the terms and conditions of the appointment of its members and the procedure of its meeting and other proceedings relating thereto.

(2) The Corporation may, by order, appoint Regional Boards and local committees in such area and in such manner to perform such functions and to exercise such powers as may be specified in the regulations.

Entrustment
of additional
functions to
Social Security
Organisations.

13. Notwithstanding anything contained in this Code, the Central Government may, by notification,—

(i) assign additional functions to a Social Security Organisation including administration of any other Act or scheme relating to social security subject to such provisions as may be specified in this behalf in the notification:

Provided that while the additional function of administering the Act or scheme are assigned under this clause to a Social Security Organisation, the officer or authority of such organisation, to whom such function has been assigned, shall exercise the powers under the enactment or scheme required for discharging such function in the manner as may be specified in the notification:

Provided further that the Social Security Organisations may assign such additional functions to existing officers or appoint or engage new officers necessary for such purpose, if such functions may not be performed and completed with the assistance of its personnel as existing immediately before the assignment of the additional functions;

(ii) specify the terms and conditions of discharging the functions under clause (i) by the Social Security Organisation;

(iii) provide that the expenditure incurred in discharging the functions specified in clause (i) including appointment or engagement of personnel necessary for proper discharge of such functions shall be borne by the Central Government;

(iv) specify the powers which the Social Security Organisation shall exercise while discharging the functions specified in clause (i); and

(v) provide that any expenditure referred to in clause (iii) shall be made by the Social Security Organisation after prior approval of the Central Government.

CHAPTER III

EMPLOYEES' PROVIDENT FUND

Appointment
of officers of
Central Board.

14. (1) The Central Government may appoint a Central Provident Fund Commissioner who shall be the Chief Executive Officer of the Central Board and shall also function as head of the Employees' Provident Fund Organisation.

Explanation.—For the purposes of this Code, the expression "Employees' Provident Fund Organisation" means the organisation consisting of officers and employees of the Central Board.

(2) The Central Provident Fund Commissioner shall be subject to the general control and superintendence of the Central Board in the discharge of his functions under this Code.

(3) The Central Government shall also appoint a Financial Advisor and Chief Accounts Officer to assist the Central Provident Fund Commissioner in the discharge of his duties.

(4) The Central Board may appoint, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and such other officers and employees as it may consider necessary for the efficient administration of the Provident Fund Scheme, the Pension Scheme and the Insurance Scheme or other responsibilities assigned to the Central Board from time to time by the Central Government.

(5) No appointment to the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Advisor and Chief Accounts Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' post under the Central Government shall be made except after consultation with the Union Public Service Commission:

Provided that no such consultation shall be necessary in regard to any such appointment—

(a) for a period not exceeding one year; or

(b) if the person to be appointed is, at the time of his appointment,—

(i) a member of the Indian Administrative Service, or

(ii) in the service of the Central Government or the Central Board in a Group 'A' or Group 'B' post.

(6) The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner and the Financial Adviser and Chief Accounts Officer shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Provident Fund.

(7) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government:

Provided further that the salary and allowances of the officers specified in this clause shall not exceed the scale of pay respectively provided in the Provident Fund Scheme.

(b) In determining the corresponding scales of pay of officers and employees under clause (a), the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.

15. (1) The Central Government may, by notification—

Schemes.

(a) frame a scheme to be called the Employees' Provident Fund Scheme for which the provident funds shall be established under this Chapter for employees or for any class of employees and specify the establishments or class of establishments to which the said scheme shall apply;

(b) frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(i) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies;

(ii) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; and

(iii) nominee pension;

(c) frame a scheme to be called the Employees' Deposit Linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Chapter applies;

(d) frame any other scheme or schemes for the purposes of providing social security benefits under this Code to self-employed workers or any other class of persons; and

(e) modify any scheme referred to in clauses (a), (b), (c) and (d) by adding thereto, amending or varying therein, either prospectively or retrospectively.

(2) Subject to the provisions of this Chapter, the schemes referred to in clauses (a), (b) and (c) of sub-section (1) may provide for all or any of the matters respectively specified in Part A, Part B and Part C of the Fifth Schedule.

(3) The schemes may provide that all or any of its provisions shall take effect either prospectively or retrospectively on and from such date as may be specified in that behalf in the scheme.

Funds.

16. (1) The Central Government may, for the purposes of—

(a) the Provident Fund Scheme, establish a Provident Fund where the contributions paid by the employer to the fund shall be ten per cent. of the wages for the time being payable to each of the employees (whether employed by him directly or by or through a contractor), and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten per cent. of the wages, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section:

Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification, specify, this section shall be subject to the modification that for the words "ten per cent." at both the places where they occur, the words "twelve per cent." shall be substituted:

Provided further that the Central Government, after making such inquiry as it deems fit, may, by notification, specify rates of employees' contributions and the period for which such rates shall apply for any class of employee;

(b) the Pension Scheme, establish a Pension Fund in the manner specified in that scheme by that Government into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(i) such sums from the employer's contribution under clause (a) not exceeding eight and one-third per cent. of the wages or such per cent. of wages as may be notified by the Central Government;

(ii) such sums payable as contribution to the Pension Fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 143 to which the pension scheme applies;

(iii) such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify;

(c) the Insurance Scheme, establish a Deposit-Linked Insurance Fund in the manner specified in that scheme by that Government into which there shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent. of the wages or such per cent. of wages as may be notified by the Central Government for the time being payable in relation to such employee:

Provided that the employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under this clause, as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under the Insurance Scheme.

(2) The Provident Fund, the Pension Fund and the Insurance Fund shall vest in, and be administered by, the Central Board in such manner as may be specified in the respective schemes.

17. (1) The amount of contribution (that is to say, the employer's contribution as well as the employee's contribution in pursuance of any scheme and the employer's contribution in pursuance of the Insurance Scheme) and any charge for meeting the cost of administering the fund paid or payable by an employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

Contribution in respect of employees and contractors.

(2) A contractor from whom the amounts mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him may recover from such employee, the employee's contribution under any scheme by deduction from the wages payable to such employee.

(3) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section (1) from the wages payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

18. For the purposes of the Income-tax Act, 1961, the Provident Fund shall be deemed to be a recognised provident fund within the meaning of clause (38) of section 2 of that Act:

Fund to be recognised under Act 43 of 1961.

Provided that nothing contained in the said Act shall operate to render ineffective any provision of the Provident Fund Scheme (under which the Provident Fund is established) which is repugnant to any of the provisions of that Act or of the rules made thereunder.

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

31 of 2016.

Priority of payment of contributions over other debts.

20. (1) This Chapter shall not apply—

2 of 1912.

(a) to any establishment registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State relating to co-operative societies employing less than fifty persons and working without the aid of power; or

(b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

(c) to any other establishment set up under any Central or State or any other law for the time being in force and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that law governing such benefits; or

(d) to the employees who, immediately before the commencement of this Code, were receiving benefits of Provident Fund under any Central or State enactment.

Chapter not to apply to certain establishments.

(2) If the Central Government is of the opinion that having regard to the financial position of any class of establishment or other circumstances of the case, it is necessary or expedient so to do, it may, by notification and subject to such conditions, as may be specified in the notification, exempt, whether prospectively or retrospectively, that class of establishments from the operation of this Chapter for such period as may be specified in the notification.

Authorising certain employers to maintain provident fund accounts.

21. (1) The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer by an order in writing, to maintain a provident fund account in relation to the establishment, in such manner as may be prescribed by the Central Government and subject to such terms and conditions as may be specified in the Provident Fund Scheme:

Provided that no authorisation shall be made under this sub-section if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Code during the three years immediately preceding the date of such authorisation.

(2) Where an establishment is authorised to maintain a provident fund account under sub-section (1), the employer in relation to such establishment shall maintain such account, submit such return, deposit the contribution in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Provident Fund Scheme.

(3) Any authorisation made under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Code:

Provided that before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard.

Transfer of accounts.

22. Where an employee,—

(a) employed in an establishment to which this Chapter applies, relinquishes his employment therefrom and obtains employment in any other establishment to which this Chapter applies or not; or

(b) employed in an establishment to which this Chapter does not apply, relinquishes his employment therefrom and obtains employment in an establishment to which this Chapter applies,

then, his accumulated amount in provident fund account or pension account, as the case may be, shall be transferred or dealt with in the manner as may be specified in the Provident Fund Scheme or the Pension Scheme, as the case may be.

Appeal to Tribunal.

23. (1) Any person aggrieved by an order passed by any authority in regard to the following matters may prefer an appeal to the Tribunal constituted by the Central Government, namely:—

(a) determination and assessment of dues under section 125 relating to Chapter III; and

(b) levy of damages under section 128 relating to Chapter III.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and accompanied by such fees as may be prescribed by the Central Government.

(3) No appeal under clause (a) of sub-section (1) by the employer shall be entertained by the Tribunal unless he has deposited with Social Security Organisation concerned twenty-five per cent. of the amount due from him as determined by an officer under section 125.

(4) The Tribunal shall endeavour to decide the appeal within a period of one year from the date on which the appeal has been preferred.

CHAPTER IV

EMPLOYEES STATE INSURANCE CORPORATION

24. (1) The Central Government may appoint a Director General of the Corporation and a Financial Commissioner, who shall be the Principal Officers of the Corporation.

Principal
Officers and
other staff.

(2) The Director General and the Financial Commissioner shall hold office for such period, not exceeding five years, as may be specified in the order of appointment:

Provided that outgoing Director General or Financial Commissioner, as the case may be, shall be eligible for re-appointment if he is otherwise qualified.

(3) The Director General or the Financial Commissioner shall receive such salary and allowances as may be prescribed by the Central Government.

(4) The Director General and the Financial Commissioner shall exercise such powers and discharge such duties as may be prescribed by the Central Government and shall perform such other functions as may be specified in the regulations.

(5) A person shall be disqualified from being appointed as or for being the Director General of the Corporation or the Financial Commissioner if he is subject to any of the disqualifications specified in section 8.

(6) The Central Government may at any time remove the Director General of the Corporation or the Financial Commissioner from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-third of the total strength of the Corporation.

(7) The Corporation may employ such other officers and employees as may be necessary for the efficient transaction of its business and for discharge of any other responsibilities assigned to the Corporation from time to time by the Central Government:

Provided that the sanction of the Central Government shall be obtained for the creation of any post the maximum monthly salary of which exceeds such salary as may be prescribed by the Central Government.

(8) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees of the Corporation shall be such as may be specified in the regulations in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that the terms and conditions of service including pay and allowances of such posts of medical specialists and super specialists in the Corporation possessing comparable qualifications and expertise, as may be notified by the Central Government, with the equivalent posts of the specialists and super specialists in the All India Institute of Medical Sciences or in the Post Graduate Institutes of Medical Sciences and Research or other similar institutions established by the Central Government, shall respectively be similar:

Provided further that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government:

Provided also that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis.

(b) In determining the corresponding scales of pay of officers and employees under clause (a), the Corporation shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Corporation shall refer the matter to the Central Government whose decision thereon shall be final.

(9) Every appointment to posts (other than medical, nursing or para-medical posts) corresponding to Group 'A' and Group 'B' Gazetted posts under the Central Government shall be made in consultation with the Union Public Service Commission:

Provided that the provisions of this sub-section shall not apply to an officiating or temporary appointment for a period not exceeding one year:

Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade.

(10) If any question arises whether a post corresponds to a Group 'A' and Group 'B' posts under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.

Employees' State Insurance Fund.

25. (1) All contributions and user charges paid under this Chapter and all other moneys received on behalf of the Corporation shall be paid into a fund (hereinafter referred to as the Employees' State Insurance Fund) which shall be held and administered by the Corporation for the purposes of this Code:

Provided that the user charges collected from the other beneficiaries referred to in section 44 shall be deemed to be contribution and shall form part of Employees' State Insurance Corporation.

(2) The Corporation may accept grants, donations, Corporate Social Responsibility Fund and gifts from the Central or any State Government, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Chapter.

(3) Subject to the other provisions contained in this Code and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be deposited in such bank or banks as may be approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund.

(4) The Employees State Insurance Fund or any other money which is held by the Corporation shall be deposited or invested in the manner prescribed by the Central Government and the account referred to in sub-section (3) shall be operated by such officers as may be authorised by the Committee constituted under sub-section (3) of section 5 (hereinafter referred to as the Standing Committee) with the approval of the Corporation.

Purposes for which Employees' State Insurance Fund may be expended.

26. Subject to the provisions of this Chapter and the rules and regulations relating thereto, made under this Code, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:—

(a) payment of benefits and provision of medical treatment and attendance to Insured Persons referred to in section 28 and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Chapter and the rules and regulations relating thereto and defraying the charges and costs in connection therewith;

(b) payment of fees and allowances to members of the Corporation, the Standing Committee, the Medical Benefit Committee or other Committees thereof;

(c) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and staff of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Code relating to this Chapter;

(d) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit

of Insured Persons referred to in section 28 and, where the medical benefit is extended to their families;

(e) payment of contributions to any State Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to Insured Persons referred to in section 28 and, where the medical benefit is extended to their families, their families, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;

(f) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;

(g) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Chapter;

(h) payment of any sums under any contract entered into for the purposes of this Code by Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;

(i) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or staff for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;

(j) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Code relating to this Chapter;

(k) defraying expenditure, within the limits prescribed by the Central Government after consultation with the Corporation, on measures for the improvement of the health and welfare of Insured Persons and for the rehabilitation and re-employment of Insured Persons referred to in section 28 who have been disabled or injured; and

(l) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

27. (1) The Corporation may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established. Holding of property, etc.

(2) Subject to such conditions as may be prescribed by the Central Government, the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Code and may, subject to as aforesaid, from time to time re-invest or realise such investments.

(3) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.

(4) The Corporation may constitute for the benefit of its officers and staff or any class of them, such provident or other benefit fund as it may think fit.

28. (1) Subject to the provisions of this Code, every employee in an establishment to which this Chapter applies shall be insured in such manner whether electronically or otherwise, as may be prescribed by the Central Government. All employees to be insured.

(2) An employee whether insured or insurable under sub-section (1) in respect of whom contributions are or were payable and who is by reason thereof, entitled to any of the benefits provided under this Chapter, shall be called "Insured Person".

Contributions.

29. (1) The contribution payable under this Chapter in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

(2) The contributions (employer's contribution and the employee's contribution both) shall be paid at such rates as may be prescribed by the Central Government.

(3) The wage period in relation to an employee shall be the unit as specified in the regulations (hereinafter referred to as the wage period) in respect of which all contributions shall be payable under this Chapter.

(4) The contributions payable in respect of each wage period shall ordinarily fall due on the last day of the wage period, and where an employee is employed for part of the wage period, or is employed under two or more employers during the same wage period, the contributions shall fall due on such days as may be specified in the regulations.

Administrative expenses.

30. The types of expenses which may be termed as administrative expenses and the percentage of the income of the Corporation which may be spent for such expenses shall be such as may be prescribed by the Central Government and the Corporation shall keep its administrative expenses within the limit so prescribed by the Central Government.

Provisions as to payment of contributions by employer, etc.

31. (1) The employer shall pay in respect of every employee, whether directly employed by him or by or through a contractor, both the employer's contribution and the employee's contribution.

(2) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Code and the rules and regulations, if any, made thereunder in this behalf, the employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by reduction from his wages and not otherwise:

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

(3) Notwithstanding any contract to the contrary, neither the employer nor the contractor shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.

(4) Any sum deducted by the employer from wages under this Chapter shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(5) The employer shall bear the expenses of remitting the contributions to the Corporation.

(6) An employer, who has paid contribution in respect of an employee employed by or through a contractor, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any,) from the contractor, either by deduction from any amount payable to him by the employer under any contract, or as a debt payable by the contractor.

(7) The contractor shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the employer before the settlement of any amount payable under sub-section (6).

(8) In the case referred to in sub-section (6), the contractor shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to such conditions as specified in the proviso to sub-section (2).

(9) Subject to the provisions of this Code, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Chapter.

32. (1) Subject to the provisions of this Code, the Insured Persons, their dependants or the persons hereinafter mentioned, as the case may be, shall be entitled to the following benefits, namely:—

(a) periodical payments to any Insured Person in case of his sickness certified by a duly appointed medical practitioner or by any other person possessing such qualifications and experience as the Corporation may, by the regulations, specify in this behalf (hereinafter referred to as sickness benefit);

(b) periodical payments to an Insured Person being a woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);

(c) periodical payments to an Insured Person suffering from disablement as a result of an employment injury sustained by him as an employee for the purposes of this Chapter and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit);

(d) periodical payments to such dependants of an Insured Person who dies as a result of an employment injury sustained by him as an employee for the purposes of this Chapter, as are entitled under this Chapter (hereinafter referred to as dependants' benefit);

(e) medical treatment for and attendance on Insured Persons (hereinafter referred to as medical benefit); and

(f) payment to the eldest surviving member of the family of an Insured Person who has died, towards the expenditure on the funeral of the deceased Insured Person, or, where the Insured Person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased Insured Person (to be known as funeral expenses):

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

(2) The Corporation may, subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an Insured Person.

(3) The qualification of a person to claim sickness benefit, maternity benefit, disablement benefit and dependants' benefit and the conditions subject to which such benefit may be given and the rate and period thereof, shall be such as may be prescribed by the Central Government.

(4) Subject to the provisions of this Code and the rules made thereunder relating to this Chapter, the Corporation may make regulations for any matter relating or incidental to the accrual and payment of benefits payable under this Chapter.

33. The Corporation may, in addition to the benefits specified in this Chapter, promote measures for the improvement of the health and welfare of Insured Persons and for the rehabilitation and re-employment of Insured Persons who have been disabled or injured and may incur in respect of such measures, expenditure from the Employees' State Insurance Fund within such limits as may be prescribed by the Central Government.

Benefits.

Corporation's power to promote measures for health, etc., of Insured Persons.

Presumption as to accident arising in course of employment.

34. (1) For the purposes of this Chapter, an accident arising in the course of an employee's employment shall be presumed, in the absence of evidence to the contrary, to have arisen out of that employment.

(2) An accident happening to an employee in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(3) An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.

(4) An accident happening while an employee is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—

(a) the accident would have been deemed so to have arisen had he been under such obligation; and

(b) at the time of the accident, the vehicle—

(i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and

(ii) is not being operated in the ordinary course of public transport service.

Explanation.—In this section, "vehicle" includes a vessel and an aircraft.

Accidents happening while acting in breach of law, etc.

35. An accident shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(b) the act is done for the purpose of and in connection with the employer's trade or business.

Occupational disease.

36. (1) If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify by regulations in respect of each such employment, contracts any disease specified in such Part C as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury", arising out of and in the course of employment.

(2) Save as provided by sub-section (1), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(3) The provisions of sub-section (1) of section 34 shall not apply to the cases to which this section applies.

37. (1) Any question—

(a) whether the relevant accident has resulted in permanent disablement; or

(b) whether the extent of loss of earning capacity can be assessed provisionally or finally; or

(c) whether the assessment of the proportion of the loss of earning capacity is provisional or final; or

(d) in the case of provisional assessment, as to the period for which such assessment shall hold good,

References to
medical board.

shall be determined by a medical board constituted in accordance with the provisions of the regulations (hereinafter referred to as medical board) and any such question shall hereafter be referred to as the "disablement question".

(2) The case of any Insured Person for permanent disablement benefit shall be referred by the Corporation to a medical board for determination of the disablement in question and if, on that or any subsequent reference, the extent of loss of earning capacity of the Insured Person is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.

(3) Any decision under this Chapter of a medical board may be reviewed at any time by the medical board if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact whether the non-disclosure or misrepresentation was or was not fraudulent.

(4) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury:

Provided that an assessment shall not be reviewed under this sub-section unless the medical board is of the opinion, having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, that substantial injustice will be done by not reviewing it.

(5) Except with the leave of a medical appeal tribunal constituted by regulations, an assessment shall not be reviewed under sub-section (4) on any application made less than five years, or in the case of a provisional assessment, six months, from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.

(6) Subject to the foregoing provisions of this section, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment notwithstanding that the assessment under review was final and the provisions of sub-section (2) shall apply to an application for review under this sub-section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under that sub-section and to a decision of the medical board in connection with such case.

(7) (a) If the Insured Person or the Corporation is aggrieved by any decision of the medical board, the Insured Person or the Corporation, as the case may be, may appeal in such manner and within such time as may be prescribed by the Central Government to—

(i) the medical appeal tribunal constituted in accordance with the provisions of the regulations; or

(ii) the Employees' Insurance Court directly:

Provided that no appeal by an Insured Person shall lie under this sub-section if such person has applied for commutation of disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefits:

Provided further that no appeal by the Corporation shall lie under this sub-section if the Corporation paid the commuted value of the disablement benefit on the basis of the decision of the medical board.

(b) Where the Insured Person or the Corporation preferred appeal to the medical appeal tribunal under sub-clause (i) of clause (a) instead of to the Employees' Insurance Court under sub-clause (ii) of that clause, then, he or it, as the case may be, shall have the further right to file second appeal to the Employees' Insurance Court in such manner and within such time as may be prescribed by the appropriate Government.

Dependants'
benefit.

38. (1) If an Insured Person dies as a result of an employment injury sustained as an employee under this Chapter (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit shall be payable to his dependants specified in sub-clause (a) and sub-clause (b) of clause (24) of section 2 at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.

(2) In case the Insured Person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.

(3) Any decision awarding dependants' benefit under this Chapter may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Chapter due to any birth or death or due to the marriage, re-marriage, or ceasing of infirmity, or attainment of the age of twenty-five years by, a claimant.

(4) Subject to the provisions of this Chapter, the Corporation may, on such review under sub-section (3), direct that the dependants' benefit be continued, increased, reduced or discontinued.

Medical
benefit.

39. (1) An Insured Person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the Insured Person or treatment as in-patient in a hospital or other institution.

(3) The qualification of an Insured Person and (where such medical benefit is extended to his family) his family, to claim medical benefit and the conditions subject to which such benefit may be given, the scale and period thereof shall be such as may be prescribed by the Central Government:

Provided that a person in respect of whom contribution ceases to be payable under this Chapter may be allowed medical benefit for such period and of such nature as may be provided by the regulations:

Provided further that an Insured Person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be specified in the regulations:

Provided also that an Insured Person who ceases to be in insurable employment on account of permanent disablement caused due to employment injury shall continue to receive medical benefits, subject to payment of contribution and other conditions as may be prescribed by the Central Government:

Provided also that the conditions for grant of medical benefits to the Insured Person during employment injury shall be as specified in the regulations.

(4) (a) The Corporation may establish medical education institutions, including colleges, dental colleges, nursing colleges and the training institutes for its officers and staff with a view to improve the quality of their services.

(b) The medical education institutions referred to in clause (a) shall require its students to furnish a bond for serving the Corporation for such time and in such manner, as may be specified in the regulations.

(5) The medical education institutions and training institutes referred to in sub-section (4) may be run by the Corporation itself or on the request of the Corporation, by the Central Government, any State Government, Public Sector Undertaking of the Central Government or the State Government or any other body notified by the Central Government.

Explanation.—For the purposes of this sub-section, the expression "other body" means any such organisation of persons which the Central Government considers capable to run colleges and training institutions referred to in sub-section (4).

(6) The Corporation may, in order to take preventive and curative measures for welfare of the Insured Persons, carry out such occupational and epidemiological surveys and studies for assessment of health and working conditions of Insured Persons in such manner as may be specified in the regulations.

40. (1) The State Government shall provide for Insured Persons and (where such benefit is extended to their families) their families in the State, reasonable medical, surgical and obstetric treatment:

Provision of medical treatment by State Government or by Corporation.

Provided that the State Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to Insured Persons in any State is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the State Government in such proportion as may be fixed by agreement between them:

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the State Government.

(3) The Corporation may enter into an agreement with a State Government in regard to the nature and scale of the medical treatment that should be provided to Insured Persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to Insured Persons between the Corporation and the State Government.

(4) In default of agreement between the Corporation and any State Government as aforesaid, the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator who shall be appointed by the Central Government in consultation with the State Government.

(5) The State Government may, in addition to the Corporation under this Code, with the previous approval of the Central Government, establish such organisation (by whatever

name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

Provided that any reference to the State Government in this Code relating to this Chapter shall also include reference to the organisation as and when such organisation is established by the State Government.

(6) The organisation referred to in sub-section (5) shall have such structure, discharge functions, exercise powers and undertake such activities as may be prescribed by the Central Government.

(7) The Corporation may establish and maintain in a State such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of Insured Persons and (where such medical benefit is extended to their families), their families.

(8) The Corporation may enter into agreement with any local authority, private body or individual in regard to the provision of medical treatment and attendance for Insured Persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

(9) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to Insured Persons and (where such medical benefit has been extended to their families), to their families.

(10) Notwithstanding anything contained in any other provision of this Chapter, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to Insured Persons and (where such medical benefit is extended to their families), to the families of such Insured Persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.

(11) In the event of the Corporation exercising its power under sub-section (10), the provisions relating to medical benefit under this Chapter shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.

(12) Notwithstanding anything contained in this Code, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government.

General provisions as to benefits.

41. (1) Save as may be provided in the regulations, no person shall be entitled to commute for a lump sum any disablement benefit admissible under this Chapter.

(2) Save as may be provided in the regulations, no person shall be entitled to sickness benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives wages or on any day on which he remains on strike.

(3) A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement) —

(a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Chapter, and shall carry out the instructions given by the medical officer or medical attendant in-charge thereof;

(b) shall not while under treatment do anything which might retard or prejudice his chances of recovery;

(c) shall not leave the area in which medical treatment provided by this Chapter is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and

(d) shall allow himself to be examined by any duly appointed medical officer or other person authorised by the Corporation in this behalf.

(4) An Insured Person shall not be entitled to receive for the same period—

(a) both sickness benefit and maternity benefit; or

(b) both sickness benefit and disablement benefit for temporary disablement;

or

(c) both maternity benefit and disablement benefit for temporary disablement.

(5) Where a person is entitled to more than one of the benefits mentioned in sub-section (4), he shall be entitled to choose which benefit he shall receive.

(6) If a person dies during any period for which he is entitled to a cash benefit under this Chapter, the amount of such benefit up to and including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.

(7) (a) Any person eligible for availing dependant or disablement benefit under this Chapter shall not be entitled to claim Employees' Compensation from his employer under Chapter VII.

(b) Any women employee eligible for availing maternity benefit under this Chapter shall not be entitled to claim maternity benefit from her employer under Chapter VI.

(8) Where any person has received any benefit or payment under this Chapter when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of death, his legal representative shall be liable to repay the same from the assets of the deceased devolved on him.

(9) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(10) The amount recoverable under this section may be recovered in the manner specified under sections 129 to 132.

42. (1) If any employer, —

(a) fails or neglects to insure under section 28, an employee at the time of his appointment or within such extended period as may be prescribed by the Central Government, as a result of which the employee becomes disentitled to any benefit under this Chapter; or

(b) insures under section 28, an employee on or after the date of accident which resulted in personal injury to such employee which has the effect of making such employee disentitled to receive any dependant benefit or disablement benefit from the Corporation; or

(c) fails or neglects to pay any contribution which under this Chapter he is liable to pay in respect of any employee and by reason thereof such employee becomes disentitled to any benefit or becomes entitled to a benefit on a lower scale,

then, the Corporation may, on being satisfied in the manner prescribed by the Central Government that the benefit is payable to the employee, pay to the employee benefit at such rate to which he is entitled or would have been entitled if the failure or neglect would not have occurred, and the Corporation shall be entitled to recover from the employer, subject to the employer being given an opportunity of being heard, the capitalised value of the benefit paid to the employee, to be calculated in such manner as may be prescribed by the Central Government:

Corporation's rights when an employer fails to register, etc.

Provided that the capitalised value to be calculated may be adjusted for the payment of any contribution and interest or damages that the employer is liable to pay for delay in the payment of or non-payment of such contribution.

(2) The amount recoverable under this section may be recovered as if it were an arrear of land revenue or recovered in the manner specified under sections 129 to 132.

Liability of owner or occupier of factories, etc., for excessive sickness benefit.

43. (1) Where the Corporation considers that the incidence of sickness among Insured Persons is excessive by reason of—

(a) insanitary working conditions in a factory or other establishment or the neglect of the owner or occupier of the factory or other establishment to observe any health regulations enjoined on him by or under any enactment for the time being in force, or

(b) insanitary conditions of any tenements or lodgings occupied by Insured Persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactments for the time being in force,

then, the Corporation may send to the owner or occupier of the factory or other establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.

(2) If the appropriate Government is of the opinion that a *prima facie* case for inquiry is made out, it may appoint a competent person or persons to hold an inquiry into the matter referred under sub-section (1).

(3) If upon inquiry under sub-section (2), it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the Insured Persons is due to the default or neglect of the owner or occupier of the factory or other establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine, the amount of the extra expenditure incurred as sickness benefit as well as the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

(5) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

Scheme for other beneficiaries.

44. Notwithstanding anything contained in this Chapter, the Central Government may, by notification, frame, amend, vary or rescind scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilised on payment of user charges, and prescribe the terms and conditions subject to which the scheme may be operated.

Explanation.— For the purposes of this section,—

(a) "other beneficiaries" means persons other than employees insured under section 28;

(b) "underutilised hospital" means any hospital not fully utilised by the employees insured under section 28; and

(c) "user charges" means the amount which is to be charged from other beneficiaries for medical facilities as may be specified in the regulations after prior approval of the Central Government.

45. (1) Notwithstanding anything contained in this Chapter, the Central Government may, by notification, frame scheme for unorganised workers, gig workers and platform workers and the members of their families for providing benefits admissible under this Chapter by the Corporation.

Schemes for unorganised workers, gig workers and platform workers.

(2) The contribution, user charges, scale of benefits, qualifying and eligibility conditions and other terms and conditions subject to which the scheme may be operated shall be such as may be specified in the scheme.

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

Exemption of factories or other establishments belonging to Government or any local authority.

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

Contributions, etc., due to Corporation to have priority over other debts.

31 of 2016.

48. (1) The State Government shall, by notification, constitute an Employees' Insurance Court for such local area as may be specified in the notification.

Constitution of Employees' Insurance Court.

(2) The Employees' Insurance Court shall consist of such number of Judges as the State Government may think fit.

(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.

(4) The State Government may appoint the same Court for two or more local areas or two or more Employees' Insurance Courts for the same local area.

(5) Where more than one Employees' Insurance Court has been appointed for the same local area, the State Government may by general or special order regulate the distribution of business between them.

49. (1) If any question or dispute or claim arises as to—

Matters to be decided by Employees' Insurance Court.

(a) whether any person is an employee within the meaning of this Code relating to this Chapter or whether he is liable to pay the employee's contribution; or

(b) the rate of wages or average daily wages of an employee for the purposes of this Chapter; or

(c) the rate of contribution payable by an employer in respect of any employee under this Chapter; or

(d) the person who is or was the employer in respect of any employee for the purposes of this Chapter; or

(e) the right of any person to any benefit under this Chapter and as to the amount and duration thereof; or

(f) any direction issued by the Corporation on a review of any payment of dependants' benefit under this Chapter; or

(g) any other matter which is in dispute between an employer and the Corporation relating to this Chapter, or between an employer and a Contractor relating to this Chapter or between a person and the Corporation relating to this Chapter or between an employee and an employer or Contractor relating to this Chapter, in respect of any contribution or benefit or other dues payable or recoverable under this Code relating to this Chapter; or

(h) claim for the recovery of contributions from the employer under this Code relating to this Chapter; or

(i) claim under sub-section (8) of section 41 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; or

(j) claim against an employer under section 42; or

(k) order of the appellate authority under section 126 in respect of Chapter IV; or

(l) claim by an employer to recover contributions from any contractor under this Code relating to this Chapter; or

(m) any other claim for the recovery of any benefit admissible under this Chapter, such matter shall be decided by the Employers' Insurance Court.

(2) No matter which is in dispute between an employer and the Corporation in respect of any contribution or any other dues under this Chapter shall be raised by the employer in the Employees' Insurance Court unless he has deposited with that Court fifty per cent. of the amount due from him as claimed by the Corporation:

Provided that the Employees' Insurance Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section.

(3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as specified in sub-section (1) or to adjudicate on any liability which by or under this Code relating to this Chapter is to be decided by a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court.

Powers of
Employees'
Insurance
Court.

50. (1) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such court shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

(2) The Employees' Insurance Court shall follow such procedure as may be prescribed by the State Government.

(3) All costs incidental to any proceeding before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the State Government, be in the discretion of that court.

(4) An order of the Employees' Insurance Court shall be enforceable by it as if it were a decree passed in a suit by a Civil Court.

Proceedings of
Employees'
Insurance
Courts.

51. (1) The manner of commencement of proceedings before the Employees' Insurance Court, fees and procedure thereof shall be such as may be prescribed by the appropriate Government:

Provided that the limitation for initiating the proceedings by the aggrieved person in the Employees' Insurance Court shall be three years from the date on which the cause of action arises:

Provided further that the "arising of cause of action" in respect of a claim by the Insured Person or dependants; by the Corporation for recovering contribution (including interests and damages) from the employer; and the claim by the employer for recovering contributions from a Contractor and the time within which such claims, recovery or contribution, from employer by the Corporation and recovery of contribution by the employer from the Contractor, shall be as specified in the regulations.

(2) Any application, appearance or act required to be made or done by any person to, or before, an Employees' Insurance Court (other than appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of that Court, by any other person so authorised.

(3) An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

52. (1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

Appeal to
High Court.

(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court, if it involves a substantial question of law.

(3) The appeal shall be filed under this section within a period of sixty days from the date of the order made by the Employees' Insurance Court.

36 of 1963.

(4) The provisions of sections 5 and 12 of the Limitation Act, 1963 shall apply to appeals under this section.

(5) Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court, shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

CHAPTER V

GRATUITY

53. (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

Payment of
gratuity.

(a) on his superannuation; or

(b) on his retirement or resignation; or

(c) on his death or disablement due to accident or disease; or

(d) on termination of his contract period under fixed term employment; or

(e) on happening of any such event as may be notified by the Central Government:

Provided that in case of working journalist as defined in clause (f) of section 2 of the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955, the expression "five years" occurring in this sub-section shall be deemed to be three years:

45 of 1955.

Provided further that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed term employment or happening of any such event as may be notified by the Central Government:

Provided also that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the competent authority as may be notified by the appropriate Government who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed by the appropriate Government, until such minor attains majority.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages or such number of days as may be notified by the Central Government, based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days' wages for each season:

Provided also that in the case of an employee employed on fixed term employment or a deceased employee, the employer shall pay gratuity on *pro rata* basis.

(3) The amount of gratuity payable to an employee shall not exceed such amount as may be notified by the Central Government.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),—

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(b) the gratuity payable to an employee may be wholly or partially forfeited—

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided such offence is committed by him in the course of his employment.

Explanation 1.— For the purposes of this Chapter, employee does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.

Explanation 2.— For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease, resulting in such disablement.

Explanation 3.— For the purposes of this section, it is clarified that in the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

Continuous
service.

54. For the purposes of this Chapter,—

(A) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Code;

(B) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (A), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—

(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) two hundred and forty days, in any other case;

(b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) one hundred and twenty days, in any other case.

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

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;

20 of 1946.
14 of 1947.

(ii) he has been on leave with full wages, earned in the previous year;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twenty-six weeks;

(C) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (A), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during such period.

55. (1) Each employee, who has completed one year of service, shall make, a nomination within such time, in such form and in such manner, as may be prescribed by the appropriate Government.

Nomination.

(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Chapter amongst more than one nominee.

(3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family shall be void.

(4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires

a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed by the appropriate Government, a fresh nomination in favour of one or more members of his family.

(5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written intimation in such form and in such manner as may be prescribed by the appropriate Government, of his intention to do so.

(6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the form prescribed by the appropriate Government, in respect of such interest.

(7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

Determination
of amount of
gratuity.

56. (1) A person who is eligible for payment of gratuity under this Chapter or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed by the appropriate Government, for payment of such gratuity.

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the competent authority specifying the amount of gratuity so determined.

(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(4) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the competent authority for the delayed payment on this ground.

(5) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Chapter or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the competent authority such amount as he admits to be payable by him as gratuity.

(b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the competent authority in the form prescribed by the appropriate Government for deciding the dispute.

(c) The competent authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the competent authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.

(d) The competent authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

(e) As soon as may be after a deposit is made under clause (a), the competent authority shall pay the amount of the deposit—

(i) to the applicant where he is the employee; or

(ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or heir of the employee if the competent authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

5 of 1908.

(6) For the purpose of conducting an inquiry under sub-section (5), the competent authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses.

45 of 1860.

(7) Any inquiry under this section shall be a judicial proceeding within the meaning of section 193, section 228 and for the purpose of section 196 of the Indian Penal Code.

(8) Any person aggrieved by an order under sub-section (5) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the competent authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (5), or deposits with the appellate authority such amount.

(9) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify, or reverse the decision of the competent authority.

41 of 1999.

57. (1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (2), obtain an insurance in the manner prescribed by the Central Government, for his liability for payment towards the gratuity under this Chapter, from any insurance company regulated by the Authority as defined under clause (b) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999:

Compulsory insurance.

Provided that different dates may be appointed for different establishments or class of establishments or for different areas.

(2) The appropriate Government may, subject to such conditions as may be prescribed by the Central Government, exempt any employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement, and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed by the Central Government from the provisions of sub-section (1).

(3) For the purposes of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed by the Central Government get his establishment registered with the competent authority in the manner prescribed by the appropriate Government and no employer shall be registered under the provisions of this

section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).

(4) The appropriate Government may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the competent authority of the amount of the gratuity payable to an employee from the insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund, in such manner as may be prescribed.

(5) Where an employer fails to make any payment by way of premium in respect of the insurance referred to in sub-section (1) or by way of contribution to an approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Chapter (including interest, if any, for delayed payments) forthwith to the competent authority.

Explanation.— In this section, "approved gratuity fund" shall have the same meaning as assigned to it in sub-section (5) of section 2 of the Income-tax Act, 1961.

43 of 1961.

Competent authority.

58. (1) The appropriate Government may, by notification, appoint any officer of that Government having such qualifications and experience as may be prescribed by that Government to be a competent authority for implementation of any provision of this Chapter for such area as may be specified in the notification.

(2) Where more than one competent authority has been appointed for any area, the appropriate Government may, by general or special order, regulate the distribution of business among them.

(3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under reference to assist him in holding the inquiry relating thereto.

CHAPTER VI

MATERNITY BENEFIT

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

59. (1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

(3) Without prejudice to the provisions of section 62, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do, during the period specified in sub-section (4), any work which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be—

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 62.

Explanation.— For the purposes of this section, the expression "any work of arduous nature" shall mean any work which involve or require strenuous effort or is difficult and tiring in nature.

60. (1) Subject to the other provisions of this Code, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, and any period immediately following that day.

Right to payment of maternity benefit.

Explanation.—For the purposes of this sub-section, "the average daily wage" means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, subject to the minimum rate of wage fixed or revised under the Code on Wages, 2019.

29 of 2019.

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery.

Explanation.— For the purposes of calculating the period under this sub-section, the days on which a woman has actually worked in the establishment, the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the expected date of her delivery shall be taken into account.

(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the expected date of her delivery:

Provided that the maximum period entitled to maternity benefit by a woman having two or more surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:

Provided further that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

Provided also that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.

Explanation.— For the purposes of this sub-section, "child" includes a stillborn child.

(4) A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

(5) In case the work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

61. Every woman entitled to the payment of maternity benefit under this Chapter, shall, notwithstanding the application of Chapter IV to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 32.

Continuance of payment of maternity benefit in certain cases.

62. (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Chapter may give notice in writing in such form as may be prescribed by the Central Government, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Chapter may be paid to her

Notice of claim for maternity benefit and payment thereof.

or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than eight weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.

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

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Chapter if she is otherwise entitled to such benefit or amount and in any such case an Inspector-cum-Facilitator may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.

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

63. If a woman entitled to maternity benefit or any other amount under this Chapter, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 60, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 62 and in case there is no such nominee, to her legal representative.

Payment of medical bonus.

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

Leave for miscarriage, etc.

65. (1) In case of miscarriage, or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.

(2) In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed by the Central Government, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

(3) A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy shall, on production of such proof as may be prescribed by the Central Government, be entitled, in addition to the period of absence allowed to her under section 62, or, as the case may be, under sub-section (1), to leave with wages at the rate of maternity benefit for a maximum period of one month.

Nursing breaks.

66. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of such duration as may be prescribed by the Central Government, for nursing the child until the child attains the age of fifteen months.

Creche facility.

67. (1) Every establishment to which this Chapter applies, in which fifty employees or such number of employees as may be prescribed by the Central Government, are employed

shall have the facility of crèche within such distance as may be prescribed by the Central Government, either separately or along with common facilities:

Provided that the employer shall allow four visits a day to the crèche by the woman, which shall also include the intervals of rest allowed to her:

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

(2) Every establishment to which this Chapter applies shall intimate in writing and electronically to every woman at the time of her initial appointment in such establishment regarding every benefit available under this Chapter.

68. (1) When a woman absents herself from work in accordance with the provisions of this Chapter, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service:

Dismissal for absence during pregnancy.

Provided that the discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus under this Chapter, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided further that where the dismissal is for any gross misconduct as may be prescribed by the Central Government, the employer may, by order in writing, communicated to the woman, deprive her of the maternity benefit or medical bonus, or both.

(2) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed under sub-section (1), may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to the competent authority, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, or discharged or dismissed, shall be final.

69. No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Chapter shall be made by reason only of—

No deduction of wages in certain cases.

(a) the nature of work assigned to her by virtue of the provisions contained in section 59; or

(b) breaks for nursing the child allowed to her under the provisions of section 66.

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

Forfeiture of maternity benefit.

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

Duties of employer.

72. (1) Any woman claiming that,—

(a) maternity benefit or any other amount to which she is entitled under this Chapter and any person claiming that payment due under this Chapter has been improperly withheld;

Power of Inspector-cum-Facilitator to direct payments to be made.

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Chapter,

may make a complaint to the Inspector-cum-Facilitator.

(2) The Inspector-cum-Facilitator may, on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that—

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his order in writing;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Chapter,

may pass such orders as he deems just and proper according to the circumstances of the case.

(3) Any person aggrieved by the order of the Inspector-cum-Facilitator under sub-section (2) may, within thirty days from the date on which such order is communicated to such person, appeal to the authority prescribed by the appropriate Government.

(4) The decision of the authority referred to in sub-section (3), where an appeal has been preferred to it under that sub-section or of the Inspector-cum-Facilitator where no such appeal has been preferred, shall be final.

CHAPTER VII

EMPLOYEE'S COMPENSATION

Reports of fatal accidents and serious bodily injuries.

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

Provided that where the State Government has so specified, the person required to give the notice may instead of sending such report to the competent authority send it to the authority to whom he is required to give the notice.

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

(2) The State Government may, by notification, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the competent authority.

(3) Nothing in this section shall apply to establishments to which Chapter IV, relating to Employees' State Insurance Corporation, applies.

Employer's liability for compensation.

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

Provided that the employer shall not be so liable—

(a) in respect of such injury which does not result in the total or partial disablement of the employee for a period exceeding three days; and

(b) in respect of such injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to—

(i) the employee having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or

(iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee.

(2) An accident or an occupational disease referred to in sub-section (1) shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident or at the time of contracting the occupational disease, referred to in that sub-section, acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(a) such accident or contracting of such occupational disease would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

(b) the act is done for the purpose of, and in connection with, the employer's trade or business.

(3) If an employee employed in any employment specified in the Second Schedule contracts any disease specified in the Third Schedule, being an occupational disease peculiar to that employment whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months, then, such disease shall be deemed to be an injury by accident within the meaning of this section and unless the contrary is proved, the accident shall be deemed to have arisen out of and in the course of the employment.

(4) An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and his employment is established.

(5) The Central Government or the State Government, after giving, by notification, not less than three months' notice of its intention so to do, may, by a like notification, modify or add any description of employment to the employments specified in the Second Schedule, and occupational diseases specified in the Third Schedule and shall specify in the case of employments so modified or added, the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply, in the case of a notification by the Central Government, within the territories to which this Code extends or, in case of a notification by the State Government, within that State as if such diseases had been declared by this Code to be occupational diseases peculiar to those employments.

(6) Save as provided by sub-sections (2), (3) and (4), no compensation shall be payable to an employee in respect of any accident or disease unless the accident or disease is directly attributable to a specific injury by accident or disease arising out of and in the course of his employment.

(7) Nothing herein contained shall be deemed to confer any right to compensation on an employee in respect of any accident or disease if he has instituted in a civil court a suit for damages in respect of the accident or disease against the employer or any other person; and no suit for damages shall be maintainable by an employee in any Court of law in respect of such accident or disease—

(a) if he has instituted a claim to compensation in respect of the accident or disease before a competent authority; or

(b) if an agreement has been made between the employee and his employer providing for the payment of compensation in respect of the accident or disease in accordance with the provisions of this Chapter.

Compensation in case of death of or injury in plantation.

75. If death or injury is caused to any worker or a member of his family as a result of the collapse of a house provided by the employer in a plantation, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to a natural calamity, the employer shall be liable to pay compensation under section 76 and the Sixth Schedule, so far as may be applicable.

Explanation.— For the purposes of this section, the expression "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, and includes a person employed on contract for more than sixty days in a year, but does not include—

(i) a medical officer employed in the plantation;

(ii) any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed the amount as determined by the appropriate Government, by notification, from time to time;

(iii) any person employed in the plantation primarily in a managerial or administrative capacity, notwithstanding that his monthly wages do not exceed the amount as determined by the appropriate Government, by notification, from time to time;

(iv) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges, drains or canals.

Amount of compensation.

76. (1) Subject to the provisions of this Chapter, the amount of compensation shall be,—

(a) where death results from the injury, an amount equal to fifty per cent. of the monthly wages of the deceased employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more;

(b) where permanent total disablement results from the injury, an amount equal to sixty per cent. of the monthly wages of the injured employee multiplied by the relevant factor or an amount as may be notified by the Central Government from time to time, whichever is more:

Provided that the Central Government may, by notification, from time to time, enhance the amount of compensation specified in clauses (a) and (b).

Explanation.— For the purposes of clauses (a) and (b), "relevant factor", in relation to an employee means the factor specified in column (3) of the Sixth Schedule relating to factors against the corresponding entry in column (2) thereof, specifying the number of years which are the same as the completed years of the age of the employee on his last birthday immediately preceding the date on which the compensation fell due;

(c) where permanent partial disablement results from the injury,—

(i) in the case of an injury specified in Part II of the Fourth Schedule, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and

(ii) in the case of an injury not specified in the Fourth Schedule, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the medical practitioner) permanently caused by the injury.

Explanation 1.— For the purposes of this clause, where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

Explanation 2.— In assessing the loss of earning capacity under sub-clause (ii), the medical practitioner shall have due regard to the percentage of loss of earning capacity in relation to different injuries specified in the Fourth Schedule;

(d) where temporary disablement, whether total or partial, results from the injury, a half-monthly payment of the sum equivalent to twenty-five per cent. of monthly wages of the employee, to be paid in accordance with the provisions of sub-section (4).

(2) Notwithstanding anything contained in sub-section (1), while fixing the amount of compensation payable to an employee in respect of an accident which occurred outside India, the competent authority shall take into account the amount of compensation, if any, awarded to such employee in accordance with the law of the country in which the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the employee in accordance with the law of that country.

(3) The Central Government may, by notification, specify for the purposes of sub-section (1), such monthly wages in relation to an employee as it may consider necessary.

(4) The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day—

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more; or

(ii) after the expiry of a waiting period of three days from the date of disablement, where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever is shorter:

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the employee is entitled, the amount of any payment or allowance which the employee has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and such payment or allowance which the employee has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation;

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the employee before the accident exceeds half the amount of such wages which he is earning after the accident.

(5) The employee shall be reimbursed, the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment, by his employer.

(6) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

(7) If the injury of the employee results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the competent authority a sum of not less than fifteen thousand rupees or such amount as may be prescribed by the State Government, for payment of the same to the eldest surviving dependant of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependant or was not living with his dependant at the time of his death, to the person who actually incurred such expenditure:

Provided that the Central Government may, by notification from time to time, enhance the amount specified in this sub-section.

Compensation to be paid when due and damages for default.

77. (1) Compensation under section 76 shall be paid as soon as it falls due.

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the competent authority or made to the employee, as the case may be, without prejudice to the right of the employee to make any further claim.

(3) Where any employer is in default in paying the compensation due under this Chapter within one month from the date it fell due, the competent authority shall,—

(a) direct that the employer shall, in addition to the amount of the arrears, pay interest at such rate as may be prescribed by the Central Government, on the amount due; and

(b) if in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent. of such amount of arrears by way of damages:

Provided that an order for the payment of damages shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause as to why it should not be passed.

(4) The interest and the damages payable under sub-section (3) shall be paid to the employee or his dependant, as the case may be.

Method of calculating monthly wages for purposes of compensation.

78. For the purposes of this Chapter, the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:—

(a) where the employee has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the employee shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(b) where the whole of the continuous period of service immediately preceding the accident during which the employee was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the employee shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by an employee employed on the same work by the same employer, or, if there was no employee so employed, by an employee employed on similar work in the same locality;

(c) in other cases including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b), the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation.—For the purposes of this section, "a period of service" shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

79. (1) Any half-monthly payment payable under this Chapter, either under an agreement between the parties or under the order of a competent authority, may be reviewed by the competent authority, on the application either of the employer or of the employee accompanied by the certificate of a medical practitioner that there has been a change in the condition of the employee or, subject to such conditions as may be prescribed by the State Government, on application made without such certificate. Review.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Chapter, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the employee is entitled less any amount which he has already received by way of half-monthly payments.

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

81. (1) No payment of compensation in respect of an employee whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the competent authority, and no such payment made directly by an employer shall be deemed to be a payment of compensation: Distribution of compensation.

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

(2) Any other sum amounting to not less than five thousand rupees which is payable as compensation may be deposited with the competent authority on behalf of the person entitled thereto.

(3) The receipt of the competent authority shall be a sufficient discharge in respect of any compensation deposited with him.

(4) (a) On the deposit of any money under sub-section (1) as compensation in respect of a deceased employee, the competent authority shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation.

(b) If the competent authority is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid.

(c) The competent authority shall, on an application by the employer, furnish a statement showing in detail all disbursements made.

(5) The compensation deposited in respect of a deceased employee shall, subject to any deduction made under sub-section (1), be apportioned by order by the competent authority among the dependants of the deceased employee or any of them in such proportion as the competent authority thinks fit, or may, in the discretion of the competent authority, be allotted to any one dependant:

Provided that the competent authority shall not make any order under this sub-section without hearing the dependants and shall record reasons in the order for the apportionment of such compensation among dependants or any of them, as the case may be.

(6) Where any compensation deposited with the competent authority is payable to any person, other than a woman or a person under legal disability, the competent authority may pay the compensation to the person entitled thereto.

(7) Where any lump sum deposited with the competent authority is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the competent authority may direct; and where a half-monthly payment is payable to any person under a legal disability, the competent authority may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the employee or to any other person, whom the competent authority thinks fit to provide for the welfare of the employee.

(8) Where, on application made to him in this behalf or otherwise, the competent authority is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the competent authority as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the competent authority may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause as to why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(9) Where the competent authority varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner as specified in sub-section (10).

(10) The competent authority may recover as an arrear of land revenue any amount referred to in sub-section (9), and for such purpose the competent authority shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890. 1 of 1890.

Notice and claim.

82. (1) No claim for compensation shall be entertained by a competent authority unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or, in case of death, within two years from the date of death:

Provided that where the accident is the contracting of a disease in respect of which the provisions of sub-section (3) of section 74 are applicable, the accident shall be deemed to have occurred on the first of the days during which the employee was continuously absent from work in consequence of the disablement caused by the disease:

Provided further that in case of partial disablement due to the contracting of any such disease and which does not force the employee to absent himself from work, the period of two years shall be counted from the day the employee gives notice of the disablement to his employer:

Provided also that if an employee who, having been employed in an employment for a continuous period specified under sub-section (3) of section 74 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease

peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected.

(2) The want of or any defect or irregularity, in a notice given under sub-section (1), shall not be a bar to the entertainment of a claim—

(a) if the claim is preferred in respect of the death of an employee resulting from an accident which occurred on the premises of the employer, or at any place where the employee at the time of the accident was working under the control of the employer or of any person employed by him, and the employee died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed had knowledge of the accident from any other source at or about the time when it occurred:

Provided that the competent authority may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time as provided under sub-section (1), if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(3) Every such notice shall give the name and address of the person injured and shall state the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured employee was employed.

(4) The appropriate Government may require that any class of employers as may be prescribed by that Government shall maintain, at their premises at which employees are employed, a notice-book, in such form as may be prescribed by that Government, which shall be readily accessible at all reasonable times to any injured employee employed on the premises and to any person acting *bona fide* on his behalf.

(5) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or where possible, electronically or, where a notice-book is maintained, by entry in the notice-book.

83. (1) The provisions of this section shall, subject to the modifications specified in this section, apply in case of employees who are—

(a) masters of ships or seamen; or

(b) captain and other members of crew of aircraft;

(c) persons recruited by companies registered in India and working as such abroad;

(d) persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 as drivers, helpers, mechanics, cleaners or other employees.

59 of 1988.

(2) The notice of the accident and the claim for compensation by a person injured may be served on the following persons, as if they were the employer—

(a) in case of accident where the person injured is a seamen, but not the master of the ship, on the master of the ship;

(b) in case of accident where the person injured is a member of crew of an aircraft, but not the captain of the aircraft, on the captain of the aircraft;

Special provisions relating to accidents occurring outside Indian territory.

(c) in case of persons recruited by companies registered in India and working as such abroad, on the local agent of the company;

(d) in case of persons sent for work abroad along with motor vehicles as drivers, helpers, mechanics, cleaners or other employees, on the local agent of the owner of the motor vehicle, in the country of the accident:

Provided that where the accident happened and the disablement commenced on board, the ship or aircraft, as the case may be, then, it shall not be necessary for any seaman or members of the crew of aircraft to give any notice of the accident.

(3) The claim of compensation shall be made—

(a) in the case of the death of an employee referred to in sub-section (1), one year after the news of the death has been received by the claimant;

(b) in the case where the ship or the aircraft as the case may be, has been or is deemed to have been lost with all hands, eighteen months of the date on which the ship or the aircraft was, or is deemed to have been, so lost:

Provided that the competent authority may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

(4) Where an injured employee referred to in sub-section (1) is discharged or left behind in any part of India or in any foreign country, then, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(5) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law for the time being in force relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this section shall not be a bar to the maintenance of proceedings under this Chapter in respect of any personal injury, if such proceedings under this Chapter are commenced within one month from the date on which the certificate of the State to that effect Government was furnished to the person commencing the proceedings.

Medical
examination.

84. (1) Where an employee has given notice of an accident, he, shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a medical practitioner, submit himself for such examination, and any employee who is in receipt of a half-monthly payment

under this Chapter shall, if so required, submit himself for such examination from time to time:

Provided that an employee shall not be required to submit himself for examination by a medical practitioner at more than such frequent interval as may be prescribed by the State Government.

(2) If an employee, on being required to do so by the employer under sub-section (1) or by the competent authority at any time, refuses to submit himself for examination by a medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If an employee, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves the vicinity of the place in which he was employed without having been so examined, his right to compensation shall be suspended until he returns and offers himself for such examination:

Provided that where such employee proves before the medical practitioner that he could not so submit himself for medical examination due to the circumstances beyond his control and he was also handicapped to communicate such information in writing, the medical practitioner may after recording such reasons in writing, condone the delay and his right to compensation shall be revived as if no such suspension was made.

(4) Where an employee, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the competent authority may, if he thinks fit, direct the payment of compensation to the dependants of the deceased employee.

(5) Where under sub-section (2) or sub-section (3), a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (ii) of sub-section (4) of section 76, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured employee has refused to be attended by a medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the employee has not thereafter been regularly attended by a medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the employee had been regularly attended by a medical practitioner, whose instructions he had followed, and compensation, if any, shall be payable accordingly.

85. (1) Where any employer in the course of or for the purposes of his trade or business contracts with a contractor for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the employer, the employer shall be liable to pay to any employee employed in the execution of the work any compensation, which he would have been liable to pay if that employee had been immediately employed by him; and that the amount of compensation shall be calculated with reference to the wages of the employee under the employer by whom he is immediately employed.

Contracting.

(2) Where the employer is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the employee could have recovered the compensation and where a contractor who is himself an employer is liable to pay compensation or to indemnify an employer under this section, he shall be entitled to be indemnified by any person standing to him in relation of a contractor from

whom the employee could have recovered the compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the competent authority.

(3) Nothing in this section shall be construed as preventing an employee from recovering compensation referred to in sub-section (2) from the contractor instead of the employer.

(4) The provisions of this section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the employer has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against stranger.

86. Where an employee has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 85 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency of employer.

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

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

(3) Where in any case such as is referred to in sub-section (1), the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premium), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the employee:

Provided that the provisions of this sub-section shall not apply in any case in which the employee fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

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

31 of 2016.
18 of 2013.

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

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) The provisions of this section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

88. (1) Where a competent authority receives information from any source that an employee has died as a result of an accident arising out of and in the course of his employment, he may send by registered post or where possible, electronically a notice to the employee's employer requiring him to submit, within thirty days of the service of the notice, a statement, in such form as may be prescribed by the State Government, giving the circumstances attending the death of the employee, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death and a copy of such notice shall also be sent by the competent authority in the same manner to the dependants of such employee ascertained by the competent authority.

Power to require from employers statements regarding fatal accidents.

(2) If the employer is of the opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of the opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the competent authority, after such inquiry as he may think fit, may inform any of the dependants of the deceased employee, that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

(5) Where in the opinion of the competent authority, a dependant of the deceased employee is not in a position to engage an advocate to file a claim for compensation, the competent authority may provide an advocate to such dependant, from the panel of advocates maintained by the State Government.

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

Registration of agreements.

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the competent authority of notice to the parties concerned;

(b) the competent authority may at any time rectify the register;

(c) where it appears to the competent authority that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, the competent authority may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as the competent authority thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Code notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force.

9 of 1872.

(3) Where a memorandum of any agreement, the registration of which is required under this section, is not sent to the competent authority as required by this section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Chapter, and notwithstanding anything contained in the proviso to sub-section (1) of section 76, shall not, unless the competent authority otherwise directs, be entitled to deduct more than half of any amount paid to the employee by way of compensation whether under the agreement or otherwise.

Reference to
competent
authority.

90. (1) If any question arises in any proceedings under this Chapter as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not an employee) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a competent authority.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Chapter required to be settled, decided or dealt with by a competent authority or to enforce any liability incurred under this Chapter.

Appointment
of competent
authority.

91. (1) The State Government may, by notification, appoint any person who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development, industrial relations and legal affairs or such other experience and qualifications as may be prescribed by the appropriate Government to be a competent authority for the purposes of this Chapter and for such area as may be specified in the notification.

(2) Where more than one competent authority has been appointed for any area, the State Government may, by general or special order, regulate the distribution of business amongst them.

(3) Any competent authority may, for the purpose of deciding any matter referred to him for decision under this Chapter, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

Venue of
proceedings
and transfer.

92. (1) Where any matter under this Chapter is to be done by or before a competent authority, the same shall, subject to the provisions of this Chapter and in the manner prescribed in this behalf by the State Government, be done by or before the competent authority for the area in which—

(a) the accident took place which resulted in the injury; or

(b) the employee or in case of his death, the dependant claiming the compensation ordinarily resides; or

(c) the employer has his registered office:

Provided that no matter shall be processed before or by a competent authority, other than the competent authority having jurisdiction over the area in which the accident took place, without his giving notice electronically or otherwise in the manner prescribed by the Central Government to the competent authority having jurisdiction over the area and the State Government concerned:

Provided further that, where the employee, being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or an employee in a motor vehicle or a company, meets with the accident outside India, any such matter may be done by or before

a competent authority for the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.

(2) If a competent authority, other than the competent authority with whom any money has been deposited under section 81, proceeds with a matter under this Chapter, the former may for the proper disposal of the matter call for transfer of any records or moneys remaining with the latter and on receipt of such a request, he shall comply with the same.

(3) If a competent authority is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other competent authority, whether in the same State or not, he may, subject to rules made under this Code relating to this Chapter, order such matter to be transferred to such other competent authority either for report or for disposal, and, if he does so, shall forthwith transmit to such other competent authority all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the manner as may be prescribed by the Central Government any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

Provided that the competent authority shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard.

(4) The competent authority to whom any matter is so transferred shall, subject to rules made under this Code relating to this Chapter, inquire therein to and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(5) On receipt of a report from a competent authority to whom any matter has been transferred for report under sub-section (3), the competent authority by whom it was referred shall decide the matter referred to in conformity with such report.

(6) The State Government may transfer any matter from any competent authority appointed by it to any other competent authority appointed by it.

93. (1) Where an accident occurs in respect of which liability to pay compensation under this Chapter arises, a claim for such compensation may, subject to the provisions of this Chapter, be made before the competent authority.

Form of application.

(2) Subject to the provisions of sub-section (1), no application for the settlement of any matter by competent authority, other than an application by a dependant or joint application by dependants for compensation, shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(3) An application to a competent authority for claim under sub-section (1) or settlement under sub-section (2) may be made electronically or otherwise in such form and in such manner accompanied by such fee, if any, as may be prescribed by the Central Government.

(4) The time-limit for the disposal of applications under this section and the costs incidental to the proceedings under this section to be imposed by the competent authority shall be such as may be prescribed by the State Government.

94. (1) Where any sum has been deposited by an employer as compensation payable in respect of an employee whose injury has resulted in death, and in the opinion of the competent authority such sum is insufficient, the competent authority may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

Power of competent authority to require further deposit in cases of fatal accident.

(2) If the employer fails to show cause to the satisfaction of the competent authority, the competent authority may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

Powers and procedure of competent authority.

95. The competent authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such competent authority is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the competent authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973. 5 of 1908. 2 of 1974.

Appearance of parties.

96. Any appearance, application or act required to be made or done by any person before or to a competent authority (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector-cum-Facilitator appointed under sub-section (1) of section 122 or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the competent authority, by any other person so authorised.

Method of recording evidence.

97. The competent authority shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be authenticated under the hand of the competent authority or in the manner as may be prescribed by the State Government and shall form part of the record:

Provided that, if the competent authority is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Power to submit cases.

98. A competent authority may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Appeal against order of competent authority.

99. (1) An appeal shall lie to the High Court from the following orders of a competent authority under this Chapter, namely:—

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(b) an order awarding interest or damages under section 77;

(c) an order refusing to allow redemption of a half-monthly payment;

(d) an order providing for the distribution of compensation among the dependants of a deceased employee, or disallowing any claim of a person alleging himself to be such dependant;

(e) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 85; or

(f) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order referred to in clause (c), unless the amount in dispute in the appeal is not less than ten thousand rupees or such higher amount as the Central Government may, by notification, specify:

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the competent authority, or in which the order of the competent authority gives effect to an agreement arrived at by the parties:

Provided also that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the competent authority to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(2) The period of limitation for an appeal under this section shall be sixty days from the date of passing of the order.

36 of 1963.

(3) The provisions of section 5 of the Limitation Act, 1963, shall be applicable to appeal under this section.

CHAPTER VIII

SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS

100. (1) There shall be levied and collected a cess for the purposes of social security and welfare of building workers at such rate not exceeding two per cent. but not less than one per cent. of the cost of construction incurred by an employer, as the Central Government may, by notification, from time to time, specify. Levy and collection of cess.

Explanation.—For the purposes of this sub-section, the cost of construction shall not include,—

(a) the cost of land; and

(b) any compensation paid or payable to an employee or his kin under Chapter VII.

(2) The cess levied under sub-section (1) shall be collected from every employer undertaking building or other construction work in such manner and at such time, including deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority or such other authority notified by the State Government is required, as may be prescribed by the Central Government.

(3) The proceeds of the cess collected under sub-section (2) shall be deposited by the local authority or such other authority notified by the State Government to the Building Workers' Welfare Board in such manner as may be prescribed by the Central Government.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), the cess leviable under this Chapter including payment of such cess in advance may, subject to final assessment to be made, be collected at a uniform rate or rates as may be prescribed by the Central Government on the basis of the quantum of the building or other construction work involved.

101. If any employer fails to pay any amount of cess payable under section 100 within such time as may be prescribed by the appropriate Government, such employer shall be liable to pay interest at such rate as may be prescribed by the Central Government, on the amount of cess, to be paid, for the period from the date on which such payment is due till such amount is actually paid. Interest payable on delay in payment of cess.

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

Self-assessment of cess.

103. (1) The employer shall, within sixty days or such period as may be notified by the Central Government of the completion of his each building and other construction work, pay such cess (adjusting the advance cess already paid under section 100) payable under this Chapter on the basis of his self-assessment on the cost of construction worked out on the basis of the documents and in the manner prescribed by the Central Government and after such payment of cess, he shall file a return under clause (d) of section 123.

(2) If the officer or the authority to whom or to which the return has been filed under sub-section (1) finds any discrepancy in the payment under the self-assessment and the payment required under the return referred to in that sub-section, then, he or it shall, after making or causing to be made such inquiry as he or it thinks fit and after such inquiry make the appropriate assessment order.

(3) An order of assessment made under sub-section (2) shall specify the date within which the cess shall be paid by the employer, if any.

Penalty for non-payment of cess within the specified time.

104. If any amount of cess payable by any employer under section 103 is not paid within the date specified in the order of assessment made under sub-section (2) of that section, it shall be deemed to be in arrears and the authority prescribed by the Central Government in this behalf may, after making such inquiry as it deems fit, impose on such employer a penalty not exceeding the amount of cess:

Provided that, before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

Appeal to appellate authority.

105. (1) Any employer aggrieved by an order of assessment made under section 103 or by an order imposing penalty made under section 104 may, within such time as may be prescribed by the Central Government, appeal to such appellate authority in such form and in such manner as may be prescribed by the Central Government.

(2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed by the appropriate Government.

(3) After the receipt of any appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law.

Registration of building workers as beneficiaries.

106. Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be registered by the officer authorised by the Building Workers' Welfare Board as a beneficiary under this Chapter in such manner as may be prescribed by the Central Government.

Cessation as a beneficiary.

107. (1) A building worker who has been registered as a beneficiary under section 106 shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:

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

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, then, he shall be eligible to get such benefits as may be prescribed by the Central Government.

Explanation.—For computing the period of three years under this sub-section as a beneficiary registered with a Building Workers' Welfare Board, there shall be added any period for which a person had been a beneficiary registered with any other such Board immediately before his registration with the Building Workers' Welfare Board.

108. (1) There shall be constituted by a Building Workers' Welfare Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto—

Building and Other Construction Workers' Welfare Fund and its application.

(a) the amount of any cess levied under sub-section (1) of section 100;

(b) any grants and loans made to the Building Workers' Welfare Board by the Central Government; and

(c) all sums received by the Building Workers' Welfare Board from such other sources as may be decided by the Central Government.

(2) The Building and Other Construction Workers' Welfare Fund shall be applied for meeting—

(a) expenses of the Building Workers' Welfare Board in the discharge of its functions under sub-section (6) of section 7;

(b) salaries, allowances and other remuneration of the members, officers and other employees of the Building Workers' Welfare Board; and

(c) expenses on objects and for purposes authorised by this Code.

(3) No Building Workers' Welfare Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year.

CHAPTER IX

SOCIAL SECURITY FOR UNORGANISED WORKERS, GIG WORKERS AND PLATFORM WORKERS

109. (1) The Central Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—

Framing of schemes for unorganised workers.

(i) life and disability cover;

(ii) health and maternity benefits;

(iii) old age protection;

(iv) education; and

(v) any other benefit as may be determined by the Central Government.

(2) The State Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—

(i) provident fund;

(ii) employment injury benefit;

(iii) housing;

(iv) educational schemes for children;

(v) skill upgradation of workers;

(vi) funeral assistance; and

(vii) old age homes.

(3) Any scheme notified by the Central Government under sub-section (1), may be—

(i) wholly funded by the Central Government; or

(ii) partly funded by the Central Government and partly funded by the State Government; or

(iii) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the Central Government; or

(iv) funded from any source including corporate social responsibility fund within the meaning of the Companies Act, 2013 or any other such source as may be specified in the scheme. 18 of 2013.

(4) Every scheme notified by the Central Government under sub-section (1) shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to all or any of the following, namely:—

(i) scope of the scheme;

(ii) authority to implement the scheme;

(iii) beneficiaries of the scheme;

(iv) resources of the scheme;

(v) agency or agencies that will implement the scheme;

(vi) redressal of grievances; and

(vii) any other relevant matter,

and a special purpose vehicle may also be constituted by the Central Government for the purpose of implementation of any such scheme.

Funding of
State
Government
schemes.

110. (1) Any scheme notified by the State Government under sub-section (2) of section 109 may be—

(a) wholly funded by the State Government; or

(b) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be specified in the scheme by the State Government; or

(c) funded from any source including corporate social responsibility fund referred to in clause (iv) of sub-section (3) of section 109 or any other such source as may be specified in the scheme.

(2) The State Government may seek financial assistance from the Central Government for the schemes framed by it.

(3) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

Record
keeping.

111. The Government formulating and notifying the scheme under this Chapter shall provide therein the form and manner of keeping the records electronically or otherwise relating to the scheme and the authority by whom such records shall be maintained:

Provided that such records shall, as far as may be possible, bear continuous number for the purpose of proper management of the scheme and for avoiding any duplication and overlapping in records.

112. The appropriate Government may set up a toll free call centre or helpline or such facilitation centres as may be considered necessary from time to time to perform any or more of the following functions, namely:—

(a) to disseminate information on available social security schemes for the unorganised workers, gig workers and platform workers;

(b) to facilitate filing, processing and forwarding of application forms for registration of unorganised workers, gig workers and platform workers;

(c) to assist unorganised workers, gig workers and platform workers to obtain registration; and

(d) to facilitate the enrolment of the registered unorganised workers, gig workers and platform workers in the social security schemes.

Helpline, facilitation centre, etc., for unorganised workers, gig workers and platform workers.

113. (1) Every unorganised worker, gig worker or platform worker shall be required to be registered for the purposes of this Chapter, subject to the fulfilment of the following conditions, namely:—

(a) he has completed sixteen years of age or such age as may be prescribed by the Central Government;

(b) he has submitted a self-declaration electronically or otherwise in such form and in such manner containing such information as may be prescribed by the Central Government.

(2) Every eligible unorganised worker, gig worker or platform worker referred to in sub-section (1) shall make an application for registration in such form along with such documents including Aadhaar number as may be prescribed by the Central Government and such worker shall be assigned a distinguishable number to his application:

Provided that the system of electronic registration maintained by the appropriate Government shall also provide for self registration by any such worker in such manner as may be prescribed by the Central Government.

(3) A registered unorganised worker, gig worker or platform worker shall be eligible to avail the benefit of the concerned scheme framed under this Chapter.

(4) The Central Government, or as the case may be, the State Government shall make such contribution in a scheme as may be specified therein.

Explanation.—For the purposes of this section, the term "Aadhaar" shall have the same meaning as is assigned to it in section 142.

114. (1) The Central Government may frame and notify, from time to time, suitable social security schemes for gig workers and platform workers on matters relating to—

(a) life and disability cover;

(b) accident insurance;

(c) health and maternity benefits;

(d) old age protection;

(e) crèche; and

(f) any other benefit as may be determined by the Central Government.

(2) Every scheme framed and notified under sub-section (1) may provide for—

(a) the manner of administration of the scheme;

(b) the agency or agencies for implementing the scheme;

(c) the role of aggregators in the scheme;

Registration of unorganised workers, gig workers and platform workers.

Schemes for gig workers and platform workers.

(d) the sources of funding of the scheme; and

(e) any other matter as the Central Government may consider necessary for the efficient administration of the scheme.

(3) Any scheme notified by the Central Government under sub-section (1), may be—

(a) wholly funded by the Central Government; or

(b) partly funded by the Central Government and partly funded by the State Government; or

(c) wholly funded by the contributions of the aggregators; or

(d) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the aggregators, as may be specified in the scheme framed by the Central Government; or

(e) funded from corporate social responsibility fund within the meaning of Companies Act, 2013; or

(f) any other source.

18 of 2013.

(4) The contribution to be paid by the aggregators for the funding referred to in clause (ii) of sub-section (1) of section 141, shall be at such rate not exceeding two per cent., but not less than one per cent., as may be notified by the Central Government, of the annual turnover of every such aggregator who falls within a category of aggregators, as are specified in the Seventh Schedule:

Provided that the contribution by an aggregator shall not exceed five per cent. of the amount paid or payable by an aggregator to gig workers and platform workers.

Explanation.—For the purposes of this sub-section, the annual turnover of an aggregator shall not include any tax, levy and cess paid or payable to the Central Government.

(5) The date of commencement of contribution from aggregator under this section shall be notified by the Central Government.

(6) The National Social Security Board constituted under sub-section (1) of section 6 shall be the Board for the purposes of the welfare of gig workers and platform workers under the provisions of this Code:

Provided that while such Board serves the purposes of welfare of, or matters relating to, gig workers and platform workers, the following members shall constitute the Board instead of the members specified in clauses (c) and (d) of sub-section (2) of section 6, namely:—

(a) five representatives of the aggregators as the Central Government may nominate;

(b) five representatives of the gig workers and platform workers as the Central Government may nominate;

(c) Director General of the Corporation;

(d) Central Provident Fund Commissioner of the Central Board;

(e) such expert members as the Central Government may consider appropriate;

(f) five representatives of the State Governments by such rotation as the Central Government may consider appropriate;

(g) Joint Secretary to the Government of India in the Ministry of Labour and Employment, who shall be the Member Secretary to the Board.

(7) (i) The Central Government may provide that—

- (a) the authority to collect and to expend the proceeds of contribution collected;
- (b) the rate of interest to be paid by an aggregator in case of delayed payment, less payment or non-payment of contribution;
- (c) self-assessment of contribution by aggregators;
- (d) conditions for cessation of a gig worker or a platform worker; and
- (e) any other matter relating to smooth functioning of the social security scheme notified under this section,

shall be such as may be prescribed by that Government.

(ii) The Central Government may by notification, exempt such aggregator or class of aggregators from paying of contribution under sub-section (4), subject to such conditions as may be specified in the notification.

Explanation.—For the purposes of this section, an aggregator having more than one business shall be treated as a separate business entity or aggregator.

CHAPTER X

FINANCE AND ACCOUNTS

115. Each of the Social Security Organisations shall maintain proper accounts of its income and expenditure in such form and in such manner as the appropriate Government may, after consultation with the Comptroller and Auditor-General of India, specify. Accounts.

116. (1) The accounts of each of the Social Security Organisations shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the respective Social Security Organisation to the Comptroller and Auditor-General of India. Audit.

(2) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of a Social Security Organisation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and to inspect any of the offices of the Social Security Organisation.

(3) The accounts of a Social Security Organisation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Social Security Organisation which shall along with its comments on the audit report of the Comptroller and Auditor-General of India forward the same to the appropriate Government.

117. (1) Each of the Social Security Organisations shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the appropriate Government before such date as may be fixed by it in that behalf. Budget estimates.

(2) The budget shall contain provisions adequate in the opinion of the appropriate Government for the discharge of the liabilities incurred by the Social Security Organisation and for the maintenance of a working balance.

118. (1) Each of the Social Security Organisations shall submit to the appropriate Government an annual report of its work and activities and the budget finally adopted by the Social Security Organisation. Annual report.

(2) The appropriate Government shall cause a copy of the annual report, budget and the audited accounts together with the report of the Comptroller and Auditor-General of

India and the comments of the respective Social Security Organisation thereon to be laid before each House of Parliament or the State legislature, as the case may be.

Valuation of assets and liabilities.

119. Each of the fund maintained by a Social Security Organisation or by an establishment under this Code shall have a valuation of its assets and liabilities made by a valuer or actuary, as the case may be, appointed, with the prior approval of the appropriate Government, by such Social Security Organisation or the establishment, as the case may be, in the following manner, namely:—

(a) in case of Central Board, annually;

(b) in case of Corporation, once in every three years;

(c) in case of any other Social Security Organisation or establishment, as specified by the appropriate Government, by order:

Provided that the appropriate Government, if it considers necessary, may direct such valuation to be made at such intervals other than provided in this section.

Holding of property, etc., by Social Security Organisation.

120. (1) A Social Security Organisation (except Corporation) may, subject to such conditions as may be prescribed by the appropriate Government, acquire and hold property, both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for such purposes and for the purposes for which the said Social Security Organisation is established.

(2) Subject to such conditions as may be prescribed by the appropriate Government, a Social Security Organisation may, from time to time invest any moneys vested in it, which are not immediately required for expenses properly defrayable and may, subject to as aforesaid, from time to time re-invest or realise such investments:

Provided that in case of Provident Fund, Pension Fund or Insurance Fund, such investment, re-investment or realisation shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.

(3) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, raise loans and take measures for discharging such loans.

(4) Each of the Social Security Organisations (except Corporation) may, with the previous sanction of the appropriate Government and on such terms as may be prescribed by such Government, constitute for the benefit of its officers and staff or any class of them, such provident or other benefit funds as it may think fit:

Provided that in case of officers and staff of the Central Board, such terms shall be specified in the Provident Fund Scheme.

Writing off of losses.

121. Subject to the conditions as may be prescribed by the appropriate Government, where any of the Social Security Organisations is of the opinion that the amount of contribution, cess, interest and damages due to it, under this Code, is irrecoverable, the concerned Social Security Organisation may sanction the writing off of the said amount in such manner as may be prescribed by the appropriate Government:

Provided that in the case of Provident Fund, Pension Fund or Insurance Fund, such writing off shall be specified in the Provident Fund Scheme or Pension Scheme or Insurance Scheme, as the case may be.

CHAPTER XI

AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY

Appointment of Inspector-cum-Facilitators and their powers.

122. (1) The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters, and the appropriate Government for the purposes of other provisions of this Code, may, by notification, appoint Inspector-cum-Facilitators who shall discharge his duties under this Code and exercise the powers

conferred on them under sub-section (6) in accordance with the inspection scheme referred to in sub-section (2).

(2) The Central Government for the purposes of Chapter III and Chapter IV and for the provisions in this Code relating to those Chapters and the appropriate Government in respect of other provisions of this Code, may, by notification, lay down an inspection scheme which may provide for generation of a web-based inspection and calling of information relating to the inspection under this Code electronically and such scheme shall, *inter alia*, have provisions to cater to special circumstances for assigning inspections and calling for information from the establishment or any other person.

(3) Without prejudice to the provisions of sub-section (2), the Central Government for the purposes of Chapter III and Chapter IV and the other provisions in this Code relating to those Chapters and the appropriate Government in relation to other provisions of this Code, may, by notification, confer such jurisdiction of randomised selection of inspection for the purposes of this Code, to the Inspector-cum-Facilitators as may be specified in such notification.

(4) Without prejudice to the powers of the Central Government or the appropriate Government, as the case may be, under this section, the inspection scheme may be designed taking into account, *inter alia*, the following factors, namely:—

(a) assignment of unique number to each establishment (which will be same as the registration number allotted to that establishment), each Inspector-cum-Facilitator and each inspection in such manner as may be notified for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government;

(b) timely uploading of inspection reports in such manner and subject to such conditions as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government;

(c) provisions for special inspections based on such parameters as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government; and

(d) the characteristics of employment relationships, the nature of work and characteristics of the workplaces based on such parameters as may be notified, for the purposes of Chapter III and Chapter IV and the other provisions of this Code relating to those Chapters, by the Central Government, and in respect of other provisions of this Code, by the appropriate Government.

(5) The Inspector-cum-Facilitator may—

(a) advise the employers and employees relating to compliance with the provisions of this Code; and

(b) inspect the establishments as assigned to him under the provisions of this Code,

subject to the instructions or guidelines issued by the appropriate Government from time to time.

(6) Subject to the provisions of sub-section (4), the Inspector-cum-Facilitator may,—

(a) examine any person who is found in any premises of the establishment, whom the Inspector-cum-Facilitator has reasonable cause to believe, is an employee of the establishment;

(b) require any person whom the Inspector-cum-Facilitator has reasonable cause to believe, is an employer of the establishment, to produce any document or to give any information, which is in his power with respect to any of the purposes for which the inspection is made;

(c) search, seize or take copies of such register, record of wages or notices or portions thereof as the Inspector-cum-Facilitator may consider relevant in respect of an offence under this Code and which the Inspector-cum-Facilitator has reason to believe has been committed by the employer;

(d) bring to the notice of the appropriate Government defects or abuses not covered by any law for the time being in force; and

(e) exercise such other powers as may be prescribed by the appropriate Government.

(7) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator for the purposes of sub-section (6) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code. 45 of 1860.

(8) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure for the purposes of sub-section (6), as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974.

Maintenance
of records,
registers,
returns, etc.

123. An employer of an establishment shall—

(a) maintain records and registers in the form prescribed by the appropriate Government, electronically or otherwise, containing such particulars and details with regard to persons employed, muster roll, wages and such other particulars and details, in such manner, as may be prescribed by the appropriate Government including—

(i) number of days for which work performed by employees;

(ii) number of hours of work performed by the employees;

(iii) wage paid;

(iv) leave, leave wages, wages for overtime work and attendance;

(v) employees identification number, by whatever nomenclature it may be called;

(vi) number of dangerous occurrences, accidents, injuries in respect of which compensation has been paid by the employer and the amount of such compensation relating to Chapter IV and Chapter VII, respectively;

(vii) statutory deductions made by employer from the wages of an employee in respect of Chapter III and Chapter IV;

(viii) details as to cess paid in respect of building and other construction work;

(ix) total number of employees (regular, contractual or fixed term employment) on the day specified;

(x) persons recruited during a particular period;

(xi) occupational details of the employees; and

(xii) vacancies for which suitable candidates were not available during the specified period.

(b) display notices at the workplaces of the employees in such manner and form as may be prescribed by the appropriate Government;

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

(d) file such return electronically or otherwise to such officer or authority in such manner and during such periods as may be prescribed by the appropriate Government:

Provided that matters to be provided under the rules required to be made under this section relating to Chapter III shall, instead of providing them in rules to be made by the Central Government, be provided in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be:

Provided further that the forms of records and registers and that of the returns to be filed under Chapter IV shall be specified in the regulations instead of providing them in the rules.

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

Employer not to reduce wages, etc.

125. (1) The Central Government may, by notification, authorise, such officers of the Central Board or the Corporation, as the case may be, not below the rank of Group 'A' officer of that Government, to function as the Authorised Officers for the purposes of Chapter III or Chapter IV, as the case may be, who may, by order—

Assessment and determination of dues from employer.

(a) in a case where a dispute arises regarding the applicability of Chapter III or Chapter IV, as the case may be, to an establishment, decide such dispute; and

(b) determine the amount due from any employer under any provision of Chapter III or Chapter IV, as the case may be, or the schemes, or rules, regulations made under such Chapter; and

(c) for any of the purposes relating to clause (a) and clause (b), conduct such inquiry, as he may deem necessary for such purposes:

Provided that no proceeding under this sub-section shall be initiated after the expiry of the period of five years from the date on which the dispute referred to in clause (a) is alleged to have been arisen or, as the case may be, the amount referred to in clause (b) is alleged to have been due from an employer.

5 of 1908.

(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the inquiry under sub-section (1), as far as practicable, shall be held on day-to-day basis and endeavour shall be made to ensure that the inquiry is concluded within a period of two years:

Provided that where the inquiry is not concluded within the said period of two years, the Authorised Officer conducting such inquiry shall record the circumstances and reasons for not having concluded so and submit the circumstances and reasons so recorded to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or such other officer authorised by him in this behalf:

Provided further that the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, after considering the circumstances and the reasons which have been submitted by the Authorised Officer may grant an extension for a period up to one year to conclude the said inquiry:

Provided also that the inquiries which are pending immediately before the date of commencement of this Code shall be concluded by the Authorised Officer within a period not exceeding two years from the date of such commencement.

(3) The Authorised Officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry have the same powers as are vested in a court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:—

5 of 1908.

- (a) enforcing the attendance of any person or examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit; and
- (d) issuing commissions for the examination of witnesses,

and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

45 of 1860.

(4) No order shall be made under sub-section (1), unless the employer concerned is given a reasonable opportunity of representing his case.

(5) Where the employer, employee or any other person required to attend the inquiry under sub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so by the Authorised Officer conducting the inquiry, such inquiry officer may decide the applicability of the relevant provisions of this Code or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.

(6) Where an order under sub-section (1) is passed against an employer *ex parte*, he may, within three months from the date of communication of such order, apply to the Authorised Officer for setting aside such order and if the Authorised Officer is satisfied that the show cause notice was not duly served or that such employer was prevented by any sufficient cause from appearing when the inquiry was held, the Authorised Officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry:

Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the Authorised Officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the Authorised Officer.

Explanation.—Where an appeal has been preferred under this Code against an order passed *ex parte* and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the *ex parte* order.

(7) No order passed under this section shall be set aside on any application under sub-section (6) unless notice thereof has been served on the opposite party.

126. If an employer is not satisfied with the order referred to in section 125 and relates to Chapter IV, he may prefer an appeal to the appellate authority not below the rank of the Joint Director of the Corporation as may be provided by regulations, within sixty days from the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

Provided that the appellate authority shall decide the appeal within a period of six months from the date of preferring the appeal:

Provided further that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulations.

Appeal
against order
of Authorised
Officer
relating to
Chapter IV.

127. Except where expressly provided otherwise in this Code, the employer shall be liable to pay simple interest at such rate as may be notified from time to time by the Central Government, from the date on which any amount has become due under this Code till the date of its actual payment.

Interest on amount due.

128. Where an employer makes default in the payment of any contribution which he is liable to pay in accordance with the provisions of Chapter III or Chapter IV, as the case may be, or any scheme framed thereunder or in the transfer of accumulations under Chapter III, or in the payment of any charges payable under any other provision of this Code, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or such other officer as may be authorised, by notification, by the appropriate Government, may levy on, and recover from, the employer by way of damages, an amount not exceeding the amount of arrears, in such manner as may be specified in the regulations for the purposes of Chapter IV and in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, such levy and recovery shall be in the manner as may be specified in the respective schemes framed by the Central Government:

Power to recover damages.

Provided that before levying and recovering such damages, the employer shall be given an opportunity of being heard:

Provided further that the Central Board or the Corporation, as the case may be, may reduce or waive the damages levied under this section in relation to an establishment for which a resolution plan or repayment plan recommending such waiver has been approved by the adjudicating authority established under the Insolvency and Bankruptcy Code, 2016 subject to the terms and conditions as may be specified by notification, by the Central Government.

31 of 2016.

129. (1) Any amount due from an employer or any other person in relation to an establishment including any contribution or cess payable, charges, interest, damages, or benefit or any other amount may, if the amount is in arrear, be recovered in the manner specified in this section and sections 130 to 132.

Recovery of amount due.

(2) Where any amount is in arrear under this Code, the Authorised Officer, or the competent authority, as the case may be, shall issue to the Recovery Officer referred to in sub-section (4), a certificate electronically or otherwise, specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below, namely:—

(a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, of the employer;

(b) arrest of the employer and his detention in prison;

(c) appointing a receiver for the management of the movable or immovable properties of the defaulter:

Provided that the attachment and sale of any property under this section shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount or arrears specified in the certificate, the Recovery Officer may move such proceeding against the property of the employer for recovery of the whole or any part of such arrears.

(3) The Authorised Officer or the competent authority, as the case may be, may issue a certificate under sub-section (2), notwithstanding that proceeding for recovery of the arrears by any other mode has been taken.

(4) The Authorised Officer or the competent authority, as the case may be, may forward the certificate issued under this section, to the Recovery Officer within whose jurisdiction the employer—

(a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or

(b) resides or any movable or immovable property of, the establishment or, the employer is situated.

(5) Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officer and the Recovery Officer to whom a certificate is sent by the Authorised Officer or the competent authority, as the case may be—

(a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified by him, specifying the amount to be recovered, to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the Authorised Officer or the competent authority, as the case may be.

Validity of certificate and amendment thereof.

130. (1) When the Authorised Officer or the competent authority, as the case may be, issues a certificate to a Recovery Officer under section 129, it shall not be open to the employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall be entertained by the Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Recovery Officer, the Authorised Officer or the competent authority, as the case may be, shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending intimation to the Recovery Officer.

(3) The Authorised Officer or the competent authority, as the case may be, shall intimate to the Recovery Officer any orders of withdrawing or cancelling a certificate or any correction made by him in respect of the said certificate under sub-section (2).

(4) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Authorised Officer or the competent authority, as the case may be, may grant time to the employer for payment of the amount recoverable under the certificate and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(5) Where a certificate for the recovery of amount has been issued, the Authorised Officer or the competent authority, as the case may be, shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

(6) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued under section 129 has been modified in appeal or other proceeding under this Code, resulting in reduction of the demand but the order is the subject matter of further proceeding under this Code, the Authorised Officer or the competent authority, as the case may be, shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(7) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Code, the Authorised Officer or the competent authority, as the case may be, shall, when the order being the subject matter of such appeal or other proceeding becomes final and conclusive, amend the certificate or withdraw it, as the case may be in consonance with such finality or conclusion.

131. (1) Notwithstanding the issue of a certificate to the Recovery Officer under section 129, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation so authorised by it in this behalf, may, recover the amount by any one or more of the modes provided in this section.

Other modes
of recovery.

(2) If any amount is due from any person to any employer who is in arrears, the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, may, require such person to deduct from the said amount the arrears so due, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation so authorised by it in this behalf:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

5 of 1908.

(3) (a) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently hold money for or on account of the employer or, as the case may be, the establishment, to pay to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer authorised by it in this behalf either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the employer in respect of arrears or the whole of the money when it is equal to or less than that amount.

(b) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the employer jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(c) A copy of the notice shall be forwarded to the employer at his last address known to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf and in the case of a joint account to all the joint holders at their last addresses so known.

(d) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.

(e) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(f) Where a person to whom a notice under this sub-section is sent objects to it by statement on oath that the sum demanded or any part thereof is not due to the employer or that he does not hold any money for or on account of the employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, to the extent of his own liability to the employer on the date of the notice, or to the extent of the employer's liability for any sum due under this Code, whichever is less.

(g) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(h) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the employer to the extent of the amount so paid.

(i) Any person discharging any liability to the employer after the receipt of a notice under this sub-section shall be personally liable to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this Code, whichever is less.

(j) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceeding may be moved against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 129 to 132 and the notice shall have the same effect as an attachment of amount in arrears by the Recovery Officer in exercise of his powers under section 129.

(4) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.

(5) The Central Provident Fund Commissioner or the Director General of the Corporation, as the case may be, or any other officer of such Social Security Organisation authorised by it in this behalf, if so authorised by the Central Government by general or special order, recover any arrears of amount due from an employer or, as the case may be, from the establishment by distraint and sale of his or its movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961.

43 of 1961.

Application of certain provisions of Income-tax Act.

132. The provisions of the Second Schedule and the Third Schedule to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to the amount in arrears of the amount mentioned in section 129 of this Code instead of to the income-tax:

Provided that any reference in the said provisions and the rules to the "assessee"

shall be construed as a reference to an employer or establishment, as the case may be.

CHAPTER XII

OFFENCES AND PENALTIES

133. If any person,—

(a) being an employer, fails to pay any contribution which he is liable to pay under this Code or rules, regulations or schemes made thereunder; or

(b) deducts or attempts to deduct from the wages of an employee, the whole or any part of employer's contribution; or

(c) in contravention of the provisions of this Code, reduces the wages or any privilege or benefits admissible to an employee; or

(d) in contravention of the provisions of Chapter IV or Chapter VI or rules, regulations or schemes made or framed under this Code respectively, relating to such Chapters, dismisses, discharges, reduces in rank or otherwise penalises a woman employee; or

(e) fails or refuses to submit any return, report, statement or any other information required under this Code or any rules, regulations or schemes made or framed thereunder; or

(f) obstructs any Inspector-cum-Facilitator or other officer or staff of the Central Board or the Corporation or other Social Security Organisation or a competent authority in the discharge of his duties; or

(g) fails to pay any amount of gratuity to which an employee is entitled under this Code; or

(h) fails to pay any amount of compensation to which an employee is entitled under this Code; or

(i) fails to provide any maternity benefit to which a woman is entitled under this Code; or

(j) fails to send to a competent authority a statement which he is required to send under Chapter VII; or

(k) fails to produce on demand by the Inspector-cum-Facilitator any register or document in his custody kept in pursuance of this Code or the rules, regulations or schemes made or framed thereunder; or

(l) fails to pay the cess for building workers which he is liable to pay under this Code; or

(m) is guilty of any contravention of or non-compliance with any of the requirements of this Code or the rules or the regulations or schemes made or framed thereunder in respect of which no special penalty is provided in this Chapter; or

(n) obstructs executive officer in exercising his functions under Chapter XIII; or

(o) dishonestly makes a false return, report, statement or information to be submitted thereunder; or

(p) fails or makes default in complying with any condition subject to which exemption under section 143 was granted; or

(q) fails to pay any administrative or inspection charges payable under any of the schemes framed under Chapter III,

he shall be punishable,—

Penalty for failure to pay contributions, etc.

(i) where he commits an offence under clause (a), with imprisonment for a term which may extend to three years, but—

(a) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of one lakh rupees;

(b) which shall not be less than two months but may be extended to six months, in any other case and shall also be liable to fine of fifty thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term;

(ii) where he commits an offence under clause (g), with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both;

(iii) where he commits an offence under any of the clauses (d), (f), (i), (k), (l) or (o), with imprisonment for a term which may extend to six months or with a fine which may extend to fifty thousand rupees, or with both;

(iv) where he commits an offence under any of the clauses (b), (c), (e), (h), (j), (m), (n), (p) or (q), with fine which may extend to fifty thousand rupees.

Enhanced punishment in certain cases after previous conviction.

134. Whoever, having been convicted by a court of an offence punishable under this Code, commits the same offence shall, for second, or every subsequent such offence, be punishable with imprisonment for a term which may extend to two years and with fine of two lakh rupees:

Provided that where such second or subsequent offence is for failure by the employer to pay any contribution, charges, cess, maternity benefit, gratuity or compensation which under this Code he is liable to pay, he shall, for such second or subsequent offence, be punishable with imprisonment for a term which may extend to three years but which shall not be less than two years and shall also be liable to fine of three lakh rupees.

Offences by companies.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

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

(b) "Director", in relation to a firm, means a partner in the firm.

Cognizance of offences.

136. (1) No court shall take cognizance of an offence punishable under this Code, except on a complaint made by an aggrieved person or such officer as may be notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV

and the rules, regulations or schemes made or framed under this Code relating to those Chapters, and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed thereunder, by the officer notified by the appropriate Government.

(2) Notwithstanding anything contained in sub-section (1), no prosecution under this Code shall be instituted, except by or with the previous sanction of the authority notified by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed thereunder, the authority notified by the appropriate Government.

(3) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Chapter.

(4) Notwithstanding anything contained in sub-section (1), a single complaint may be filed under that sub-section by more than one aggrieved persons if they are aggrieved by the same or similar offence committed at a place or different places within the jurisdiction of the court.

137. Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator or any other officer notified for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government, shall, before initiation of prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to the employer to comply with the aforesaid relevant provisions by way of a written direction, which shall lay down a time period for such compliance, and, if the employer complies with the direction within such period, then, no such proceeding shall be initiated against the employer; but no such opportunity shall be accorded to an employer, if the violation of the same nature of such provisions is repeated within a period of three years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with the provisions of this Chapter.

Prior opportunity before prosecution.

2 of 1974. **138.** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed for the first time, punishable under this Chapter, being an offence—

Compounding of offences.

(i) punishable with fine only; or

(ii) punishable with imprisonment for a term which is not more than one year and also with fine,

may, on an application made, either before or after the institution of any prosecution, be compounded by an officer authorised by the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters, by the Central Government; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government, in such manner as may be prescribed by the Central Government on payment by the offender to the appropriate Government the amount—

(i) in the case of an offence punishable with fine only, the half of the maximum fine provided for that offence; and

(ii) in the case of an offence punishable with imprisonment for a term which is not more than one year and also with fine, the three-fourth of the maximum fine provided for that offence.

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of three years from the date—

(i) of commission of a similar offence which was earlier compounded; or

(ii) of commission of similar offence for which such person was earlier convicted.

(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government for the purposes of offences relating to Chapter III and Chapter IV and the rules, regulations or schemes made or framed under this Code relating to those Chapters; and for the purposes of offences relating to other provisions of this Code and the rules, regulations or schemes made or framed under this Code relating thereto, by the appropriate Government.

(4) Every application for the compounding of an offence shall be made in such form and in such manner as may be prescribed by the appropriate Government.

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

(6) Where the compounding of any offence is made after the institution of any prosecution, such compounding shall be brought to the notice of the court in which the prosecution is pending in writing by the officer referred to in sub-section (1), and on such notice of the compounding of the offence being given to the court, the person against whom the offence is so compounded shall be discharged.

(7) Any person who fails to comply with the order made by the officer referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

CHAPTER XIII

EMPLOYMENT INFORMATION AND MONITORING

Reporting of vacancies to career centres.

139. (1) The appropriate Government may, by notification, require that from such date as may be specified in the notification, the employer in every establishment or any class or category of establishments, before filling up any vacancy in any employment in that establishment or such class or category of establishments, as the case may be, shall report or cause to be reported, that vacancy to such career centre as may be specified in the notification, and the employer shall thereupon comply with such requisition.

(2) For the purposes of sub-section (1), the appropriate Government may prescribe the following, namely:—

(i) the manner in which the vacancies, referred to in sub-section (1), shall be reported to the career centres electronically or otherwise;

(ii) the form in which such vacancies shall be reported to the career centres; and

(iii) the manner and form of filing the return by the employer, to the concerned career centre.

(3) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the career centre to fill any vacancy merely because such vacancy has been reported.

(4) The executive officer shall have access to any record or document in the possession of any employer required to furnish any information or returns for the purposes of this Chapter and may enter, at any reasonable time, any premises where he believes such record or document to be and inspect or take copies of such records or documents or ask any question necessary for obtaining any information required.

- 140.** (1) The provisions of section 139 shall not apply in relation to vacancies,—
- (a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment in plantation; or
 - (b) in any employment in domestic service; or
 - (c) in any employment connected with the staff of Parliament or any State Legislature; or
 - (d) in any employment the total duration of which is less than ninety days; or
 - (e) in any class or category of establishments as may be notified by the Central Government; or
 - (f) in any establishment (other than Government establishment) with less than twenty or such number of employees as may be notified by the Central Government; and
 - (g) in any other employment as may be notified by the Central Government.

Exclusions from application of this Chapter.

(2) Unless the Central Government, by notification direct, the provisions of this Chapter shall not apply in relation to—

- (a) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or through independent recruitment agencies such as Union Public Service Commission, Staff Selection Commission or a State Public Service Commission or any other agencies as may be notified by the Central Government; or
- (b) vacancies in an employment which carries a monthly remuneration of less than an amount notified by the appropriate Government.

CHAPTER XIV

MISCELLANEOUS

141. (1) There shall be established by the Central Government a Social Security Fund for social security and welfare of the unorganised workers, gig workers and platform workers and the sources of the fund shall comprise of funding received—

Social Security Fund.

- (i) under sub-section (3) of section 109;
- (ii) under sub-section (3) of section 114;

(iii) from the composition of the offences under this Code relating to Central Government and from any other Social Security Fund established under any other central labour law.

(2) A separate account shall be established and maintained for the funding mentioned under each of the clauses (i), (ii) and (iii).

(3) Social Security Fund referred to in sub-section (1) shall be expended for the purposes for which each separate account has been established and maintained under sub-section (2).

(4) The Social Security Fund shall be established and administered in the manner prescribed by the Central Government.

(5) There shall be established by the State Government a Social Security Fund for the welfare of the unorganised workers in which there shall be credited the amount received from—

- (i) the composition of offences under this Code relating to the State Government; and

(ii) such other sources as may be prescribed by the State Government, and the fund shall be administered and expended for the welfare of the unorganised workers in such manner as may be prescribed by the State Government.

Application of
Aadhaar.

142. (1) An employee or unorganised worker or any other person, as the case may be, for—

(a) registration as member or beneficiary; or

(b) seeking benefit whether in kind, cash or medical sickness benefit or pension, gratuity or maternity benefit or any other benefit or for withdrawal of fund; or

(c) availing services of career centre; or

(d) receiving any payment or medical attendance as Insured Person himself or for his dependants,

under this Code or rules, regulations or schemes made or framed thereunder, shall establish his identity or, as the case may be, the identity of his family members or dependants through Aadhaar number and for such purpose the expression "Aadhaar" shall have the meaning as defined in clause (a) of section 2 of the Aadhaar (The Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016:

18 of 2016.

Provided that any foreigner employee shall obtain and submit Aadhaar number for establishing his identity, as soon as possible, on becoming resident within the meaning of clause (v) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

18 of 2016.

(2) For the purposes of sub-section (1), the Aadhaar number issued to an individual shall be in accordance with the provisions of section 3 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

18 of 2016.

Power to
exempt
establishment.

143. (1) Notwithstanding anything contained in this Code, the appropriate Government may, by notification, and subject to the conditions which may include the eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption, as may be prescribed by the Central Government in this behalf, grant exemption to an establishment or class of establishments (including factory or other establishments under the control of Central Government or State Government or local bodies) or employees or class of employees, from any or all of the provisions of this Code or the scheme framed thereunder as may be specified in the notification and may renew for further period such exemption by like notification:

Provided that no such exemption,—

(i) in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, without prior consultation with the Central Board; and

(ii) in respect of Chapter IV, without prior consultation with the Corporation,

shall be granted or renewed and the Central Board or the Corporation, as the case may be, shall on such consultation forward its view to the appropriate Government within such time as may be prescribed by that Government.

(2) The appropriate Government may, in the notification referred to in sub-section (1), specify therein conditions as may be prescribed by that Government, which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption:

Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, the terms and conditions of exemption shall be specified in such respective schemes.

(3) The exemption granted under sub-section (1) to an establishment or class of establishments or an employee or class of employees, as the case may be, shall be initially for a period of three years from the date of publication of such notification and may be extended by the appropriate Government to the extent of such period as may be prescribed by the Central Government:

Provided that for the purpose of grant of exemption in respect of Provident Fund Scheme, Pension Scheme and Insurance Scheme, exemption may be extended for such period as may be specified in such respective schemes.

(4) The exemption granted under sub-section (1) shall only be granted if the employees in the establishment or class of establishments or an employee or the class of employees so exempted are otherwise in receipt of benefits substantially similar or superior to the benefits provided in the provisions of the Code or the scheme framed thereunder.

(5) For the purposes of administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the fund created, and any other matter specified in the scheme for any exempted establishment or class of establishments, or employees or class of employees, a board of trustees shall be constituted by the employer which will be a legal entity which can sue and can be sued and the conditions for management of the trust shall be prescribed by the appropriate Government as part of the conditions for exemption:

Provided that conditions for administering the fund, managing the investments, maintaining accounts of the contributions, withdrawals, credit of interest in respect of each employee of the fund created, in respect of exemption from Provident Fund Scheme, Pension Scheme and Insurance Scheme shall be specified in such respective schemes.

(6) Where an exemption is granted under this section from operation of any or all the provisions of the Code or any of the scheme under Chapter III, to any establishment, class of establishments, employee or class of employees, the employer in relation to such establishment shall furnish such returns electronically in respect of persons employed, accounts maintained in respect of employees, investments made from the fund, provide facilities for inspection and pay such inspection charges as the Central Government may direct.

(7) If employer in relation to any establishment or class of establishments or employee or class of employees in respect of whom the exemption has been granted under sub-section (1), fails to comply with any of the conditions specified under this section, then, the appropriate Government may on such failure, cancel the exemption so granted.

(8) Where any exemption granted under sub-section (1) is cancelled, the entire amount of surplus and reserves, if any, and accumulations to the credit of every employee, to whom such exemption applied, in the exempted fund of the establishment in which he is employed, shall be transferred to the respective statutory fund created under this Code within such time and manner as specified in the conditions for grant of exemption:

Provided that in respect of any cancellation of exemption from the Provident Fund Scheme, Pension Scheme and Insurance Scheme, the time limit, form and manner of transfer of accumulations of exempted employees from the exempted funds to such respective funds shall be specified in such respective schemes.

(9) Notwithstanding anything contained in this section, the employer of an establishment exempted under sub-section (1), after the resolution of the board of trustees of the establishment to that effect may make an application to the appropriate Government for surrender of the exemption granted under that sub-section from the date specified in the application and the appropriate Government may on receipt of that application, allow the employer to remit the contribution in the statutory funds under this Code from the date specified in the application and process the application for cancellation of exemption and on such cancellation, the employer and the board of trustees shall transfer accumulation of

each employee and surplus and reserves from the fund referred to in sub-section (5), to the concerned statutory funds under this Code within such time and in such manner as may be notified by the appropriate Government:

Provided that in respect of any surrender of exemption from the Provident Fund Scheme, the Pension Scheme and the Insurance Scheme, the time limit, form and manner of transfer of accumulation of exempted employees and surplus and reserves from the fund referred to in sub-section (5), to the concerned statutory funds under this Code shall be such as may be specified in the concerned schemes framed under Chapter III.

Power to defer or reduce.

144. Notwithstanding anything contained in Chapter III or Chapter IV, the Central Government may by order, defer or reduce employer's contribution, or employee's contribution, or both, payable under Chapter III or Chapter IV, as the case may be, for a period up to three months at a time, in respect of establishment to which Chapter III or Chapter IV, as the case may be, applies, for whole of India or part thereof in the event of pandemic, endemic or national disaster.

Liability in case of transfer of establishment.

145. Where an employer transfers his establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any liabilities, cess or any other amount payable under this Code in respect of the periods up to the date of such transfer:

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.

Members, officers and staff to be public servants.

146. Every member of a Social Security Organisation and the officers and staff thereof, any Inspector-cum-Facilitator, competent authority, Authorised Officer, Recovery Officer and any other person discharging any function under this Code, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

147. No suit, prosecution or other legal proceeding shall lie against—

- (i) the Central Government;
- (ii) a State Government;
- (iii) a Social Security Organisation;
- (iv) a competent authority;
- (v) any officer or staff of a Social Security Organisation; or
- (vi) any other person or authority,

discharging the functions or exercising the powers under this Code, for anything which is in good faith done or intended to be done in pursuance of this Code or of any rules, regulations or schemes made or framed thereunder.

Misuse of benefits.

148. If the appropriate Government is satisfied in the manner prescribed by it that any establishment or any other person has misused any benefit provided to him under this Code or rules, regulations or schemes made or framed thereunder, then, such Government may, by notification, deprive such establishment or other person, as the case may be, from such benefit for such time as may be specified in the notification:

Provided that no such order shall be passed unless an opportunity of being heard is given to such establishment or other person, as the case may be:

Provided further that the manner to ascertain misuse of any benefit under this section relating to Chapter III, shall be specified in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be.

149. The Central Government may give directions to—

(i) any State Government or a State Board constituted under section 12 to execute in that State, of any of the provisions of this Code; or

(ii) any of the Social Security Organisations in respect of the matters relating to the implementation of the provisions of this Code.

Power of Central Government to give directions to State Government and Social Security Organisations.

150. The appropriate Government may, subject to the condition of previous publication, frame schemes not inconsistent with this Code, for the purposes of giving effect to the provisions thereof.

Power to frame schemes.

151. (1) Notwithstanding anything contained in any other law for the time being in force, the amount standing to be credited in favour of the employee under Chapters III, IV, V, VI or VII of any member of any fund under this Code, or of any exempted employee in a provident fund maintained by his employer, shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by such employee or member or the exempted employee, as the case may be.

Protection against attachment, etc.

(2) Any amount standing to the credit of a member in the fund or of an exempted employee in a provident fund maintained by his employer at the time of the death of such member or the exempted employee, as the case may be, and payable to his nominee or in case of failure of nomination, to his family under the scheme or the rules of the fund shall, subject to any deduction authorised by the said scheme or rules, as the case may be, vest in the nominee or such family and shall be free from any debt or other liability incurred by the deceased or the nominee before his death and shall also not be liable to attachment under any decree or order of any court.

(3) Notwithstanding anything contained in any other law for the time being in force, any amount due under the Chapters referred to in sub-section (1) shall be the charge on the assets of the establishment to which it relates and shall be paid in priority in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016.

31 of 2016.

152. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the First Schedule, Fourth Schedule, Fifth Schedule, Sixth Schedule and Seventh Schedule by way of addition or deletion therein and upon such addition or deletion, the Schedules shall stand to have been amended accordingly.

Power to amend Schedule.

(2) If the appropriate Government is satisfied that it is necessary or expedient so to do, it may, by notification amend the Second Schedule and Third Schedule by way of addition therein and not otherwise, and upon such addition, the Schedules shall stand to have been amended accordingly.

153. Notwithstanding anything contained in this Code, the following organisations constituted or established under the enactments repealed under section 164, namely:—

Transitional provisions.

(i) the Central Board constituted under section 5A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

19 of 1952.

(ii) Executive Committee constituted under section 5AA of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

19 of 1952.

(iii) the Corporation established under section 3 of the Employees' State Insurance Act, 1948;

34 of 1948.

(iv) the Medical Benefit Council constituted under section 10 of the Employees' State Insurance Act, 1948;

34 of 1948.

(v) the Standing Committee of the Corporation constituted under section 8 of the Employees' State Insurance Act, 1948; and

34 of 1948.

(vi) the Board constituted under sub-section (1) of section 18 of the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, 27 of 1996.

shall, after the commencement of this Code, continue to exercise the powers and discharge the functions of the corresponding organisations under this Code, respectively, the Central Board of Trustees for Employees Provident Fund constituted under section 4, the Executive Committee constituted under sub-section (3) of section 4, the Employees State Insurance Corporation, constituted under section 5, the Medical Benefit Committee constituted under sub-section (5) of section 5, the Standing Committee constituted under sub-section (3) of section 5, Building Workers' Welfare Board constituted under sub-section (1) of section 7, as if such organisations constituted or, as the case may be, established under such repealed enactments, had been constituted under the respective provisions of this Code, till such corresponding organisations are constituted under this Code or till their respective time period under the repealed enactments expire, whichever is earlier.

Power of appropriate Government to make rules.

154. (1) The appropriate Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code for the purpose of giving effect to the provisions thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the amount in connection with premium for Group Insurance Scheme of the beneficiaries under clause (c), the educational schemes for the benefit of children of the beneficiaries under clause (d) and the medical expenses for treatment of major ailments of a beneficiary or, such dependant under clause (e) of sub-section (6) of section 7;

(b) manner and time within which second appeal may be filed to the Employees' Insurance Court by the Insured Person or the Corporation under clause (b) of sub-section (7) of section 37;

(c) the manner of commencement of proceedings before the Employees' Insurance Court, fees and procedure thereof under sub-section (1) of section 51;

(d) bank or other financial institution in which the gratuity shall be invested for the benefit of minor under the third proviso to sub-section (1) of section 53;

(e) the time, form and manner of nomination by an employee under sub-section (1), the time to make fresh nomination under sub-section (4), the form and manner of modification of a nomination under sub-section (5) and the form for fresh nomination under sub-section (6) of section 55;

(f) time within which and the form in which a written application shall be made under sub-section (1) and the form of application to the competent authority under clause (b) of sub-section (5) of section 56;

(g) the manner of registration of an establishment by the employer under sub-section (3) and the manner of composition of the Board of Trustees of the approved gratuity fund and the manner in which the competent authority may recover the amount of the gratuity payable to an employee from the insurer under sub-section (4) of section 57;

(h) the qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 58;

(i) authority to whom an appeal may be preferred under sub-section (3) of section 72;

(j) class of employers and the form of notice-book under sub-section (4) of section 82;

(k) the manner of recording the memorandum in a register by the competent authority under sub-section (1) of section 89;

(l) such other experience and qualifications for appointment as a competent authority under sub-section (1) of section 91;

(m) time limit to pay the amount of cess under section 101;

(n) fees for appeal under sub-section (2) of section 105;

(o) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (1), conditions to invest moneys, re-invest or realise investments under sub-section (2) terms to raise loans and take measures for discharging such loans under sub-section (3) and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds under sub-section (4) of section 120;

(p) conditions and manner of writing off irrecoverable dues under section 121;

(q) other powers of Inspector-cum-Facilitator under clause (e) of sub-section (6) of section 122;

(r) form and manner for maintenance of records and registers and other particulars and details under clause (a), manner and form for display of notices at the work places of the employees under clause (b) and the manner and period of filing returns to the officers or authority under clause (d) of section 123;

(s) the form and manner of application for compounding of an offence under sub-section (4) of section 138;

(t) the manner and form for reporting vacancies and form for filing the return by the employer, to the concerned career centre under sub-section (2) of section 139;

(u) the time within which the Central Board or the Corporation, as the case may be, shall forward its view to the appropriate Government under sub-section (1), conditions which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption under sub-section (2) and conditions for management of the trust under sub-section (5) of section 143;

(v) manner of determining the misuse of any benefit by an establishment or by any other person under section 148; and

(w) any other matter which is required to be, or may be, prescribed by the appropriate Government under the provisions of this Code.

155. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.

Power of
Central
Government
to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner, and the conditions subject to which, the provisions of Chapter III shall be made inapplicable to an establishment by the Central Provident Fund Commissioner, under sub-section (5) and the manner, and the conditions subject to which the provisions of that Chapter IV shall be made inapplicable to an establishment by the Director General of the Corporation under sub-section (7) of section 1;

(b) manner of establishment and maintenance of career centre and the career services under clause (9), the income of dependant parents (including father-in-law and mother-in-law of a woman employee), under sub-clause (e) of clause (33) and other authority who shall be deemed to be the occupier under sub-clause (c) and the matters which are directly related to the condition of ship, for which the owner of ship shall be deemed to be the occupier under the proviso to the said sub-clause (c) of clause (52), of section 2;

(c) the time and manner of registration of establishment, the manner of making application for cancellation of the registration, the conditions subject to which the

registration shall be cancelled and the procedure of cancellation and other matters relating thereto in respect of an establishment to which Chapter III or Chapter IV applies, and whose business activities are in the process of closure, under section 3;

(d) the manner of administration of the funds vested in the Central Board under sub-section (1), the manner to assist the Central Board in performance of its functions by Executive Committee under sub-section (3), the terms and conditions, including tenure of office of members of the Central Board and Executive Committee under sub-section (6) and the other functions and the manner of performing such functions under sub-section (7), of section 4;

(e) the manner of administration of the Corporation and the manner of representation of States under clause (d) of sub-section (1), the manner of constitution of Standing Committee under sub-section (3), the manner of administration of the affairs of the Corporation, exercise of powers and performance of functions by the Standing Committee under clause (a) of sub-section (4), the duties and powers of Medical Benefit Committee under clause (b) of sub-section (5) and the terms and conditions, including tenure of office, subject to which a member of the Corporation and Standing Committee shall discharge their respective duties under sub-section (7) of section 5;

(f) the manner of exercising the powers and performance of the functions by the National Social Security Board under sub-section (1), the manner of nomination of members, their term of office and other conditions of service, procedure to be followed in the discharge of their functions and manner of filling vacancies under sub-section (4) and time, place and rules of procedure relating to the transaction of business under sub-section (6) of section 6;

(g) other welfare measures and facilities under clause (j) of sub-section (6) of section 7;

(h) the intervals at which Social Security Organisation or any Committee thereof shall meet and the procedure in regard to the transaction of business at meetings under sub-section (1), and the fee and allowances of members of such Social Security Organisation or Committee under sub-section (4) of section 9;

(i) manner of reconstitution of the Corporation or the Central Board or the National Social Security Board or the State Unorganised Workers' Board or the Building Workers' Welfare Board or any of the Committees under sub-section (1) and the alternate arrangements for the purpose of administration of the relevant provisions of this Code under sub-section (2) of section 11;

(j) the manner of maintenance of a provident fund account in relation to the establishment under sub-section (1) of section 21;

(k) the form, manner, time limits and fees for filing of appeal under sub-section (2) of section 23;

(l) salary and allowances of the Director General or the Financial Commissioner under sub-section (3), their powers and duties under sub-section (4) and maximum monthly salary limit under the proviso to sub-section (7) of section 24;

(m) the manner of investment of Employees' State Insurance Fund or any other money which is held by Corporation under sub-section (4) of section 25;

(n) limits for defraying of expenditure under clause (k) of section 26;

(o) conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under sub-section (1), conditions to invest moneys by the Corporation under sub-section (2) and the terms to raise loans and taking measures for discharging such loans under sub-section (3) of section 27;

(p) manner of insurance of employees under sub-section (1) of section 28;

(q) the rate of contributions under sub-section (2) of section 29;

(r) the type of administrative expenses and percentage of income which may be spent on expenses and the limits for such expenses under section 30;

(s) the limit for the amount of payment under the proviso to clause (f) of sub-section (1), and the qualifications to claim benefits, conditions, rate and period thereof under sub-section (3) of section 32;

(t) the limits within which the Corporation may incur expenditure from the Employees' State Insurance Fund under section 33;

(u) the manner and time within which the Insured person or the Corporation may file appeal under clause (a) of sub-section (7) of section 37;

(v) the rates, periods and conditions for payment of dependants' benefit under sub-section (1) and to other dependants under sub-section (2), of section 38;

(w) the qualification of an Insured Person and his family to claim medical benefit and the conditions subject to which such benefit may be given and the scale and period thereof, under sub-section (3) of section 39, and the payment of contribution and other conditions under the third proviso thereof;

(x) the structure, functions, powers and activities of the organisation for providing certain benefits to employees in case of sickness, maternity and employment injury, under sub-section (6) of section 40;

(y) extended period for insurance, the manner of satisfaction and the manner of calculation of capitalised value of benefit payable to the employee under sub-section (1) of section 42;

(z) terms and conditions subject to which the scheme may be operated under section 44;

(za) the manner of obtaining an insurance by every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government under sub-section (1) and conditions to exempt and manner of establishing an approved gratuity fund under sub-section (2) and the time limit to get establishment registered by the employer under sub-section (3), of section 57;

(zb) the form of notice under sub-section (1) and the proof of pregnancy and proof of delivery under sub-section (5) of section 62;

(zc) the proof of miscarriage or medical termination of pregnancy under sub-section (1), the proof of tubectomy operation under sub-section (2) and the proof of illness under sub-section (3) of section 65;

(zd) the duration of breaks under section 66;

(ze) the number of employees and distance for crèche facility under sub-section (1) of section 67;

(zf) gross misconduct under the second proviso to sub-section (1) of section 68;

(zg) rate of interest to be paid by the employer under clause (a) of sub-section (3) of section 77;

(zh) the manner of notice under sub-section (1) and the manner of transmitting money under sub-section (3), of section 92;

(zi) the form, manner and fee for application for claim or settlement under sub-section (3) of section 93;

(zj) the manner and time of collection of cess under sub-section (2), manner of deposit of the cess so collected under sub-section (3), and the uniform rate or rates of advance cess under sub-section (4) of section 100;

(zk) the rate of interest in case of delayed payment of cess under section 101;

(zl) the manner of self-assessment of cess under sub-section (1) of section 103;

(zm) the authority to inquire and impose penalty under section 104;

(zn) time limit to prefer appeal, appellate authority, form and manner of appeal under sub-section (1) of section 105;

(zo) manner of registration as beneficiary under section 106;

(zp) benefits of a beneficiary under sub-section (2) of section 107;

(zq) eligible age for registration under clause (a) and form and manner of information under clause (b), of sub-section (1) and the form of application, documents for registration and manner of self registration under sub-section (2), of section 113;

(zr) carrying out the matters specified in clause (i) of sub-section (7) of section 114;

(zs) manner of compounding of offences under sub-section (1) of section 138;

(zt) the manner of establishment and administration of the Social Security Fund under sub-section (4) of section 141;

(zu) eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption under sub-section (1); and extension period of exemption under sub-section (3) of section 143; and

(zv) any other matter which is required to be, or may be, prescribed by the Central Government under the provisions of this Code.

Power of State Government to make rules.

156. (1) The State Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with this Code, for the purpose of giving effect to the provisions thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of exercising the powers and performance of functions by State Unorganised Workers' Board under sub-section (9), the manner of nomination of members of the Board, their term of office and other conditions of service, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the Board under sub-section (12), and the time, place and rules of procedure relating to the transaction of business at its meetings under sub-section (14) of section 6;

(b) the terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Building Workers' Welfare Board and the manner of filling of casual vacancies of such members, under sub-section (4), the terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the said Board under clause (c) of sub-section (5) of section 7;

(c) procedure to be followed by the Employees' Insurance Court under sub-section (2) and the rules under sub-section (3) of section 50;

(d) the amount to be deposited towards the expenditure of the funeral of the employee with the competent authority by the employer under sub-section (7) of section 76;

(e) conditions when application for review is made without certificate of a medical practitioner under sub-section (1) of section 79;

(f) the frequent interval for medical examination under the proviso to sub-section (1) of section 84;

(g) the form of statement to be submitted by the employer under sub-section (1) of section 88;

(h) the manner in which matters may be dealt with by or before a competent authority under sub-section (1) of section 92;

(i) time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93;

(j) the manner of authentication of memorandum under section 97;

(k) such other sources of funding and the manner of administering and expending of the fund under sub-section (5) of section 141; and

(l) any other matter which is required to be, or may be, prescribed by the State Government under the provisions of this Code.

157. (1) The Corporation may, by notification, and subject to the condition of previous publication, make regulations, not inconsistent with this Code and the rules and schemes made or framed thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of Chapter IV and the provisions of this Code relating to that Chapter.

Power of Corporation to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the cases and matters to be submitted for the decision of the Corporation under clause (b) of sub-section (4) and the composition of committees under sub-section (6) of section 5;

(b) the areas in respect of which the Corporation may appoint Regional Boards and local committees and the manner in which such Boards and committees shall perform the functions and exercise the powers under sub-section (2) of section 12;

(c) such other functions of the Director General and the Financial Commissioner under sub-section (4), the method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employees under clause (a) of sub-section (8) and minimum qualifying service for promotion to next higher grade under the second proviso to sub-section (9) of section 24;

(d) the unit in respect of which all contribution shall be payable under sub-section (3), and the days on which the contributions shall fall due under sub-section (4) of section 29;

(e) maintenance of register of employees by or through the contractor under sub-section (7), and any matter relating or incidental to the payment and collection of contribution under sub-section (9) of section 31;

(f) qualifications and experience of other person to certify sickness under clause (a), authority to certify eligibility of a woman under clause (b), authority to certify eligibility for payment under clause (c) of sub-section (1), the conditions for extension of medical benefits under sub-section (2) and any matter relating or incidental to the accrual and payment of benefits under sub-section (4) of section 32;

(g) continuous period in which the employee contracts occupational disease under sub-section (1) of section 36;

(h) constitution of medical board under sub-section (1) and constitution of medical appeal tribunal under sub-section (5) of section 37;

(i) the period and the nature of medical benefit which may be allowed to a person under the first proviso, conditions for voluntary retirement scheme under the second proviso, payment of contribution and other conditions for eligibility to receive medical benefits under the second proviso and the conditions for grant of medical benefits to the Insured Person during employment injury under the fourth proviso, to sub-section (3), the time for which students of medical education institutions shall serve the Corporation and the manner in which the bond shall be furnished under clause (b) of sub-section (4) and manner of carrying out occupational and epidemiological surveys and studies for assessment of health and working conditions of Insured Persons under sub-section (6) of section 39;

(j) other authority for providing permission to leave the area in which medical treatment provided under clause (c) of sub-section (3), form of nomination under sub-section (6) and the authority to determine benefits under sub-section (9) of section 41;

(k) user charges to be paid by other beneficiaries for medical facilities under clause (c) of the *Explanation* to section 44;

(l) time within which the claims, recovery or contribution, from employer by the Corporation and recovery of contribution by the employer from the Contractor, shall be made under the second proviso to sub-section (1) of section 51;

(m) the forms of records and registers and of returns to be filed under the second proviso to clause (d) of section 123;

(n) the appellate authority not below the rank of the Joint Director of the Corporation before whom appeal shall be preferred and the interest to be refunded to the employer by the Corporation under section 126;

(o) manner of levy and recovery of damages from the employer who makes default in the payment of any contribution which he is liable to pay under section 128;

(p) the circumstances in which and the condition subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted; and

(q) any matter in respect of which regulations are required or permitted to be made by this Code.

Prior
publication of
rules,
regulations,
etc.

158. The power to make rules, regulations and schemes under this Code (except the schemes to be framed under Chapter III), shall be subject to the condition of the previous publication of the same being made, in the following manner, namely:—

(a) the date to be specified after a draft of such rules, regulations and schemes under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rules, regulations and schemes is published for general information in the Official Gazette;

(b) such rules, regulations and schemes shall finally be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Code:

Provided that the Central Government may, in the circumstances of epidemic, pandemic or disaster, dispense with the condition of previous publication under this section.

159. (1) The Central Government may, by notification, make rules for the transfer to any foreign country of money deposited with a competent authority under Chapter VII which has been awarded to or may be due to, any person residing or about to reside in such foreign country and for the receipt, distribution and administration in any State of any money deposited under the law relating to employees' compensation in any foreign country, which has been awarded to, or may be due to any person residing or about to reside in any State:

Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.

Provided that no sum deposited under Chapter VII in respect of fatal accidents shall be so transferred without the consent of the employer concerned after the competent authority receiving the sum has passed orders determining its distribution and apportionment under section 81.

(2) Where money deposited with a competent authority has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Code regarding distribution by the competent authority of compensation deposited with him shall cease to apply in respect of any such money.

160. (1) Every rule, regulation, notification and scheme made or framed by the Central Government or the Corporation, as the case may be, under this Code shall be laid, as soon as may be after it is made or framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation, notification or scheme, as the case may be, or both Houses agree that the rule, regulation, notification or scheme, as the case may be, should not be made, such rule, regulation, notification or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, notification or scheme, as the case may be.

Laying of rules, regulations and schemes, etc.

(2) Every rule and scheme made or framed, and every notification issued by, the State Government under this Code, shall be laid as soon as may be after it is made or framed, before the State Legislatures, where it consists of two Houses, or where such legislature consists of one House, before that House.

161. (1) The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Code:

Effect of laws and agreements inconsistent with this Code.

Provided that where under any such award, agreement, contract of service or otherwise, a person is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Code.

(2) Nothing contained in this Code shall be construed to preclude a person from entering into an agreement with his employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Code.

162. The appropriate Government may, by notification, direct that all or any of the powers and functions which may be exercised or performed by that Government may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers' Board, Building Workers' Welfare Board or any officer or authority subordinate to the Central Board, the Corporation, the National Social Security Board, the State Unorganised Workers' Board, Building Workers' Welfare Board.

Delegation of powers.

Power to
remove
difficulties.

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

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Code.

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

Repeal and
savings.

164. (1) The following enactments are hereby repealed, namely:—

- | | |
|-------------------------------------------------------------------------------|-------------|
| 1. The Employee's Compensation Act, 1923; | 8 of 1923. |
| 2. The Employees' State Insurance Act, 1948; | 34 of 1948. |
| 3. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; | 19 of 1952. |
| 4. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; | 31 of 1959. |
| 5. The Maternity Benefit Act, 1961; | 53 of 1961. |
| 6. The Payment of Gratuity Act, 1972; | 39 of 1972. |
| 7. The Cine-Workers Welfare Fund Act, 1981; | 33 of 1981. |
| 8. The Building and Other Construction Workers' Welfare Cess Act, 1996; | 28 of 1996. |
| 9. The Unorganised Workers' Social Security Act, 2008. | 33 of 2008. |

(2) Notwithstanding such repeal,—

(a) anything done or any action taken under the enactments so repealed including any rule, regulation, notification (including the notifications issued by the States), scheme, appointment, order or direction made thereunder or any benefit provided or given under any provision of such enactments, rules, regulations, notifications or schemes made thereunder for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder and shall be in force to the extent they are not contrary to the provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder till they are repealed under the corresponding provisions of this Code including any rule, regulation, notification, scheme, appointment, order or direction made thereunder by the appropriate Government;

(b) the Employees' Provident Funds Scheme, 1952, the Employees' Deposit Linked Insurance Scheme, 1976, the Employees' Pension Scheme, 1995 and the Tribunal (Procedure) Rules, 1997 framed or made under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the rules, regulations and schemes made or framed under the Employees' State Insurance Act, 1948, shall remain in force, to the extent they are not inconsistent with the provisions of this Code for a period of one year from the date of commencement of this Code;

(c) any exemption given under any enactments so repealed shall continue to be in force till its validity expires or it ceases to be in operation under the provisions of this Code or till any direction is made thereunder for such purpose.

(3) Without prejudice to the provisions of sub-section (2), the provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments. 10 of 1897.

THE FIRST SCHEDULE

[See sections 1(4), (8) and 152 (1)]

APPLICABILITY

Chapter No.	Chapter Heading	Applicability
(1)	(2)	(3)
III	Employees' Provident Fund	Every establishment in which twenty or more employees are employed.
IV	Employees' State Insurance Corporation	<p>Every establishment in which ten or more persons are employed other than a seasonal factory:</p> <p>Provided that Chapter IV shall also be applicable to an establishment, which carries on such hazardous or life threatening occupation as notified by the Central Government, in which even a single employee is employed:</p> <p>Provided further that an employer of a plantation, may opt the application of Chapter IV in respect of the plantation by giving willingness to the corporation, where the benefits available to the employees under that Chapter are better than what the employer is providing to them:</p> <p>Provided also that the contribution from the employers and employees of an establishment shall be payable under section 29 on and from the date on which any benefits under Chapter IV relating to the Employees State Insurance Corporation are provided by the Corporation to the employees of the establishment and such date shall be notified by the Central Government.</p>
V	Gratuity	<p>(a) every factory, mine, oilfield, plantation, port and railway company; and</p> <p>(b) every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such shops or establishments as may be notified by the appropriate Government from time to time.</p>
VI	Maternity Benefit	<p>(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government; and</p> <p>(b) to every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months; and such other shops or establishments notified by the appropriate Government.</p>
VII	Employee's Compensation	Subject to the provisions of the Second Schedule, it applies to the employers and employees to whom Chapter IV does not apply.

(1)	(2)	(3)
VIII	Social Security and Cess in respect of Building and Other Construction Workers	Every establishment which falls under the building and other construction work.
IX	Social Security for Unorganised Workers'	Unorganised sector, unorganised workers', gig worker, platform worker.
XIII	Employment Information and Monitoring	Career centres, vacancies, persons seeking services of career centres and employers.

THE SECOND SCHEDULE

[See sections 2(26), 74(3), (5), 132 and 152(2)]

LIST OF PERSONS WHO ARE EMPLOYEES WITHIN THE MEANING OF
THE THIRD PROVISO TO CLAUSE (26) OF SECTION 2

The following persons are employees within the meaning of third proviso to clause (26) of section 2 and subject to the said proviso, any person who is—

(i) employed in railways, in connection with the operation, repair or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or

(ii) employed, in any premises wherein or within the precincts whereof a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948 (63 of 1948), is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made whether or not employment in any such work is within such premises or precincts, and steam, water or other mechanical power or electrical power is used; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises; or

Explanation.—For the purposes of this clause, persons employed outside such premises or precincts but in any work incidental to, or connected with, the work relating to making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale of any article or part of an article shall be deemed to be employed within such premises or precincts; or

(iv) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or

(v) employed, in any mine as defined in clause (j) of section 2 of the Mines Act, 1952 (35 of 1952), in any mining operation or in any kind of work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or

(vi) employed as the master or as a seaman of—

(a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

(b) any sea going ship not included in sub-clause (a) provided with sufficient area for navigation under sails alone; or

(vii) employed for the purpose of—

(a) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any port subject to the Ports Act, 1908 (15 of 1908), or the Major Port Trusts Act, 1963 (38 of 1963), of goods which have been discharged from or are to be loaded into any vessel; or

(b) warping a ship through the lock; or

(c) mooring and unmooring ships at harbour wall berths or in pier; or

(d) removing or replacing dry dock caissons when vessels are entering or leaving dry docks; or

(e) the docking or undocking of any vessel during an emergency; or

(f) preparing splicing coir springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of gangways, maintaining life-buoys up to standard or any other maintenance work of a like nature; or

(g) any work on jolly-boats for bringing a ship's line to the wharf; or

(viii) employed in the construction, maintenance, repair or demolition of—

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof; or

(b) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or

(c) any road, bridge, tunnel or canal; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

(ix) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard or fittings and fixtures for the same; or

(x) employed, in the construction, working, repair or demolition of any aerial ropeway, canal, pipeline or sewer; or

(xi) employed in the service of any fire brigade; or

(xii) employed upon a railway as defined in clause (31) of section 2 and sub-section (1) of section 197 of the Railways Act, 1989 (24 of 1989), either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

(xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service or as a telegraphist or as a postal or railway signaller, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or

(xiv) employed, in connection with operation for winning natural petroleum or natural gas; or

(xv) employed in any occupation involving blasting operations; or

(xvi) employed in the making of any excavation for which explosives have been used, or whose depth from its highest to its lowest point exceeds twelve feet; or

(xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or

(xviii) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or

(xix) employed in the generating, transforming, transmitting or distribution of electrical energy or in generation or supply of gas; or

(xx) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse Act, 1927 (17 of 1927); or

(xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

(xxii) employed in the training, keeping or working of elephants or wild animals; or

(xxiii) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forests fires; or

(xxiv) employed in operations for the catching or hunting of elephants or other wild animals; or

(xxv) employed as a diver; or

(xxvi) employed in the handling or transport of goods in, or within the precincts of,—

(a) any warehouse or other place in which goods are stored; or

(b) any market; or

(xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radioactive substances; or

(xxviii) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934 (22 of 1934); or

(xxix) employed in horticultural operations, forestry, bee-keeping or farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or

(xxx) employed in the construction, working, repair or maintenance of a tube-well; or

(xxxi) employed in the maintenance, repair or renewal of electric fittings in a building; or

(xxxii) employed in a circus; or

(xxxiii) employed as watchman in any factory or establishment; or

(xxxiv) employed in any operation in the sea for catching fish; or

(xxxv) employed in any employment which requires handling of snakes for the purpose of extraction of venom or for the purpose of looking after snakes or handling any other poisonous animal or insect; or

(xxxvi) employed in handling animals like horses, mules and bulls; or

(xxxvii) employed for the purpose of loading or unloading any mechanically propelled vehicle or in the handling or transport of goods which have been loaded in such vehicles; or

(xxxviii) employed in cleaning of sewer lines or septic tanks within the limits of a local authority; or

(xxxix) employed on surveys and investigation, exploration or gauge or discharge observation of rivers including drilling operations, hydrological observations and flood forecasting activities, ground water surveys and exploration; or

(xl) employed in cleaning of jungles or reclaiming land or ponds; or

(xli) employed in cultivation of land or rearing and maintenance of live-stock or forest operations or fishing; or

(xlii) employed in installation, maintenance or repair of pumping equipment used for lifting of water from wells, tube-wells, ponds, lakes, streams and the like; or

(xliii) employed in the construction, boring or deepening of an open well or dug well, bore well, bore-cum-dug well, filter point and the like; or

(*xliv*) employed in spraying and dusting of insecticides or pesticides in agricultural operations or plantations; or

(*xlv*) employed in mechanised harvesting and threshing operations; or

(*xlvi*) employed in working or repair or maintenance of bulldozers, tractors, power tillers and the like; or

(*xlvii*) employed as artist for drawing pictures on advertisement boards at a height of 3.66 metres or more from the ground level; or

(*xlviii*) employed in any newspaper establishment as defined in the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955) and engaged in outdoor work; or

(*xl ix*) employed as sales promotion employee; or

(*l*) any other employee or class of employee employed in an establishment or class of establishments to which the Employees' Compensation Act, 1923 (8 of 1923) was applicable in any State immediately before the commencement of this Code.

THE THIRD SCHEDULE

[See sections 2 (51), 36(1), 74 (1), (3), (5), 131(5), 132 and 152(2)]

LIST OF OCCUPATIONAL DISEASES

Serial No.	Occupational disease	Employment
(1)	(2)	(3)
PART A		
1.	Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) all work involving exposure to health or laboratory work; (b) all work involving exposure to veterinary work; (c) work relating to handling animals, animal carcasses, part of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; (d) other work carrying a particular risk of contamination.
2.	Diseases caused by work in compressed air	All work involving exposure to the risk concerned.
3.	Diseases caused by lead or its toxic compounds	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes	All work involving exposure to the risk concerned.
5.	Poisoning by organo phosphorus compounds	All work involving exposure to the risk concerned.
PART B		
1.	Diseases caused by phosphorus or its toxic compounds	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds	All work involving exposure to the risk concerned.
3.	Diseases caused by benzene or its toxic homologues	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations	All work involving exposure to the action of radioactive substances or ionising radiations
8.	Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances	All work involving exposure to the risk concerned.

(1)	(2)	(3)
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series).	All work involving exposure to the risk concerned.
10.	Diseases caused by carbon disulphide	All work involving exposure to the risk concerned.
11.	Occupational cataract due to infra-red radiations	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitro-phenol or by the salts of such substances	All work involving exposure to the risk concerned.
16.	Diseases caused by beryllium or its toxic compounds	All work involving exposure to the risk concerned.
17.	Diseases caused by cadmium or its toxic compounds	All work involving exposure to the risk concerned.
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds	All work involving exposure to the risk concerned.
20.	Diseases caused by nitroglycerin or other nitroacid esters	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants, carbon monoxide and its toxic derivatives, hydrogen sulphide	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos	All work involving exposure to the risk concerned.
24.	Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter	All work involving exposure to the risk concerned.
25.	Snow blindness in snow bound areas	All work involving exposure to the risk concerned.
26.	Diseases due to effect of heat in extreme hot climate	All work involving exposure to the risk concerned.
27.	Diseases due to effect of cold in extreme cold climate	All work involving exposure to the risk concerned.

(1)	(2)	(3)
PART C		
1.	Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraosilicosis, asbestosis) and silico-tuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death	All work involving exposure to the risk concerned.
2.	Bagassosis	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax hemp and sisal dust (Byssionosis).	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alveolitis caused by the inhalation of organic dusts	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals	All work involving exposure to the risk concerned.
6.	Acute Pulmonary oedema of high altitude.	All work involving exposure to the risk concerned.

THE FOURTH SCHEDULE

[See sections 2(55), (56), 76(1) and 152(1)]

PART ILIST OF INJURIES DEEMED TO RESULT IN PERMANENT
TOTAL DISABLEMENT

Serial No.	Description of Injury	Percentage of loss of earning capacity
(1)	(2)	(3)
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100

PART IILIST OF INJURIES DEEMED TO RESULT IN PERMANENT
PARTIAL DISABLEMENT

Serial No.	Description of Injury	Percentage of loss of earning capacity
(1)	(2)	(3)
1.	Amputation through shoulder joint	90
2.	Amputation below shoulder with stump less than [20.32 Cms.] from tip of acromion	80
3.	Amputation from [20.32 Cms.] from tip of acromion to less than [11.43 Cms.] below tip of olecranon	70
4.	Loss of a hand or of the thumb and four fingers of one hand or amputation from [11.43 Cms.] below tip of olecranon	60
5.	Loss of thumb	30
6.	Loss of thumb and its metacarpal bone	40
7.	Loss of four fingers of one hand	50
8.	Loss of three fingers of one hand	30
9.	Loss of two fingers of one hand	20
10.	Loss of terminal phalanx of thumb	20
11.	Guillotine amputation of tip of thumb without loss of bone	10

(1)	(2)	(3)
Amputation cases-lower limbs		
12.	Amputation of both feet resulting in end bearing stumps	90
13.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
14.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
15.	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
16.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
17.	Amputation at hip	90
18.	Amputation below hip with stump not exceeding [12.70 Cms.] in length measured from tip of great trochanter	80
19.	Amputation below hip with stump exceeding [12.70 Cms.] in length measured from tip of great trochanter but not beyond middle thigh	70
20.	Amputation below middle thigh to [8.89 Cms.] below knee	60
21.	Amputation below knee with stump exceeding [8.89 Cms.] but not exceeding [12.70 Cms.]	50
22.	Amputation below knee with stump exceeding [12.70 Cms.]	50
23.	Amputation of one foot resulting in end bearing	50
24.	Amputation through one foot proximal to the metatarso-phalangeal joint	50
25.	Loss of all toes of one foot through the metatarso-phalangeal joint	20
Other injuries		
26.	Loss of one eye, without complications, the other being normal	40
27.	Loss of vision of one eye, without complications or disfigurement of eye-ball, the other being normal	30
28.	Loss of partial vision of one eye	10
	Loss of—	
A-Fingers of right or left hand		
Index finger		
29.	Whole	14
30.	Two phalanges	11
31.	One phalanx	9
32.	Guillotine amputation of tip without loss of bone	5
Middle finger		
33.	Whole	12
34.	Two phalanges	9
35.	One phalanx	7
36.	Guillotine amputation of tip without loss of bone	4

(1)	(2)	(3)
	Ring or little finger	
37.	Whole	7
38.	Two phalanges	6
39.	One phalanx	5
40.	Guillotine amputation of tip without loss of bone	2
	B-Toes of right or left foot	
	Great toe	
41.	Through metatarso-phalangeal joint	14
42.	Part, with some loss of bone	3
	Any other toe	
43.	Through metatarso-phalangeal joint	3
44.	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe	
45.	Through metatarso-phalangeal joint	5
46.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe	
47.	Through metatarso-phalangeal joint	6
48.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe	
49.	Through metatarso-phalangeal joint	9
50.	Part, with some loss of bone	3

THE FIFTH SCHEDULE
[See sections 15(2) and 152(1)]

MATTERS THAT MAY BE PROVIDED FOR IN THE SCHEMES

Any scheme framed under section 15 may provide for any or all of the matters as specified below, namely:—

PART A

Serial No.	Matters on which the Provident Fund Scheme may make provisions
(1)	(2)
1.	The employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution.
2.	The time and manner in which contributions shall be made to the Fund by employers and by, or on behalf of, employees, (whether employed by him directly or by or through a contractor), the contributions which an employee may, if he so desires, make under section 16, and the manner in which such contributions may be recovered.
3.	The manner in which employees' contributions may be recovered by contractors from employees employed by or through such contractors.
4.	The payment by the employer of such sums of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which the payment shall be made.
5.	The constitution of any committee for assisting any board of trustees.
6.	The opening of regional and other offices of any board of trustees.
7.	The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the Central Government, the preparation of the budget, the audit of accounts and the submission of reports to the Central Government, or to any specified State Government.
8.	The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
9.	The fixation by the Central Government in consultation with the boards of trustees concerned of the rate of interest payable to members.
10.	The form in which an employee shall furnish particulars about himself and his family whenever required.
11.	The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.
12.	The registers and records to be maintained with respect to employees and the returns to be furnished by employers or contractors.
13.	The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.
14.	The fees to be levied for any of the purposes specified in this Schedule.

- | (1) | (2) |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15. | The contraventions or defaults which shall be punishable under section 135. |
| 16. | The further powers, if any, which may be exercised by Inspector-cum-Facilitators. |
| 17. | The manner in which accumulations in any existing provident fund shall be transferred to the Fund and the mode of valuation of any assets which may be transferred by the employers in this behalf. |
| 18. | The conditions under which a member may be permitted to pay premia on life insurance, from the Fund. |
| 19. | Any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme. |

PART B

MATTERS THAT MAY BE PROVIDED FOR IN THE PENSION SCHEME

1. The employees or class of employees to whom the Pension Scheme shall apply.
2. The portion of employers' contribution to the Provident Fund which shall be credited to the Pension Fund and the manner in which it is credited.
3. The regulation of the manner in which and the period of service for which, no contribution is received.
4. The manner in which employees' interest will be protected against default in payment of contribution by the employer.
5. The manner in which the accounts of the Pension Fund shall be kept and investment of moneys belonging to Pension Fund to be made subject to such pattern of investment as may be determined by the Central Government.
6. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.
7. The forms, registers and records to be maintained in respect of employees, required for the administration of the Pension Scheme.
8. The scale of pension and pensionary benefits and the conditions relating to grant of such benefits to the employees.
9. The manner in which the exempted establishments have to pay contribution towards the Pension Scheme and the submission of returns relating thereto.
10. The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose.
11. The manner in which the expenses for administering the Pension Scheme will be met from the income of the Pension Fund.
12. Any other matter which is to be provided for in the Pension Scheme or which may be necessary or proper for the purpose of implementation of the Pension Scheme.

PART C

MATTERS THAT MAY BE PROVIDED FOR IN THE EMPLOYEES' DEPOSIT-LINKED INSURANCE SCHEME

1. The employees or class of employees who shall be covered by the Insurance Scheme.
2. The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund subject to such pattern of investment as may be determined, by order, by the Central Government.

(1)	(2)
3.	The form in which an employee shall furnish particulars about himself and the members of his family whenever required.
4.	The nomination of a person to receive the insurance amount due to the employee after his death and the cancellation or variation of such nomination.
5.	The registers and records to be maintained in respect of employees; the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of his family entitled to receive the insurance amount.
6.	The scales of insurance benefits and conditions relating to the grant of such benefits to the employees.
7.	The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).
8.	Any other matter which is to be provided for in the Employees' Deposit-linked Insurance Scheme or which may be necessary or proper for the purpose of implementing that Scheme.

THE SIXTH SCHEDULE
[See sections 75, 76(1) and 152(1)]
FACTORS FOR WORKING OUT LUMP SUM EQUIVALENT OF COMPENSATION
AMOUNT IN CASE OF PERMANENT DISABLEMENT AND DEATH

(1)	(2)	(3)
Not more than	Completed years of age on the last birthday of the employee immediately preceding the date on which the compensation fell due	Factors
	16	228.54
	17	227.49
	18	226.38
	19	225.22
	20	224.00
	21	222.71
	22	221.37
	23	219.95
	24	218.47
	25	216.91
	26	215.28
	27	213.57
	28	211.79
	29	209.92
	30	207.98
	31	205.95
	32	203.85
	33	201.66
	34	199.40
	35	197.06
	36	194.64
	37	192.14
	38	189.56
	39	186.90
	40	184.17
	41	181.37
	42	178.49

(1)	(2)	(3)
	43	175.54
	44	172.52
	45	169.44
	46	166.29
	47	163.07
	48	159.80
	49	156.47
	50	153.09
	51	149.67
	52	146.20
	53	142.68
	54	139.13
	55	135.56
	56	131.95
	57	128.33
	58	124.70
	59	121.05
	60	117.41
	61	113.77
	62	110.14
	63	106.52
	64	102.93
	65 or more	99.37

THE SEVENTH SCHEDULE

[See section 114(4)]

CLASSIFICATION OF AGGREGATORS

Sl.No.	Classification of Aggregator
1.	Ride sharing services
2.	Food and grocery delivery services
3.	Logistic services
4.	e-Market place (both market place and inventory model) for wholesale/ retail sale of goods and/or services (B2B/B2C)
5.	Professional services provider
6.	Healthcare
7.	Travel and hospitality
8.	Content and media services
9.	Any other goods and services provider platform

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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No. 59] NEW DELHI, TUESDAY, SEPTEMBER 29, 2020/ASVINA 7, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 29th September, 2020/Asvina 7, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE EPIDEMIC DISEASES (AMENDMENT) ACT, 2020

No. 34 OF 2020

[28th September, 2020.]

An Act further to amend the Epidemic Diseases Act, 1897.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Epidemic Diseases (Amendment) Act, 2020.
- (2) It shall be deemed to have come into force on the 22nd day of April, 2020.

Short title and commencement.

3 of 1897.

2. In section 1 of the Epidemic Diseases Act, 1897 (hereinafter referred to as the principal Act), in sub-section (2), the words, figures and letters “except the territories which, immediately before the 1st November, 1956, were comprised in Part B States” shall be omitted.

Amendment of section 1.

Insertion of
new section
1A.

3. After section 1 of the principal Act, the following section shall be inserted, namely:—

Definitions.

‘1A. In this Act, unless the context otherwise requires,—

(a) “act of violence” includes any of the following acts committed by any person against a healthcare service personnel serving during an epidemic, which causes or may cause—

(i) harassment impacting the living or working conditions of such healthcare service personnel and preventing him from discharging his duties;

(ii) harm, injury, hurt, intimidation or danger to the life of such healthcare service personnel, either within the premises of a clinical establishment or otherwise;

(iii) obstruction or hindrance to such healthcare service personnel in the discharge of his duties, either within the premises of a clinical establishment or otherwise; or

(iv) loss or damage to any property or documents in the custody of, or in relation to, such healthcare service personnel;

(b) “healthcare service personnel” means a person who while carrying out his duties in relation to epidemic related responsibilities, may come in direct contact with affected patients and thereby is at the risk of being impacted by such disease, and includes—

(i) any public and clinical healthcare provider such as doctor, nurse, paramedical worker and community health worker;

(ii) any other person empowered under the Act to take measures to prevent the outbreak of the disease or spread thereof; and

(iii) any person declared as such by the State Government, by notification in the Official Gazette;

(c) “property” includes—

(i) a clinical establishment as defined in the Clinical Establishments (Registration and Regulation) Act, 2010;

23 of 2010.

(ii) any facility identified for quarantine and isolation of patients during an epidemic;

(iii) a mobile medical unit; and

(iv) any other property in which a healthcare service personnel has direct interest in relation to the epidemic;

(d) the words and expressions used herein and not defined, but defined in the Indian Ports Act, 1908, the Aircraft Act, 1934 or the Land Ports Authority of India Act, 2010, as the case may be, shall have the same meaning as assigned to them in that Act.’.

15 of 1908.

22 of 1934.

31 of 2010.

Amendment
of section 2A.

4. In section 2A of the principal Act, for the portion beginning with the words “the Central Government may take measures” and ending with the words “as may be necessary”, the following shall be substituted, namely:—

“the Central Government may take such measures, as it deems fit and prescribe regulations for the inspection of any bus or train or goods vehicle or ship or vessel or aircraft leaving or arriving at any land port or port or aerodrome, as the case may be, in the territories to which this Act extends and for such detention thereof, or of any person intending to travel therein, or arriving thereby, as may be necessary.”.

5. After section 2A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 2B.

“2B. No person shall indulge in any act of violence against a healthcare service personnel or cause any damage or loss to any property during an epidemic.”

Prohibition of violence against health-care service personnel and damage to property.

6. Section 3 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

Amendment of section 3.

“(2) Whoever,—

(i) commits or abets the commission of an act of violence against a healthcare service personnel; or

(ii) abets or causes damage or loss to any property,

shall be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years, and with fine, which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(3) Whoever, while committing an act of violence against a healthcare service personnel, causes grievous hurt as defined in section 320 of the Indian Penal Code to such person, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine, which shall not be less than one lakh rupees, but which may extend to five lakh rupees.”

45 of 1860.

7. After section 3 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 3A, 3B, 3C, 3D and 3E.

‘3A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Cognizance, investigation and trial of offences.

(i) an offence punishable under sub-section (2) or sub-section (3) of section 3 shall be cognizable and non-bailable;

(ii) any case registered under sub-section (2) or sub-section (3) of section 3 shall be investigated by a police officer not below the rank of Inspector;

(iii) investigation of a case under sub-section (2) or sub-section (3) of section 3 shall be completed within a period of thirty days from the date of registration of the First Information Report;

(iv) in every inquiry or trial of a case under sub-section (2) or sub-section (3) of section 3, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded, and an endeavour shall be made to ensure that the inquiry or trial is concluded within a period of one year:

Provided that where the trial is not concluded within the said period, the Judge shall record the reasons for not having done so:

Provided further that the said period may be extended by such further period, for reasons to be recorded in writing, but not exceeding six months at a time.

2 of 1974.

Composition of certain offences.

3B. Where a person is prosecuted for committing an offence punishable under sub-section (2) of section 3, such offence may, with the permission of the Court, be compounded by the person against whom such act of violence is committed.

Presumption as to certain offences.

3C. Where a person is prosecuted for committing an offence punishable under sub-section (3) of section 3, the Court shall presume that such person has committed such offence, unless the contrary is proved.

Presumption of culpable mental state.

3D. (1) In any prosecution for an offence under sub-section (3) of section 3 which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Explanation.—In this section, “culpable mental state” includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

Compensation for acts of violence.

3E.(1) In addition to the punishment provided for an offence under sub-section (2) or sub-section (3) of section 3, the person so convicted shall also be liable to pay, by way of compensation, such amount, as may be determined by the Court for causing hurt or grievous hurt to any healthcare service personnel.

(2) Notwithstanding the composition of an offence under section 3B, in case of damage to any property or loss caused, the compensation payable shall be twice the amount of fair market value of the damaged property or the loss caused, as may be determined by the Court.

(3) Upon failure to pay the compensation awarded under sub-sections (1) and (2), such amount shall be recovered as an arrear of land revenue under the Revenue Recovery Act, 1890.’

1 of 1890.

Repeal and savings.

8. (1) The Epidemic Diseases (Amendment) Ordinance, 2020 is hereby repealed.

Ord. 5 of 2020.

(2) Notwithstanding such repeal, anything done or any action taken under the Epidemic Diseases Act, 1897, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act as amended by this Act.

3 of 1897.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 60] नई दिल्ली, मंगलवार, सितम्बर 29, 2020/ आश्विन 7, 1942 (शक)
No. 60] NEW DELHI, TUESDAY, SEPTEMBER 29, 2020/ASVINA 7, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 29th September, 2020/Asvina 7, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE INDUSTRIAL RELATIONS CODE, 2020

No. 35 OF 2020

[28th September, 2020.]

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

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- (1) This Act may be called the Industrial Relations Code, 2020.
- (2) It shall extend to the whole of India.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Code, unless the context otherwise requires,—

(a) "appellate authority" means an authority appointed by the appropriate Government to exercise such functions in such area as may be specified by that Government by notification in the Official Gazette;

(b) "appropriate Government" means,—

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

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

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

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

(c) "arbitrator" includes an umpire;

(d) "average pay" means the average of the wages payable to a worker,—

(i) in the case of monthly paid worker, in three complete calendar months;

(ii) in the case of weekly paid worker, in four complete weeks;

(iii) in the case of daily paid worker, in twelve full working days,

preceding the date on which the average pay becomes payable, if the worker had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a worker during the period he actually worked;

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

(f) "banking company" means a banking company as defined in section 5 of the Banking Regulation Act, 1949 and includes the Export-Import Bank of India, the Industrial Reconstruction Bank of India, the Small Industries Development Bank of

10 of 1949.

39 of 1989. India established under section 3 of the Small Industries Development Bank of India Act, 1989, the Reserve Bank of India, the State Bank of India, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

5 of 1970.
40 of 1980.

(g) "certifying officer" means any officer appointed by the appropriate Government, by notification, to perform the functions of a certifying officer under the provisions of Chapter IV;

(h) "closure" means the permanent closing down of a place of employment or part thereof;

(i) "conciliation officer" means a conciliation officer appointed under section 43;

(j) "conciliation proceeding" means any proceeding held by a conciliation officer under this Code;

(k) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

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

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

63 of 1948. (i) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (n) of section 2 of the Factories Act, 1948 and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the said Act, the person so named;

(ii) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director;

(iii) contractor; and

(iv) legal representative of a deceased employer;

(n) "executive", in relation to a Trade Union, means the body by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(o) "fixed term employment" means the engagement of a worker on the basis of a written contract of employment for a fixed period:

Provided that—

(a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature;

(b) he shall be eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute; and

(c) he shall be eligible for gratuity if he renders service under the contract for a period of one year;

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

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, but does not include—

(i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(ii) any activity of the appropriate Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or

(iii) any domestic service; or

(iv) any other activity as may be notified by the Central Government;

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

(r) "industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on:

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

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

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

- 4 of 1938. (s) "insurance company" means a company as defined in section 2 of the Insurance Act, 1938;
- (t) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery or natural calamity or for any other connected reason, to give employment to a worker whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.
- Explanation.*—Every worker whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:
- Provided that if the worker, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:
- Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;
- (u) "lock-out" means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;
- 15 of 1908. (v) "major port" means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908;
- 60 of 2002. (w) "metro railway" means the metro railway as defined in sub-clause (i) of clause (I) of section 2 of the Metro Railways (Operation and Maintenance) Act, 2002;
- 35 of 1952. (x) "mine" means a mine as defined in clause (j) of sub-section (I) of section 2 of the Mines Act, 1952;
- (y) "National Industrial Tribunal" means a National Industrial Tribunal constituted under section 46;
- (z) "negotiating union or negotiating council" means the negotiating union or negotiating council referred to in section 14;
- (za) "notification" means a notification published in the Official Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;
- (zb) "office-bearer", in relation to a Trade Union, includes any member of the executive thereof, but does not include an auditor;
- (zc) "prescribed" means prescribed by rules made under this Code;
- 24 of 1989. (zd) "railway" means the railway as defined in clause (31) of section 2 of the Railways Act, 1989;
- (ze) "registered office" means that office of a Trade Union which is registered under this Code as the head office thereof;
- (zf) "registered Trade Union" means a Trade Union registered under this Code;
- (zg) "Registrar" means a Registrar of Trade Unions appointed by the State Government under section 5;

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

(i) voluntary retirement of the worker; or

(ii) retirement of the worker on reaching the age of superannuation; or

(iii) termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(iv) termination of service of the worker as a result of completion of tenure of fixed term employment; or

(v) termination of the service of a worker on the ground of continued ill-health;

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

(zj) "standing orders" means orders relating to matters set-out in the First Schedule;

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

(zl) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

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

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

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

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

(zm) "Trade Union dispute" means any dispute relating to Trade Union arising between two or more Trade Unions or between the members of a Trade Union *inter se*;

(zn) "Tribunal" means an Industrial Tribunal constituted under section 44;

(zo) "unfair labour practice" means any of the practices specified in the Second Schedule;

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

33 of 2008.

(zq) "wages" means all remuneration, whether by way of salary, allowances or otherwise, expressed in terms of money or capable of being so expressed which

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

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

but does not include—

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

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

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

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

(zr) "worker" means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous

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

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

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

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

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

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

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

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

CHAPTER II

BI-PARTITE FORUMS

Works
Committee.

3. (1) In the case of any industrial establishment in which one hundred or more workers are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute a Works Committee, in such manner as may be prescribed, consisting of representatives of employer and workers engaged in the establishment:

Provided that the number of representatives of workers in such Committee shall not be less than the number of representatives of the employer.

(2) The representatives of the workers shall be chosen, in such manner as may be prescribed, from among the workers engaged in the establishment and in consultation with their Trade Union, if any, registered in accordance with the provisions of section 9.

(3) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workers and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

Grievance
Redressal
Committee.

4. (1) Every industrial establishment employing twenty or more workers shall have one or more Grievance Redressal Committees for resolution of disputes arising out of individual grievances.

(2) The Grievance Redressal Committee shall consist of equal number of members representing the employer and the workers to be chosen in such manner as may be prescribed.

(3) The chairperson of the Grievance Redressal Committee shall be selected from among persons representing the employer and the workers alternatively on rotational basis every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed ten:

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

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

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

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

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

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

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

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

CHAPTER III

TRADE UNIONS

5. (1) The State Government may, by notification, appoint a person to be the Registrar of Trade Unions, and other persons as Additional Registrar of Trade Unions, Joint Registrar of Trade Unions and Deputy Registrar of Trade Unions, who shall exercise such powers and perform such duties of the Registrar as the State Government may, by notification, specify from time to time. Registrar of Trade Unions.

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

Criteria for registration.

6. (1) Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Code with respect to registration, apply for registration of the Trade Union under this Code.

(2) No Trade Union of workers shall be registered unless at least ten per cent. of the workers or one hundred workers, whichever is less, engaged or employed in the industrial establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.

(3) Where an application has been made under sub-section (1) for registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.

(4) A registered Trade Union of workers shall at all times continue to have not less than ten per cent. of the workers or one hundred workers, whichever is less, subject to a minimum of seven, engaged or employed in an industrial establishment or industry with which it is connected, as its members.

Provisions to be contained in constitution or rules of Trade Union.

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

(a) the name of the Trade Union;

(b) the whole of the objects for which the Trade Union has been established;

(c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Code;

(d) the maintenance of a list of members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;

(e) the admission of ordinary members (irrespective of their craft or category) who shall be persons actually engaged or employed in the industrial establishment, undertaking or industry, or units, branches or offices of an industrial establishment, as the case may be, with which the Trade Union is connected, and also the admission of such number of honorary or temporary members, who are not such workers, as are not permitted under section 21 to be office-bearers to form the executive of the Trade Union;

(f) the payment of a subscription by members of the Trade Union from such members and others, as may be prescribed;

(g) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on any member;

(h) the annual general body meeting of the members of the Trade Union, the business to be transacted at such meeting, including the election of office-bearers of the Trade Union;

(i) the manner in which the members of the executive and the other office-bearers of the Trade Union shall be elected once in a period of every three years and removed, and filling of casual vacancies;

(j) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the

inspection of the account books by the office-bearers and members of the Trade Union;

(k) the manner in which the rules shall be amended, varied or rescinded; and

(l) the manner in which the Trade Union may be dissolved.

8. (1) Every application for registration of a Trade Union shall be made to the Registrar electronically or otherwise and be accompanied by—

Application for registration, alteration of name and procedure thereof.

(a) a declaration to be made by an affidavit in such form and manner as may be prescribed;

(b) copy of the rules of the Trade Union together with a copy of the resolution by the members of the Trade Union adopting such rules;

(c) a copy of the resolution adopted by the members of the Trade Union authorising the applicants to make an application for registration; and

(d) in the case of a Trade Union, being a federation or a central organisation of Trade Unions, a copy of the resolution adopted by the members of each of the member Trade Unions, meeting separately, agreeing to constitute a federation or a central organisation of Trade Unions.

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

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

(3) The Registrar may call for further information for the purpose of satisfying himself that the application complies with the provisions of this Code and the Trade Union is entitled for registration under this Code, and may refuse to register the Trade Union until such information is furnished.

(4) If the name under which the Trade Union is proposed to be registered is identical with that of an existing registered Trade Union or in the opinion of the Registrar so nearly resembles the name of an existing Trade Union that such name is likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for altering the name of the Trade Union and shall refuse to register the Trade Union until such alteration has been made.

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

Registration of Trade Union and cancellation thereof.

(2) Where the Registrar makes an order for registration of a Trade Union, he shall issue a certificate of registration to the applicant Trade Union, in such form as may be prescribed, which shall be the conclusive evidence that the Trade Union has been registered under this Code.

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

(4) Every Trade Union registered under the Trade Unions Act, 1926 having valid registration immediately before the commencement of this Code shall be deemed to have been registered under this Code: 16 of 1926.

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

(5) The certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar,—

(i) on the application of the Trade Union verified in such manner as may be prescribed; or

(ii) on the information received by him regarding the contravention by the Trade Union of the provisions of this Code or the rules made thereunder or its constitution or rules; or

(iii) if he is satisfied that the members in a Trade Union falls below ten per cent. of total workers or one hundred workers, whichever is less:

Provided that not less than sixty days previous notice in writing specifying the grounds on which it is proposed to cancel the certificate of registration of a Trade Union shall be given by the Registrar to the Trade Union before the certificate of registration is cancelled otherwise than on the application of the Trade Union.

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

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

Appeal against non-registration or cancellation of registration.

10. (1) Any person aggrieved by the refusal of the Registrar to grant registration to a Trade Union under section 9 or by cancellation of a certificate of registration under sub-section (5) of the said section, may within such period as may be prescribed, prefer an appeal to the Tribunal:

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

(2) The Tribunal may, after giving the parties concerned an opportunity of being heard, dismiss the appeal or pass an order directing the Registrar to register the Trade Union and to issue a certificate of registration or set aside the order of cancellation of certificate of registration, as the case may be and forward a copy of such order to the Registrar.

Communication to Trade Union and change in its registration particulars.

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

(2) The Trade Union shall inform the Registrar if the members of such Trade Union falls below ten per cent. of total workers or one hundred workers, whichever is less.

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

Incorporation of a registered Trade Union.

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

13. The provisions of the following Acts, namely:—

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

Certain Acts not to apply to registered Trade Unions.

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

14. (1) There shall be a negotiating union or a negotiating council, as the case may be, in an industrial establishment having registered Trade Union for negotiating with the employer of the industrial establishment, on such matters as may be prescribed.

Recognition of negotiating union or negotiating council.

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

(3) If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, then, the Trade Union having fifty-one per cent. or more workers on the muster roll of that industrial establishment, verified in such manner as may be prescribed, supporting that Trade Union shall be recognised by the employer of the industrial establishment, as the sole negotiating union of the workers.

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

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

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

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

15. (1) The general funds of a registered Trade Union shall not be spent on any objects other than such objects as may be prescribed.

Objects of general fund, composition of separate fund and membership fee of Trade Union.

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

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

(4) The subscriptions payable by the members of the Trade Union shall be such as may be prescribed.

Immunity from civil suit in certain cases.

16. (1) No suit or other legal proceeding shall be maintainable in any civil court against any registered Trade Union or any office-bearer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment or that it is an interference with the trade, business, or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

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

Criminal conspiracy in furtherance of objects of Trade Union.

17. No office-bearer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless such agreement is an agreement to commit an offence.

45 of 1860.

Enforceability of agreements.

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

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

Right to inspect books of Trade Union.

19. The books of account of a registered Trade Union and the list of members thereof shall be open to inspection by an office-bearer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

Rights of minor to membership of Trade Union.

20. Any person who has attained the age of fourteen years and is employed in a non-hazardous industry may be a member of a registered Trade Union subject to any rules of the Trade Union, and may, subject to as aforesaid enjoy all the rights of a member and execute all instruments and given all acquaintances necessary to be executed or given under the rules.

Disqualification of office-bearers of Trade Unions.

21. (1) A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union, if—

(i) he has not attained the age of eighteen years;

(ii) he has been convicted by a court in India for any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has elapsed since his release;

(iii) the Tribunal has directed that he shall be disqualified for being chosen or for being office-bearer of a Trade Union for a period specified therein.

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

22. (1) Where a dispute arises between—

(a) one Trade Union and another; or

(b) one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office-bearers of the Trade Union; or

(c) one or more workers who are refused admission as members and the Trade Union; or

(d) where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union,

an application may be made in such manner as may be prescribed to the Tribunal having jurisdiction over the area where the registered office of the Trade Union or Trade Unions is located for adjudication of such disputes.

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

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

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

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

(2) Save as otherwise provided in sub-section (1), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation.—For the purposes of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

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

(2) Any two or more registered Trade Unions may be amalgamated in such manner as may be prescribed.

(3) Notice in writing of every change of name and of every amalgamation signed in the case of a change of name, by the secretary and by seven members of the Trade Union changing its name, and in the case of an amalgamation, by the secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State in such manner as may be prescribed.

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

Adjudication
of disputes of
Trade Unions.

Proportion of
office-bearers
to be connected
with industry.

Change of
name,
amalgamation,
notice of
change and its
effect.

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

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

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

(8) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them.

Dissolution.

25. (1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

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

Annual returns.

26. (1) Every registered Trade Union shall—

(a) forward annually to the Registrar, on or before such date, in such form, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December;

(b) along with the general statement referred to in clause (a), forward to the Registrar a statement showing changes of office-bearers made by the Trade Union during the year to which such general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar.

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

(3) For the purpose of examining the documents referred to in clauses (a) and (b) of sub-section (1), and sub-section (2), the Registrar or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than fifteen kilometres from the registered office of such Trade Union.

Recognition of Trade Unions at Central and State level.

27. (1) Where the Central Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as Central Trade Union at the Central level, it may recognise such Trade Union or federation of Trade Unions as Central Trade Union in such manner and for such purpose, as may be prescribed, and if any dispute arises in relation to such recognition, it shall be decided by such authority in such manner as may be prescribed by the Central Government.

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

CHAPTER IV

STANDING ORDERS

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

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

29. (1) The Central Government shall make model standing orders relating to conditions of service and other matters incidental thereto or connected therewith. Making of model standing orders by Central Government and temporary application.

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

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

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

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

Provided that if the certifying officer has any observation, he may direct such employer to amend the standing order so adopted within such period as may be prescribed.

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

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

(i) the Trade Union or negotiating union of the industrial establishment or undertaking, or members of the negotiating council; or

(ii) where there is no Trade Union operating, to such representatives of the workers of the industrial establishment or undertaking chosen in such manner as may be prescribed,

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

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

(a) the draft standing order so received within a period of sixty days from the date of the receipt of it; and

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

failing which such draft standing orders or, as the case may be, the modifications in the standing order shall be deemed to have been certified on the expiry of the said period.

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

(a) provision is made therein for every matter set out in the First Schedule which is applicable to the industrial establishment; and

(b) such orders are otherwise in conformity with the provisions of this Code.

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

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

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

(10) Subject to such conditions as may be prescribed, a group of employers in similar establishments may submit a joint draft of standing orders under this section and for the purposes of proceedings specified in sub-sections (1), (5), (6), (8) and (9), the expressions "employer", "Trade Union" and "negotiating union or negotiating council" shall respectively include all the employers, Trade Unions and negotiating unions or negotiating council of such similar establishments, as the case may be.

(11) Without prejudice to the foregoing provisions of this section, the standing orders relating to an industrial establishment or undertaking existing on the date of

commencement of the relevant provisions of this Code, shall, in so far as is not inconsistent with the provisions of this Code or rules made thereunder, continue and be deemed to be the standing orders certified under sub-section (8) and accordingly the provisions of this Chapter shall apply thereon.

2 of 1974. **31.** (1) Every certifying officer and the appellate authority referred to in section 32 shall have all the powers of a civil court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Certifying officer and appellate authority to have powers of civil court.

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

32. An employer or Trade Union or the negotiating union or negotiating council, or where there is no negotiating union or negotiating council in an industrial establishment or undertaking, any union or such representative body of the workers of the industrial establishment or undertaking, if not satisfied with the order of the certifying officer given under sub-section (5) of section 30, may file an appeal within sixty days of receipt of the order of the certifying officer to the appellate authority appointed by the appropriate Government, by notification, and such authority shall dispose of the appeal in such manner as may be prescribed.

Appeals.

33. (1) The standing orders or modified standing orders, as the case may be, shall, unless an appeal is preferred under section 32, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (8) of section 30, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent in such manner as may be prescribed.

Date of operation of standing orders and its availability.

(2) The text of a standing order as finally certified under this Code shall be maintained by the employer in such language and in such manner for the information of the concerned workers as may be prescribed.

34. A copy of all standing orders as finally certified under this Code shall be filed by the certifying officer in a register maintained for the purpose or uploaded in electronic form or such other form as may be prescribed, and the certifying officer shall furnish a copy thereof to any person applying therefor on payment of such fee as may be prescribed.

Register of standing orders.

35. (1) The standing orders certified under sub-section (8) of section 30 shall not, except on an agreement between the employer and the workers, or a negotiating union or a Trade Union or other representative body of the workers, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

Duration and modification of standing orders.

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

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

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

Oral evidence in contradiction of standing orders not admissible.

Interpretation,
etc., of standing
orders.

37. If any question arises as to the application, or interpretation, of the standing orders certified under sub-section (8) of section 30 or the modification made therein by an agreement entered into under sub-section (5) of that section, the employer or any worker or workers concerned or the Trade Union in relation to the workers employed in the industrial establishment or undertaking, wherein the question has arisen, may apply to the Tribunal, within the local limits of whose territorial jurisdiction such establishment or the office, section or branch of the undertaking is situated, to decide the question and such Tribunal shall, after giving all the parties concerned a reasonable opportunity of being heard, decide the question and its decision shall be final and binding on the concerned employer and the workers.

Time-limit for
completing
disciplinary
proceedings
and liability to
pay subsistence
allowance.

38. (1) Where any worker is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, such investigation or inquiry, or where there is an investigation followed by an inquiry, both the investigation and inquiry shall be completed ordinarily within a period of ninety days from the date of suspension.

(2) The standing orders certified under sub-section (8) of section 30 or modified under section 35 shall provide that where a worker is suspended as referred to in sub-section (1), the employer in relation to an industrial establishment or undertaking shall pay to such worker employed in such industrial establishment or undertaking subsistence allowance at the rates specified in sub-section (3) for the period during which such worker is placed under suspension pending investigation or inquiry into complaints or charges of misconduct against such worker.

(3) The amount of subsistence allowance payable under sub-section (2) shall be—

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

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

Power to
exempt.

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

CHAPTER V

NOTICE OF CHANGE

Notice of
change.

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

(i) without giving to the workers likely to be affected by such change a notice in such manner as may be prescribed of the nature of the change proposed to be effected; or

(ii) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement or award;

(b) where the workers likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply;

(c) in case of emergent situation which requires change of shift or shift working, otherwise than in accordance with standing orders, in consultation with Grievance Redressal Committee;

(d) if such change is effected in accordance with the orders of the appropriate Government or in pursuance of any settlement or award.

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

Power of appropriate Government to exempt.

CHAPTER VI

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

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

Voluntary reference of disputes to arbitration.

(2) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Code.

(3) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(4) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer.

(5) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators:

Provided that—

(i) where such industrial dispute is the industrial dispute other than the termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the workers shall be represented before the arbitrator,—

(a) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or

(b) where there is no negotiating union or negotiating council, by the Trade Union; or

(c) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;

(ii) where such industrial dispute relates to termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the concerned workers shall be represented in person or through a representative authorised by him.

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

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

(8) Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section. 26 of 1996.

CHAPTER VII

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

Conciliation
officers.

43. (1) The appropriate Government may, by notification, appoint such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Industrial
Tribunal.

44. (1) The appropriate Government may, by notification, constitute one or more Industrial Tribunals for the adjudication of industrial disputes and for performing such other functions as may be assigned to them under this Code and the Tribunal so constituted by the Central Government shall also exercise the jurisdiction, powers and authority conferred on the Tribunal, as defined in clause (m) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 by or under that Act. 19 of 1952.

(2) Every Industrial Tribunal shall consist of two members to be appointed by the appropriate Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

(3) A bench of the Tribunal shall consist of a Judicial Member and an Administrative Member or single Judicial Member or single Administrative Member.

(4) The qualifications for appointment, method of recruitment, term of office, salaries and allowances, resignation, removal and the other terms of conditions of service of the Judicial Member and the Administrative Member of the Tribunal constituted by the Central Government shall be in accordance with the rules made under section 184 of the Finance Act, 2017: 7 of 2017.

Provided that a person who has held a post below the rank of Joint Secretary to the Government of India or an equivalent rank in the Central Government or a State Government, shall not be eligible to be appointed as an Administrative Member of the Tribunal.

(5) The term of office of the Judicial Member (5) and the Administrative Member of a Tribunal constituted by the State Government under sub-section (1), their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be prescribed by the State Government.

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

(7) The procedure of the Tribunal (including distribution of cases in the benches of the Tribunal) shall be such as may be prescribed, provided a bench consisting of a Judicial Member and an Administrative Member shall entertain and decide the cases only relating to—

(a) the application and interpretation of standing order;

(b) discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen dismissed;

(c) illegality or otherwise of a strike or lockout;

(d) retrenchment of workmen and closure of establishment; and

(e) Trade Union disputes,

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

(8) The Judicial Member shall preside over the Tribunal where the bench of the Tribunal consists of one Judicial Member and one Administrative Member.

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

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

45. No notification of the appropriate Government appointing any person as a Judicial Member or an Administrative Member of a Tribunal shall be called in question in any manner; and no act or proceeding before the Tribunal shall be called in question in any manner on the ground mainly of the existence of any vacancy in, or defect in the constitution of such Tribunal.

Finality of constitution of Tribunal.

46. (1) The Central Government may, by notification, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

National Industrial Tribunal.

(2) A National Industrial Tribunal shall consist of two members to be appointed by the Central Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

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

(4) A person shall not be qualified for appointment as Administrative Member of a National Industrial Tribunal unless, he is or has been Secretary to the Government of India or holding an equivalent rank in the Central Government or State Government, having adequate experience of handling the labour related matters.

(5) The Judicial Member shall preside over a National Industrial Tribunal.

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

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

47. (1) The decision of a Tribunal or a National Industrial Tribunal, as the case may be, shall be by consensus of the members.

Decision of Tribunal or National Industrial Tribunal.

(2) If the members of a Tribunal or a National Industrial Tribunal differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the appropriate Government.

(3) The appropriate Government shall, on receipt of a reference made under sub-section (2), appoint a Judicial Member of other Tribunal or a National Industrial Tribunal, who shall hear the point or points himself and such point or points shall be decided according to the majority of the members of a Tribunal or a National Industrial Tribunal, as the case may be, who have first heard the case, including the Judicial Member of the other Tribunal who heard the case thereafter.

Disqualifications for members of Tribunal and National Industrial Tribunal.

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

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

Explanation.—For the purposes of this section "independent person" means a person who is unconnected with the industrial dispute referred to a Tribunal or National Industrial Tribunal or with any industry directly affected by such dispute.

Procedure and powers of arbitrator, conciliation officer, Tribunal and National Industrial Tribunal.

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

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

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

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses;
- (d) in respect of such other matters as may be prescribed,

and every inquiry or investigation by Tribunal or National Industrial Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

45 of 1860.

(4) A conciliation officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Code, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.

5 of 1908.

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

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

45 of 1860.

(7) Subject to any rules made under this Code, the costs of, and incidental to, any proceeding before a Tribunal or National Industrial Tribunal shall be in the discretion of

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

2 of 1974. (8) Every Tribunal or National Industrial Tribunal shall be deemed to be civil court for the purposes of sections 345, 346, and 348 of the Code of Criminal Procedure, 1973.

5 of 1908. (9) Every award made, order issued or settlement arrived at by or before a Tribunal or a National Industrial Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a civil court under Order XXI of the Code of Civil Procedure, 1908 and for that purpose such Tribunal or National Industrial Tribunal shall be deemed to be a civil court.

50. (1) Where the application under sub-section (6) of section 53 relating to an industrial dispute involving discharge or dismissal or otherwise termination of a worker has been made to a Tribunal or has been referred to a National Industrial Tribunal for adjudication, and, in the course of adjudication proceedings, the Tribunal or National Industrial Tribunal, as the case may be, is satisfied that the order of discharge or dismissal or otherwise termination was not justified, it may, by its award, set aside the order of discharge or dismissal or termination and direct reinstatement of the worker on such terms and conditions, if any, as it thinks fit, or give such other relief to the worker including the award of any lesser punishment in lieu of discharge or dismissal or otherwise termination, as the circumstances of the case may require.

Powers of Tribunal and National Industrial Tribunal to give appropriate relief in case of discharge or dismissal of worker.

(2) A Tribunal or National Industrial Tribunal, as the case may be, may, in the interest of justice, grant such interim relief to the worker referred to in sub-section (1) during the pendency of the industrial dispute as the circumstances of the case may require:

Provided that in any proceeding under this sub-section the Tribunal or National Industrial Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

51. (1) On and from the date of commencement of this Code, the cases pending immediately before such commencement—

Transfer of pending cases.

14 of 1947. (a) in the Labour Court and the Tribunal constituted under the Industrial Disputes Act, 1947, shall be transferred to the Tribunal having corresponding jurisdiction under this Code;

14 of 1947. (b) in the National Tribunal constituted under the Industrial Disputes Act, 1947 shall be transferred to the National Industrial Tribunal having corresponding jurisdiction under this Code.

(2) The cases transferred under sub-section (1) to the Tribunal or the National Industrial Tribunal shall be dealt with *de novo* or from the stage at which they were pending before such transfer, as it may deem fit.

14 of 1947. **52.** A presiding officer of a Labour Court or Tribunal or, as the case may be, National Industrial Tribunal, constituted under the Industrial Disputes Act, 1947, holding office as such immediately before the commencement of this Code and is qualified to be appointed under this Code, shall be the Judicial Member of the Tribunal or, as the case may be, the Judicial Member of the National Industrial Tribunal, and shall continue as such for the remaining period of his office.

Adjustment of services of presiding officers under repealed Act.

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

Conciliation and adjudication of dispute.

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

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

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the appropriate Government or an officer authorised in this behalf by the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send to the concerned parties and to the appropriate Government a full report, in the electronic or other form as may be prescribed, setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) Notwithstanding anything contained in sub-section (4), the conciliation officer shall send the report to the concerned parties and the appropriate Government within forty-five days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

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

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

(6) Any concerned party may make application in the prescribed form to the Tribunal in the matters not settled by the conciliation officer under this section within ninety days from the date on which the report under sub-section (4) is received to the concerned party and the Tribunal shall decide such application in the prescribed manner.

Reference to
and functions
of National
Industrial
Tribunal.

54. (1) The Central Government may refer an industrial dispute to a National Industrial Tribunal which in the opinion of such Government involves question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by such industrial dispute.

(2) Where an industrial dispute has been referred under sub-section (1) or transferred under section 92 by the Central Government to a National Industrial Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring or transferring such industrial dispute or further period extended by the Central Government, submit its award to that Government.

Form of award,
its
communication
and
commencement.

55. (1) The award of—

(i) a Tribunal delivered by a bench consisting of a Judicial Member and an Administrative Member or a single Judicial Member or a single Administrative Member; or

(ii) a National Industrial Tribunal,

shall be in writing and shall be signed electronically or otherwise, as the case may be, by both the Judicial Member and the Administrative Member or either by the Judicial Member or the Administrative Member by whom the award is delivered.

(2) Every arbitration award and every award of Tribunal or National Industrial Tribunal shall be communicated to the parties concerned and the appropriate Government.

(3) An award made under this Code shall become enforceable on the expiry of thirty days from the date of its communication under sub-section (2):

Provided that—

(a) if the appropriate Government is of the opinion in any case, where the award has been given by a Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion in any case, where the award has been given by a National Industrial Tribunal,

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(4) Where any declaration has been made in relation to an award under the proviso to sub-section (3), the appropriate Government or the Central Government, as the case may be, may, within ninety days from the date of communication of the award under sub-section (2), make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(5) Where any award as rejected or modified by an order made under sub-section (4) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (4) is made in pursuance of a declaration under the proviso to sub-section (3), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (4).

(6) Subject to the provisions of sub-section (3) and sub-section (5) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (3) or sub-section (5), as the case may be.

56. Where in any case, a Tribunal or a National Industrial Tribunal by its award directs reinstatement of any worker and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such worker, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the worker had not been employed in any establishment during such period and an affidavit by such worker had been filed to that effect in such Court:

Payment of full wages to worker pending proceedings in higher Courts.

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such worker had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.

57. (1) A settlement arrived at by agreement between the employer and worker otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

Persons on whom settlements and awards are binding.

(2) Subject to the provisions of sub-section (3), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(3) A settlement arrived at in the course of conciliation proceedings under this Code or an arbitration or an award of a Tribunal or National Industrial Tribunal which has become enforceable shall be binding on—

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workers, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

Period of
operation of
settlements
and awards.

58. (1) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of sixty days from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year from the date on which the award becomes enforceable under section 55:

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit:

Provided further that the appropriate Government may, before expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or part of it to the Tribunal, if the award is made by the Tribunal for decision whether the period of operation should not, by reason of such change, be shortened and the decision of the Tribunal on such reference shall be final.

(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of sixty days has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(7) No notice given under sub-section (2) or sub-section (6) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be.

59. (1) Where any money is due to a worker from an employer under a settlement or an award or under the provisions of Chapter IX or Chapter X, the worker himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the worker, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Recovery of money due from employer.

Provided that every such application shall be made within one year from the date on which the money became due to the worker from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any worker is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Code, be decided by such Tribunal as may be specified in this behalf by the appropriate Government within a period not exceeding three months:

Provided that where the Tribunal considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit.

(3) For the purposes of computing the money value of a benefit referred to in sub-section (2), the Tribunal may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Tribunal and the Tribunal shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(4) The decision of the Tribunal shall be forwarded by it to the appropriate Government and any amount found due by the Tribunal may be recovered in the manner provided for in sub-section (1).

(5) Where workers employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workers.

60. (1) A conciliation proceeding shall be deemed to have commenced on the date on which the first meeting is held by the conciliation officer in an industrial dispute after the receipt of the notice of strike or lock-out by the conciliation officer.

Commencement and conclusion of proceedings.

(2) A conciliation proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, and failure of conciliation is recorded by the conciliation officer; or

(c) when a reference is made to a National Industrial Tribunal, under this Code, during the pendency of conciliation proceedings.

(3) Proceedings before an arbitrator or a Tribunal or a National Industrial Tribunal under this Code shall be deemed to have commenced on the date of filing application or appeal or on the date of reference of the dispute for arbitration or adjudication, as the case may be, and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable.

Certain matters to be kept confidential.

61. There shall not be included in any report or award under this Code, any information obtained by a conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, in the course of any investigation or inquiry as to a Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such conciliation officer, arbitrator, Tribunal, or National Industrial Tribunal, if the Trade Union, person, firm or company, in question has made a request in writing to the conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer, or the arbitrator, or the presiding officer of a Tribunal or a National Industrial Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the Trade Union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code.

45 of 1860.

CHAPTER VIII STRIKES AND LOCK-OUTS

Prohibition of strikes and lock-outs.

62. (1) No person employed in an industrial establishment shall go on strike, in breach of contract—

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

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

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

(g) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

(3) The notice of strike or lock-out under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner, as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any person employed by him any such notices as are referred to in sub-section (1) or gives to any person employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe and to the conciliation officer, the number of such notices received or given on that day.

63. (1) A strike or lock-out shall be illegal, if it is—

Illegal strikes and lock-outs.

(i) commenced or declared in contravention of section 62; or

(ii) continued in contravention of an order made under sub-section (7) of section 42.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the filing of the application relating to such industrial dispute in the Tribunal or of the reference of such industrial dispute to an arbitrator or a National Industrial Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Code or the continuance thereof was not prohibited under sub-section (7) of section 42.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

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

Prohibition of financial aid to illegal strikes or lock-outs.

CHAPTER IX

LAY-OFF, RETRENCHMENT AND CLOSURE

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

Application of sections 67 to 69.

(a) to industrial establishments in which less than fifty workers on an average per working day have been employed in the preceding calendar month; or

(b) to industrial establishments which are of a seasonal character or in which work is performed intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

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

(i) factory as defined in clause (m) of section 2 of the Factories Act, 1948; or

(ii) mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; or

35 of 1952.

(iii) plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951.

69 of 1951.

Definition of continuous service.

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

Explanation 1.—For the purposes of this section, where a worker is not in continuous service for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the worker during a period of twelve months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a worker employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the worker during a period of six months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than—

(i) ninety-five days in the case of worker employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Explanation 2.—For the purposes of *Explanation 1*, the number of days on which a worker has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by or under this Code or any other law applicable to the industrial establishment for the time being in force; or

(ii) he has been on leave on full wages earned in the previous years; or

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; or

(iv) in the case of a female, she has been on maternity leave, so however, that the total period of such maternity leave does not exceed the period as specified in the Maternity Benefit Act, 1961.

53 of 1961.

Rights of workers laid-off for compensation, etc.

67. Whenever a worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him, had he not been so laid-off:

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

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the worker in accordance with the provisions contained in section 70 at any time after the expiry of the first forty-five days of the lay-off and when he

does so, any compensation paid to the worker for having been laid-off during the preceding twelve months may be set off against the compensation payable for retrenchment.

Explanation.— For the purposes of this section "*badli* worker" means a worker who is employed in an industrial establishment in the place of another worker whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such, if he has completed one year of continuous service in the establishment.

68. Notwithstanding that workers in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Duty of an employer to maintain muster rolls of workers.

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

Workers not entitled for compensation in certain cases.

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

(ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

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

70. No worker employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

Conditions precedent to retrenchment of workers.

(a) the worker has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice;

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

(c) notice in such manner as may be prescribed is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification.

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

Procedure for retrenchment.

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

Re-employment of retrenched worker.

73. Where the ownership or management of an establishment is transferred, whether by agreement or by operation of law, from the employer in relation to that establishment to a new employer, every worker who has been in continuous service for not less than one year in that establishment immediately before such transfer shall be entitled to notice and

Compensation to workers in case of transfer of establishment.

compensation in accordance with the provisions of section 70 as if the worker had been retrenched:

Provided that nothing in this section shall apply to a worker in any case where there has been a change of employers by reason of the transfer, if—

(a) the service of the worker has not been interrupted by such transfer;

(b) the terms and conditions of service applicable to the worker after such transfer are not in any way less favourable to the worker than those applicable to them immediately before the transfer; and

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

Sixty days' notice to be given of intention to close down any undertaking.

74. (1) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in such manner as may be prescribed, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking:

Provided that nothing in this section shall apply to—

(i) an industrial establishment in which less than fifty workers are employed or were employed on any day in the preceding twelve months;

(ii) an industrial establishment set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or an extraordinary situation such as natural calamities or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period, as may be specified in the order.

Compensation to workers in case of closing down of undertakings.

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

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

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

(i) financial difficulties (including financial losses); or

(ii) accumulation of un-disposed stocks; or

(iii) the expiry of the period of the lease or license granted to it; or

(iv) in case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which operations are carried on,

shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

(2) Notwithstanding anything contained in sub-section (1), where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals

in the area in which such operations are carried on, no worker referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 70, if—

(a) the employer provides the worker, at the place located within a radius of twenty kilometres from such undertaking engaged in mining operation is closed down, with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

(b) the service of the worker has not been interrupted by such alternative employment; and

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

67 of 1957. (3) For the purposes of sub-sections (1) and (2), the expressions "minerals" and "mining operations" shall have the meanings respectively assigned to them in clauses (a) and (d) of section 3 of the Mines and Minerals (Regulation and Development) Act, 1957.

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

76. (1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under Chapter IV:

Effect of laws inconsistent with this Chapter.

Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or any award, contract or service or otherwise, a worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Code, the worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Chapter.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workers in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.

CHAPTER X

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

77. (1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than three hundred workers, or such higher number of workers as may be notified by the appropriate Government, were employed on an average per working day in the preceding twelve months.

Application of this Chapter.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

(3) For the purposes of this Chapter, "industrial establishment" means—

(i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948; 63 of 1948.

(ii) a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; or 35 of 1952.

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951. 69 of 1951.

Prohibition of lay-off.

78. (1) No worker (other than a *badli* worker or a casual worker) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except with the prior permission of the appropriate Government, obtained on an application made in this behalf, unless such lay-off is due to shortage of power, natural calamity, and in the case of a mine, such lay-off is due to fire, flood, excess of inflammable gas or explosion.

(2) An application for permission under sub-section (1) shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

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

(4) Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workers and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

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

(6) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (4) within the prescribed time from the date on which such order is made or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workers had been laid-off and the workers shall be entitled

to all the benefits under any law for the time being in force as if they had not been laid-off.

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

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

Explanation.—For the purposes of this section, a worker shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the worker) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the worker having regard to the facts and circumstances of his case, subject to the condition that the wages which would normally have been paid to the worker are offered for the alternative appointment also.

79. (1) No worker employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

(a) the worker has been given three month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer electronically or otherwise in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workers concerned in such manner as may be prescribed.

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

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

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

(6) The appropriate Government may, either on its own motion or on the application

Conditions precedent to retrenchment of workers to which Chapter X applies.

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

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the worker and the worker shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

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

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every worker who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay, or average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof, in excess of six months.

Procedure for closing down an industrial establishment.

80. (1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, electronically or otherwise, apply in such manner as may be prescribed, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workers in such manner as may be prescribed:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workers and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workers.

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

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

(5) The appropriate Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (2) within the prescribed time from the date on which such order is made

or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workers shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

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

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

81. Notwithstanding that workers in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workers who may present themselves for work at the establishment at the appointed time during normal working hours.

Duty of an employer to maintain muster rolls of workers.

82. The provisions of sections 66, 71, 72, 73 and section 76 in Chapter IX shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of this Chapter apply.

Certain provisions of Chapter IX to apply to industrial establishment to which this Chapter applies.

CHAPTER XI

WORKER RE-SKILLING FUND

83. (1) The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund (hereafter in this section referred to as "fund").

Worker re-skilling fund.

(2) The fund shall consist of—

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

(b) the contribution from such other sources as may be prescribed by the appropriate Government.

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

CHAPTER XII

UNFAIR LABOUR PRACTICES

Prohibition of unfair labour practice.

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

CHAPTER XIII

OFFENCES AND PENALTIES

Power of officers of appropriate Government to impose penalty in certain cases.

85. (1) Notwithstanding anything contained in section 84, for the purpose of imposing penalty under sub-sections (3), (5), (7), (8), (9), (10), (11) and (20) of section 86 and sub-section (7) of section 89, the appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

(2) While holding the enquiry, the officer referred to in sub-section (1) shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of such officer, may be useful for or relevant to the subject matter of the enquiry and if, on such enquiry, he is satisfied that the person has committed any offence under the provisions referred to in sub-section (1), he may impose such penalty as he thinks fit in accordance with such provisions.

(3) Where a person fails to pay the penalty referred to in sub-section (2) within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with fine which shall not be less than fifty thousand rupees but may extend up to two lakh rupees.

Penalties.

86. (1) An employer who contravenes the provisions of section 78 or section 79 or section 80 shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to ten lakh rupees.

(2) An employer who after conviction for an offence under section 78 or section 79 or section 80 again commits the same offence under section 78 or section 79 or section 80, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than five lakh rupees, but which may extend up to twenty lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(3) An employer who contravenes the provisions of section 67 or section 70 or section 73 or section 75 shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(4) An employer who after conviction for an offence under section 67 or section 70 or section 73 or section 75 again commits the same offence under section 67 or section 70 or section 73 or section 75, then, he shall for the second or subsequent offence be punishable with fine which shall not be less than one lakh rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to six months, or with both.

(5) Any person who commits any unfair labour practice as specified in the Second Schedule shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to two lakh rupees.

(6) Any person who after conviction for any unfair labour practice again commits the same offence, then, he shall, for committing the second or subsequent offence, be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to five lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(7) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any of the provisions of

this Code, every office-bearer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such office-bearer or person, every member of the executive of the Trade Union, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend to ten thousand rupees and any continuing default shall be punishable with an additional penalty of fifty rupees per day so long as the default continues.

(8) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 26 or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which shall not be less than two thousand rupees, but which may extend to twenty thousand rupees.

(9) Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which shall not be less than five thousand rupees, but which may extend to twenty thousand rupees.

(10) An employer who fails to submit draft standing orders as required by section 30, or who modifies his standing orders otherwise than in accordance with section 35, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees and in the case of a continuing offence with an additional fine of two thousand rupees per day till the offence continues.

(11) An employer who does any act in contravention of the standing orders finally certified under this Code shall be punishable with fine which shall not be less than one lakh rupees, but which may extend to two lakh rupees.

(12) Any person who after conviction under sub-section (11) again commits the same offence, then, he shall, for committing the second or subsequent offence be punishable with fine which shall not be less than two lakh rupees, but which may extend to four lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(13) Any worker who commences, continues or otherwise acts in furtherance of a strike which is illegal under this Code, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend up to ten thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(14) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Code, shall be punishable with fine which shall not be less than fifty thousand rupees, but which may extend to one lakh rupees or with imprisonment for a term which may extend to one month, or with both.

(15) Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Code, shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(16) Any person who knowingly spends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to one month, or with both.

(17) Any person who commits a breach of any term of any settlement or award, which is binding on him under this Code, shall be punishable with fine which shall not be less than

twenty thousand rupees, but which may extend to two lakh rupees or with imprisonment for a term which may extend to three months, or with both.

(18) Where the breach under sub-section (17) is a continuing one, the offender shall be punishable with an additional fine which may extend to one thousand rupees for every day during which the breach continues after the first conviction and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been affected by such breach.

(19) Any person who wilfully discloses any such information as is referred to in section 61 in contravention of the provisions of that section shall, on a complaint made by or on behalf of the Trade Union or individual business affected, be punishable with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one month, or with both.

(20) Any person who contravenes any other provision of this Code not covered under sub-sections (1) to (19) or the rules or regulations framed under this Code shall be punishable with fine which may extend to one lakh rupees.

Cognizance of offences.

87. (1) No court shall take cognizance of any offence punishable under this Code, save on a complaint made by or under the authority of the appropriate Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of the Metropolitan Magistrate or Judicial Magistrate of the first class shall try the offences under this Code. 2 of 1974.

Offences by companies.

88. (1) If the person committing an offence under this Code is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

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

(i) a firm; or

(ii) a limited liability partnership registered under the Limited Liability Partnership Act, 2008; or

6 of 2009.

(iii) other association of individuals; and

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

Composition of offences.

89. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted Officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent. of the maximum fine provided for such offence punishable with fine only and for a sum of seventy-five per cent. provided for such offence punishable with imprisonment for a term which is not more than one year or with fine, in the manner as may be prescribed: 2 of 1974.

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

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of three years from the date—

(a) of commission of a similar offence which was earlier compounded;

(b) of commission of similar offence for which such person was earlier convicted.

(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.

(4) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

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

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

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

(8) No offence punishable under the provisions of this Code shall be compounded except under and in accordance with the provisions of this section.

CHAPTER XIV

MISCELLANEOUS

90. (1) Where an industrial dispute pertaining to an establishment or undertaking is already pending before a conciliation officer or an Arbitrator or a Tribunal or a National Industrial Tribunal, as the case may be, with regard to matters not covered by the notice of change issued by an employer under section 40, no employer shall—

(a) in regard to any matter connected with such dispute, alter to the prejudice of the workers concerned in such dispute the conditions of service applicable to them immediately before the commencement of such proceedings; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise any worker concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute referred in sub-section (1), the employer may, in accordance with standing orders applicable to a worker concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the worker—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that worker immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that worker:

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.

Provided that no such worker shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any proceeding in respect of an industrial dispute, take any action against any protected worker concerned in such dispute—

(a) by altering, to the prejudice of such protected worker, the conditions of service applicable to him immediately before the commencement of such proceeding; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected worker,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—For the purposes of this sub-section, a "protected worker" in relation to an establishment, means a worker who, being a member of the executive or other office-bearer of a registered Trade Union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workers to be recognised as protected workers for the purposes of sub-section (3) shall be one per cent. of the total number of workers employed therein subject to a minimum number of five protected workers and a maximum number of one hundred protected workers and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workers among various Trade Unions, if any, connected with the establishment and the manner in which the workers may be chosen and recognised as protected workers.

(5) Where an employer makes an application to conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit:

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further periods as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

91. Where an employer contravenes the provisions of section 90 during the pendency of proceedings before conciliation officer, arbitrator, Tribunal or National Industrial Tribunal, as the case may be, any employee aggrieved by such contravention, may make a complaint in writing in such manner as may be prescribed—

(a) to such conciliation officer, and the conciliation officer shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(b) to such arbitrator, Tribunal or National Industrial Tribunal and on receipt of such complaint, the arbitrator, Tribunal or National Industrial Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Code and shall submit his or its award to the appropriate Government and the provisions of this Code shall apply accordingly.

Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.

92. (1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Code pending before a Tribunal and transfer the same to another Tribunal, as the case may be, for the disposal of the proceeding and the Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred.

Power to transfer certain proceedings.

(2) The Central Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding pending under this Code before a Tribunal constituted by the Central Government or the State Government and transfer to a National Industrial Tribunal for disposal of the proceeding and the National Industrial Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred.

(3) The Central Government may, by notification, and for reasons to be stated therein, empower a Tribunal constituted by the State Government to entertain and dispose of the cases arising within their respective jurisdiction under the provisions of this Code where the appropriate Government is the Central Government.

93. (1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Code shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any Trade Union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the Union or society, anything to the contrary in rules of a Trade Union or society notwithstanding.

Protection of persons.

(2) Nothing in the rules of a Trade Union or society requiring the settlement of dispute in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the civil court may, in lieu of ordering a person who has been expelled from membership of a Trade Union or society to be restored to membership, order that he be paid out of the funds of the Trade Union or society such sum by way of compensation or damages as that court thinks just.

94. (1) A worker who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

Representation of parties.

(a) any member of the executive or other office-bearer of a registered Trade Union of which he is a member;

(b) any member of the executive or other office-bearer of a federation of Trade Unions to which the Trade Union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any Trade Union, any member of the executive or other office-bearer of any Trade Union connected with, or by any other worker employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

(a) an officer of an association of employer of which he is a member;

(b) an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in

any conciliation proceedings under this Code or any proceedings before Tribunal or National Industrial Tribunal.

(4) Notwithstanding anything contained in sub-section (3), in any proceeding before a Tribunal or a National Industrial Tribunal, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Tribunal or National Industrial Tribunal, as the case may be.

Removal of doubts in interpretation of award or settlement.

95. (1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Tribunal or National Industrial Tribunal as it may think fit.

(2) A Tribunal or National Industrial Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties.

Power to exempt.

96. (1) Where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings that adequate provisions exist to fulfil the objects of any provision of this Code, it may, by notification, exempt, conditionally or unconditionally such establishment or undertaking or, class of establishments or undertakings from that provision of this Code.

(2) Notwithstanding anything contained in sub-section (1), where the appropriate Government is satisfied in relation to any new industrial establishment or new undertaking or class of new industrial establishments or new undertakings that it is necessary in the public interest so to do, it may, by notification, exempt, conditionally or unconditionally, any such new establishment or new undertaking or class of new establishments or new undertakings from all or any of the provisions of this Code for such period from the date of establishment of such new industrial establishment or new undertaking or class of new establishments or new undertakings, as the case may be, as may be specified in the notification:

Provided that any notification issued by a State Government under the Industrial Disputes Act, 1947, prior to the commencement of this Code, to achieve the purpose as is specified in this sub-section in the State, shall remain in force after such commencement for its remaining period as if the provisions of this Code have not been brought into force to the extent they defeat any purpose to be achieved by such notification issued by that State Government.

14 of 1947.

Explanation.—For the purposes of this sub-section, the expression "new industrial establishment or new undertaking or class of new industrial establishments or new undertakings" means such industrial establishment or undertaking or class of industrial establishments or undertakings which are established within a period as may be specified in the notification.

Jurisdiction of civil courts barred.

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

Protection of action taken in good faith.

98. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Code or any rules made thereunder.

Power of appropriate Government to make rules.

99. (1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Code:

Provided that the appropriate Government may, if it is satisfied that circumstances exist which render it necessary or expedient in the public interest so to do, dispense with the condition of previous publication or reduce the required time period for inviting objections or suggestions on such previous publication to the extent as it may deem fit.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding to arrive at a settlement under clause (zi) of section 2;

(b) constitution of Works Committee and choosing of representatives of employer and workers engaged in the establishment under section 3;

(c) manner of choosing members from the employer and the workers for Grievance Redressal Committee under sub-section (2) of section 4;

(d) application in respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker under sub-section (5) of section 4;

(e) manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the conciliation officer under sub-section (8) of section 4;

(f) the payment of a subscription by members of the Trade Union and donation from such members and others under clause (f) of section 7;

(g) manner of annual audit under clause (j) of section 7;

(h) form of declaration to be made by an affidavit and the manner of making the same under clause (a) of sub-section (1) of section 8;

(i) general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars under sub-section (2) of section 8;

(j) the form of application for registration under sub-section (1), and the form of issuing certificate of registration to be issued by the Registrar to the applicant Trade Union under sub-section (2) of section 9;

(k) the form of entering the name and other particulars of Trade Union in a register maintained by the Registrar in this behalf under sub-section (3) of section 9;

(l) verification of application of the Trade Union under sub-section (5) of section 9;

(m) period within which appeal is to be preferred by Trade Union to Tribunal under sub-section (1) of section 10;

(n) sending of communication and notices under sub-section (1) and the manner to inform the Registrar under sub-section (3) of section 11;

(o) matters on which negotiating union or negotiating council, as the case may be, in an industrial establishment may negotiate with the employer of the industrial establishment under sub-section (1) and the criteria to be followed by the employer of industrial establishment under sub-section (2) of section 14;

(p) manner of verification of workers on the muster roll of the industrial establishment, under sub-sections (3) and (4) and the facilities to be provided by industrial establishment to a negotiating union or negotiating council under sub-section (7) of section 14;

(q) the objects under sub-section (1) and sub-section (2) and the subscription payable under sub-section (4) of section 15;

(r) manner of making application for adjudication before the Tribunal under sub-section (1) of section 22;

(s) manner of amalgamation under sub-section (2), and the manner of sending signed amalgamation to the Registrar of a different State under sub-section (3) of section 24;

(t) distribution of funds of the Trade Union on dissolution by Registrar under sub-section (2) of section 25;

(u) the date before which a general statement shall be forwarded annually to the Registrar, the particulars to be contained in general statement and its form, the person by whom and the manner in which such general statement shall be audited under clause (a) of sub-section (1) of section 26;

(v) manner and purpose of recognition of a Trade Union or a federation of Trade Unions by the State Government as a State Trade Union at the State level and the authority and the manner of deciding dispute by it under sub-section (2) of section 27;

(w) the manner of forwarding information to the certifying officer under sub-section (3) of section 30 and the period within which the amendment of standing order is to be done as observed by the certifying officer under the proviso thereof;

(x) manner of choosing representatives of the workers of the industrial establishment or undertaking for issuing notice by certifying officer, where there is no Trade Union operating, under sub-section (5) and the manner of authentication of certified standing orders under sub-section (8) of section 30;

(y) statement to be accompanied with draft standing orders under sub-section (9) of section 30;

(z) conditions for submission of draft standing orders by group of employers in similar establishment under sub-section (10) of section 30;

(za) manner of disposal of appeal by the appellate authority under section 32;

(zb) the manner of sending copies of the order of the appellate authority under sub-section (1) and the language and the manner of maintaining standing order under sub-section (2) of section 33;

(zc) form of register for filing finally certified standing orders by the certifying officer and fee for furnishing certified copy of such orders under section 34;

(zd) application for modification of standing orders to be made before certifying officer under sub-section (2) of section 35;

(ze) the manner of giving of notice of the nature of the change proposed to be effected under clause (i) of section 40;

(zf) form of arbitration agreement and the manner to be signed by the parties thereto under sub-section (3) of section 42;

(zg) manner of issuance of notification where an industrial dispute has been referred to arbitration under sub-section (5) of section 42;

(zh) manner of choosing representatives of the workers where there is no Trade Union under the proviso to sub-section (5) of section 42;

(zi) manner of filling up the vacancy under sub-section (9) of section 44;

(zj) the procedure for selection, salaries and allowances and other terms and conditions of Judicial and Administrative Members of the National Industrial Tribunal under sub-section (6) of section 46;

(zk) such other matters in respect of which a conciliation officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 under sub-section (3) of section 49;

5 of 1908.

(zl) manner of holding conciliation proceedings under sub-section (1), form of

full report under sub-section (4), and the form of application and the manner of deciding such application under sub-section (6), of section 53;

(zm) the number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given, and the manner of giving such notice, under sub-section (4) of section 62;

(zn) manner of giving notice of lock-out under sub-section (5) and the authority under sub-section (6) of section 62;

(zo) manner of serving notice before retrenchment of a worker employed in the industry who has been in continuous service for not less than one year by an employer on the appropriate Government or such authority as may be specified by the appropriate Government by notification under clause (c) of section 70;

(zp) manner in which the employer shall give an opportunity to the retrenched workers who are citizens of India to offer themselves for re-employment under section 72;

(zq) manner in which the employer shall serve notice on the appropriate Government stating clearly the reasons for the intended closure of the undertaking under sub-section (1) of section 74;

(zr) manner of making application by the employer stating clearly the reasons for the intended lay-off and the manner of serving copy of such application to workers under sub-section (2) of section 78;

(zs) manner of applying to the appropriate Government for permission to continue the lay-off by the employer under sub-section (3) of section 78;

(zt) time-limit for review under sub-section (7) of section 78;

(zu) manner of making application by the employer stating clearly the reasons for the intended retrenchment and the manner of serving copy of such application to workers under sub-section (2) of section 79;

(zv) time-limit for review under sub-section (6) of section 79;

(zw) manner of making application by the employer stating clearly the reasons for the intended closing down of an undertaking of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (1) of section 80;

(zx) time-limit for review under sub-section (5) of section 80;

(zy) contribution from such other sources to be made to the worker re-skilling fund under clause (b) of sub-section (2) of section 83;

(zz) manner of utilisation of fund under sub-section (3) of section 83;

(zza) manner of composition of offence by a Gazetted Officer specified under sub-section (1) of section 89;

(zzb) manner of making application for the compounding of an offence specified under sub-section (4) of section 89;

(zzc) manner of making complaint by an aggrieved employee under section 91;

(zzd) manner of authorisation of worker for representing in any proceeding under sub-section (1) of section 94;

(zze) manner of authorisation of employer for representing in any proceeding under sub-section (2) of section 94;

(zzf) any other matter which is required to be, or may be, prescribed under the provisions of this Code.

(3) The Central Government shall make rules for the—

(a) manner of recognition of a Trade Union or federation of Trade Unions by the Central Government as a Central Trade Union at the Central level and the authority and the manner of deciding dispute by it under sub-section (1) of section 27; and

(b) manner of holding an enquiry under sub-section (1) of section 85.

(4) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature.

(5) Every rule made under this section and notification issued under clause (p) of section 2, by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Delegation of powers.

100. The appropriate Government may, by notification, direct that any power exercisable by it under this Code or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also,—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government, or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

Power to amend Schedules.

101. (1) The Central Government may, by notification, add to or alter or amend the First Schedule or the Second Schedule or the Third Schedule and on any such notification being issued, the First Schedule or the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly.

(2) Every notification issued by the Central Government under sub-section (1) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the modification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that notification.

Amendment of Act 7 of 2017.

102. In the Finance Act, 2017, in the Eighth Schedule, against serial number 1,—

(a) in column (2), for the words "Industrial Tribunal constituted by the Central Government", the words, brackets and figures "Industrial Tribunal constituted by the Central Government under sub-section (1) of section 44 of the Industrial Relations Code, 2020" shall be substituted;

(b) in column (3), for the words and figures "The Industrial Disputes Act, 1947", 14 of 1947. the words and figures "The Industrial Relations Code, 2020" shall be substituted.

103. (1) If any difficulty arises in giving effect to the provisions of this Code, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Code as may appear to it to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of three years from the date of commencement of this Code.

(2) Every order made under this section shall be laid before each House of Parliament.

104. (1) In the notification issued under sub-section (3) of section 1 for the commencement of any provision of this Code, the Central Government may specify that the provisions of—

Repeal and savings.

16 of 1926.

(a) the Trade Unions Act, 1926;

20 of 1946.

(b) the Industrial Employment (Standing Orders) Act, 1946; and

14 of 1947.

(c) the Industrial Disputes Act, 1947,

shall stand repealed with effect from the date appointed in the notification in this behalf and the remaining provisions of the enactments referred to in clauses (a) to (c) shall remain in force till they are repealed by like notifications in the like manner.

(2) Notwithstanding such repeal under sub-section (1), anything done or any action taken under the provisions of the enactments so repealed including any rule, regulation, notification, nomination, appointment, order or direction made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code.

10 of 1897.

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

THE FIRST SCHEDULE

[See sections 2 (zj), 30 (1), (6) and 101 (1)]

MATTERS TO BE PROVIDED IN STANDING ORDERS UNDER THIS CODE

1. Classification of workers, whether permanent, temporary, apprentices, probationers, *badlis* or fixed term employment.
2. Manner of intimating to workers periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workers arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workers.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workers against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be specified by the appropriate Government by notification.

THE SECOND SCHEDULE

[See sections 2 (zo), 84, 86 (5) and 101(I)]

UNFAIR LABOUR PRACTICES

I. ON THE PART OF EMPLOYERS AND TRADE UNIONS OF EMPLOYERS

- (1) To interfere with, restrain from, or coerce, workers in the exercise of their right to organise, form, join or assist a Trade Union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say,—
 - (a) threatening workers with discharge or dismissal, if they join a Trade Union;
 - (b) threatening a lock-out or closure, if a Trade Union is organised;
 - (c) granting wage increase to workers at crucial periods of Trade Union organisation, with a view to undermining the efforts of the Trade Union organisation.
- (2) To dominate, interfere with or contribute support, financial or otherwise, to any Trade Union, that is to say,—
 - (a) an employer taking an active interest in organising a Trade Union of his workers; and
 - (b) an employer showing partiality or granting favour to one of several Trade Unions attempting to organise his workers or to its members, where such a Trade Union is not a recognised Trade Union.
- (3) To establish employer sponsored Trade Unions of workers.
- (4) To encourage or discourage membership in any Trade Union by discriminating against any worker, that is to say,—
 - (a) discharging or punishing a worker, because he urged other workers to join or organise a Trade Union;
 - (b) discharging or dismissing a worker for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Code);
 - (c) changing seniority rating of workers because of Trade Union activities;
 - (d) refusing to promote workers to higher posts on account of their Trade Union activities;
 - (e) giving unmerited promotions to certain workers with a view to creating discord amongst other workers, or to undermine the strength of their Trade Union;
 - (f) discharging office-bearers or active members of the Trade Union on account of their Trade Union activities.
- (5) To discharge or dismiss workers,—
 - (a) by way of victimisation;
 - (b) not in good faith, but in the colourable exercise of the employer's rights;

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

II. ON THE PART OF WORKERS AND TRADE UNIONS OF WORKERS

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

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

Explanation 2.—For the purposes of *Explanation 1*, the expression "usual" shall mean,—

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

THE THIRD SCHEDULE

[See sections 40 and 101 (I)]

CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

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

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 29th September, 2020/Asvina 7, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2020 and is hereby published for general information:—

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

No. 37 OF 2020

[28th September, 2020.]

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

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Occupational Safety, Health and Working Conditions Code, 2020.

(2) It shall come into force on such date as the Central Government may, by notification appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

Short title,
commencement
and
application.

(3) It shall not apply to the offices of the Central Government, offices of the State Government and any ship of war of any nationality:

Provided that the Code shall apply in case of contract labour employed through contractor in the offices of the Central Government or in the offices of the State Government, where, the Central Government or, as the case may be, the State Government is the principal employer.

Definitions.

2. (1) In this Code, unless the context otherwise requires,—

(a) "adolescent" shall have the same meaning as assigned to it in clause (i) of section 2 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; 61 of 1986.

(b) "adult" means a person who has completed his eighteenth year of age;

(c) "agent" when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such mine or of any part thereof;

(d) "appropriate Government" means—

(i) in relation to, establishments [other than those specified in sub-clause (ii)] carried on by or under the authority of the Central Government or concerning any such controlled industry as may be specified in this behalf by the Central Government or the establishment of railways including metro railways, mines, oil field, major ports, air transport service or telecommunication service, banking company or any insurance company (by whatever name called) established by a Central Act or a corporation or other authority established by a Central Act or a Central public sector undertaking or subsidiary companies set up by the Central public sector undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, Central public sector undertakings, subsidiary companies or autonomous bodies, as the case may be, the Central Government:

Provided that in the case of Central Public Sector Undertakings the appropriate Government shall continue to be the Central Government even if the holding of the Central Government reduces to less than fifty per cent. equity of the Central Government in that Public Sector Undertakings after the commencement of this Code; and

(ii) in relation to a factory, motor transport undertaking, plantation, newspaper establishment and establishment relating to beedi and cigar including the establishments not specified in clause (i), the concerned State Government where it is situated.

Explanation.—For the removal of doubts it is hereby clarified that State Government shall be the appropriate Government in respect of occupational safety, health and working conditions in a factory situated in that State;

(e) "audio-visual production" means audio-visual produced wholly or partly in India and includes—

(i) animation, cartoon depiction, audio-visual advertisement;

(ii) digital production or any of the activities in respect of making thereof; and

(iii) features films, non-feature films, television, web-based serials, talk shows, reality shows and sport shows;

(f) "audio-visual worker" means a person, who is employed, directly or through any contractor, in or in connection with the audio-visual production to work as an

artist including actor, musician, singer, anchor, news reader, dancer, dubbing artist or stunt person or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise, and his remuneration with respect to such employment in or in connection with the production of audio-visual does not exceed, where remuneration is by way of monthly wages or where such remuneration is by way of lump sum, in each case, such amount as may be notified by the Central Government;

10 of 1949. (g) "banking company" means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 and includes the Export-Import Bank of India, the Industrial Reconstruction Bank of India, the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989, the Reserve Bank of India, the State Bank of India, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

(h) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include building or other construction work which is related to any factory or mine and the building or other construction work where such work is for own residential purposes of an individual or group of individuals for their own residence and the total cost of such work does not exceed rupees fifty lakhs or such higher amount and employing more than such number of workers as may be notified by the appropriate Government;

(i) "building worker" means a person who is employed to do any highly skilled, skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;

(j) "cargo" includes anything carried or to be carried in a ship or other vessel, or vehicle;

(k) "Chief Inspector-cum-Facilitator" means a Chief Inspector-cum-Facilitator appointed under sub-section (5) of section 34;

(l) "competent person", means a person or an institution recognised as such by the Chief Inspector-cum-Facilitator for the purposes of carrying out tests, examinations and inspections required to be done in an establishment having regard to—

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

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

Provided that in case of mines the competent person includes such other person who is authorised by the manager referred to in section 67 to supervise or perform any work, or to supervise the operation of machinery, plant or equipment and is responsible for such duties assigned to him and also includes a shot firer or blaster;

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

(*n*) "contractor", in relation to an establishment, means a person, who—

(*i*) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or

(*ii*) supplies contract labour for any work of the establishment as mere human resource,

and includes a sub-contractor;

(*o*) "controlled industry" means any industry the control of which by the Central Government has been declared under any Central Act in the public interest;

(*p*) "core activity of an establishment" means any activity for which the establishment is set up and includes any activity which is essential or necessary to such activity:

Provided that the following shall not be considered as essential or necessary activity, if the establishment is not set up for such activity, namely:—

(*i*) sanitation works, including sweeping, cleaning, dusting and collection and disposal of all kinds of waste;

(*ii*) watch and ward services including security services;

(*iii*) canteen and catering services;

(*iv*) loading and unloading operations;

(*v*) running of hospitals, educational and training Institutions, guest houses, clubs and the like where they are in the nature of support services of an establishment;

(*vi*) courier services which are in nature of support services of an establishment;

(*vii*) civil and other constructional works, including maintenance;

(*viii*) gardening and maintenance of lawns and other like activities;

(*ix*) housekeeping and laundry services, and other like activities, where these are in nature of support services of an establishment;

(*x*) transport services including, ambulance services;

(*xi*) any activity of intermittent nature even if that constitutes a core activity of an establishment;

(*q*) "day" means a period of twenty-four hours beginning at mid-night;

(*r*) "District Magistrate", in relation to any mine, means the District Magistrate or the Deputy Commissioner, as the case may be, who is vested with the executive powers of maintaining law and order in the revenue district in which the mine is situated:

Provided that in case of a mine, which is situated partly in one district and partly in another, the District Magistrate for the purpose shall be the District Magistrate authorised in this behalf by the Central Government;

(s) "dock work" means any work in or within the vicinity of any port in connection with, or required for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes—

(i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;

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

(iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area on board the ship or in the docks;

(t) "employee" means,—

(i) in respect of an establishment, a person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied; and

(ii) a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union:

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

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

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

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

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

(e) in any office of mine;

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

(g) in any kind of work, whatsoever, which is preparatory or incidental to, or connected with, mining operations;

(u) "employer" means a person who employs, whether directly or through any person, or on his behalf, or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any Department of the Central Government or the State Government, the authority specified, by the head of

such Department, in this behalf or where no authority, is so specified, the head of the Department and in relation to an establishment carried on by a local authority, the Chief Executive of that authority, and includes,—

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

(ii) in relation to mine, the owner of the mine, agent or manager referred to in section 67;

(iii) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director;

(iv) contractor; and

(v) legal representative of a deceased employer;

(v) "establishment" means—

(i) a place where any industry, trade, business, manufacturing or occupation is carried on in which ten or more workers are employed; or

(ii) motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or

(iii) factory, for the purpose of Chapter II, in which ten or more workers are employed, notwithstanding the threshold of workers provided in clause (w); or

(iv) a mine or port or vicinity of port where dock work is carried out:

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

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

(w) "factory" means any premises including the precincts thereof—

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

(ii) whereon forty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

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

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

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

Explanation II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(x) "family", when used in relation to a worker, means—

(i) spouse;

(ii) children including adopted children of the worker who are dependent upon him and have not completed the age of eighteen years; and

(iii) parents, grand-parents, widowed daughter and widowed sister dependent upon such worker.

Explanation.—For the purposes of this clause, such dependents shall not be included who are, for the time being, getting such income from such sources, as may be prescribed by the appropriate Government;

(y) "godown" means any warehouse or other place, by whatever name called, used for the storage of any article or substance required for any manufacturing process which means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as finished products;

(z) "hazardous" means involving danger or potential danger;

(za) "hazardous process" means any process or activity in relation to an industry or plantation specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, hazardous substances, wastes or effluents thereof or spraying of any pesticides, insecticides or chemicals used therein, as the case may be, would—

(i) cause material impairment to the health of the persons engaged in or connected therewith, or

(ii) result in the pollution of the general environment;

(zb) "hazardous substance" means any substance or such quantity of the substance as may be prescribed by the appropriate Government or preparation of which by reason of its chemical or physio-chemical properties or handling is liable to cause physical or health hazards to human being or may cause harm to other living creatures, plants, micro-organisms, property or the environment;

(zc) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry, trade, business, occupation or manufacturing is being ordinarily carried on with or without the aid of power and includes a godown attached thereto;

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

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, but does not include—

(a) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic services; or

(b) any activity of the appropriate Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the Departments of the Central Government dealing with defence research, atomic energy and space; or

(c) any domestic service; or

(d) any other activity as may be notified by the Central Government;

(ze) "Inspector-cum-Facilitator" means an Inspector-cum-Facilitator appointed under sub-section (1) of section 34;

(zf) "inter-State migrant worker" means a person who is employed in an establishment and who—

(i) has been recruited directly by the employer or indirectly through contractor in one State for employment in such establishment situated in another State; or

(ii) has come on his own from one State and obtained employment in an establishment of another State (hereinafter called destination State) or has subsequently changed the establishment within the destination State,

under an agreement or other arrangement for such employment and draws wages not exceeding the amount of rupees eighteen thousand per month or such higher amount as may be notified by the Central Government from time to time;

(zg) "machinery" means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to perform work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy;

(zh) "major port" means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908;

15 of 1908.

(zi) "manufacturing process" means any process for—

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(ii) pumping oil, water, sewage or any other substance; or

(iii) generating, transforming or transmitting power; or

(iv) composing, printing, printing by letter press, lithography, offset, photogravure screen printing, three Dimensional or four Dimensional printing, prototyping, flexography or other types of printing process or book binding; or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(vi) preserving or storing any article in cold storage; or

(vii) such other processes as the Central Government may notify;

(zj) "medical officer" means the medical officer appointed under sub-section (I) of section 42;

60 of 2002.

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

(zl) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—

(i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;

(ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;

(iii) all levels and inclined planes in the course of being driven;

(iv) all open cast workings;

(v) all conveyors or aerial ropeways provided for bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

(vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;

(vii) all protective works being carried out in or adjacent to a mine;

(viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;

(ix) all power stations, transformer sub-stations, converter stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;

(x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;

(xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or coke is being carried on;

(xii) a mine owned by the Government;

(zm) "minerals" means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulic, quarrying or by any other operation and includes mineral oils (such as natural gas and petroleum);

(zn) "motor transport undertaking" means a motor transport undertaking employing motor transport worker and engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier;

(zo) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend the duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but does not include any such person—

(i) who is employed in a factory;

(ii) to whom the provisions of any other law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;

(zp) "newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government;

(zq) "newspaper establishment" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate and includes following newspaper establishments which shall be deemed to be one establishment, namely:—

(i) two or more newspaper establishments under common control;

(ii) two or more newspaper establishments owned by an individual and his or her spouse unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;

(iii) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory.

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

(a) (i) the newspaper establishments are owned by a common individual or individuals;

(ii) the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;

(iii) the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;

(iv) one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;

(v) one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or

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

Explanation 2.—For the purposes of this clause,—

(i) different departments, branches and centres of newspaper establishments shall be treated as parts thereof;

(ii) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper;

(zr) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;

(zs) "occupier" of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

(ii) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;

(iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government,

shall be deemed to be the occupier:

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

(zt) "office of the mine" means an office at the surface of the mine concerned;

(zu) "open cast working" means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;

(zv) "ordinarily employed" with reference to any establishment or part thereof, means the average number of persons employed per day in the establishment or part thereof during the preceding calendar year obtained by dividing the number of man days worked by the number of working days excluding rest days and other non-working days;

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

(zx) "plantation" means—

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

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

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

Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is

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

(b) any land which the State Government may, by notification, declare and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares:

Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and

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

(zy) "prescribed" means prescribed by rules made by the appropriate Government under this Code;

(zz) "principal employer", where the contract labour is employed or engaged, means—

(i) in relation to any office or Department of the Government or a local authority, the head of that office or Department or such other officer as the Government or the local authority, may specify in this behalf;

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;

(iii) in a mine, the owner or agent of the mine;

(iv) in relation to any other establishment, any person responsible for the supervision and control of the establishment;

(zza) "producer", in relation to audio-visual production, means the company, firm or other person by whom the arrangements necessary for producing such audio-visual (including the raising of finances and engaging audio-visual workers for producing audio-visual) are undertaken.

Explanation.—For the purposes of this clause, the expressions "company" and "firm" have the same meaning as respectively assigned to them in the Companies Act, 2013 and the Indian Partnership Act, 1932; 18 of 2013.
9 of 1932.

(zzb) "qualified medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (i) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled on a Indian Medical Register as defined in clause (e) and on a State Medical Register as defined in clause (l) of the said section; 102 of 1956.

(zxc) "railway" means the railway as defined in clause (31) of section 2 of the Railways Act, 1989; 24 of 1989.

(zxd) "relay" means a set of two or more persons carrying out the same kind of work during different periods of the day and each such period is called a "shift";

(zze) "sales promotion employees" means any person by whatever name called employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person who,—

(i) being employed or engaged in a supervisory capacity, draws wages exceeding eighteen thousand rupees per mensem or an amount as may be notified by the Central Government from time to time; or

(ii) is employed or engaged mainly in a managerial or administrative capacity.

(zzf) "Schedule" means the Schedule appended to this Code;

(zzg) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(zzh) "standards", "regulations", "rules", "bye-laws" and "orders" respectively means standards, regulations, rules, bye-laws and orders made or declared, as the case may be, under this Code;

(zzi) "telecommunication service" means the telecommunication service as defined in clause (k) of sub-section (1) of section 2 of the Telecom Regulatory Authority of India Act, 1997;

24 of 1997.

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

(i) basic pay;

(ii) dearness allowance; and

(iii) retaining allowance, if any,

but does not include—

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

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

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

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

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

(f) house rent allowance;

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

(h) any overtime allowance;

(i) any commission payable to the employee;

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

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

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under sub-clauses (a) to (i) exceeds

one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

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

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

(zzk) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector-cum-Facilitator;

(zzl) "worker" means any person employed in any establishment to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees, but does not include any such person—

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

45 of 1950.
46 of 1950.
62 of 1957.

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

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

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

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

(2) For the purposes of this Code, a person working or employed in or in connection with mine is said to be working or employed—

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

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

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

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

CHAPTER II

REGISTRATION

3. (1) Every employer of any establishment,—

- (a) which comes into existence after the commencement of this Code; and
- (b) to which this Code shall apply,

Registration
of certain
establishments.

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

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

(2) Every application under sub-section (1) shall be submitted to the registering officer in such manner, in such form, containing such particulars including the information relating to the employment of inter-State migrant workers and shall be accompanied by such fees as may be prescribed by the appropriate Government.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration electronically to the employer thereof in such form and within such time and subject to such conditions as may be prescribed by the Central Government:

Provided that if the registering officer fails to register an establishment under the application so made or to entertain the application within the prescribed period, then, such establishment shall be deemed to have been registered under this Code immediately on the expiration of such period and the electronic certificate of registration shall be auto generated and the responsibility of such failure shall be on the registering officer.

(4) Any change in the ownership or management or in any particulars referred to in sub-section (2) which occurs after the registration of an establishment under this Code, shall be intimated by the employer electronically to the registering officer within thirty days of such change in such form as may be prescribed by the Central Government and thereafter the registering officer shall make amendment in the certificate of registration electronically in such manner as may be prescribed by the Central Government.

(5) The employer of an establishment shall, within thirty days of the closing of the establishment—

- (a) inform the closing of such establishment; and
- (b) certify payment of all dues to the workers employed in such establishment,

to the registering officer in such manner as may be prescribed by the Central Government and the registering officer shall, on receiving such information and certificate remove such establishment from the register of establishments maintained by him and cancel the registration certificate of the establishment within sixty days from the receipt of such information :

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

(6) If an employer of an establishment—

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

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

then, in case of clause (a) such misrepresentation or suppression of any material fact shall be deemed to be the contravention of the provisions of this Code for prosecution of the employer under section 94 without affecting the registration and running of the establishment and in case of clause (b) the registering officer may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration by an order and such process for revocation shall be completed by the registering officer within sixty days from coming into his notice the facts specified in clause (b).

(7) No employer of an establishment who—

(a) has not registered the establishment under this section; or

(b) has not preferred appeal under section 4 against the cancellation of the registration certificate of the establishment under sub-section (5) or revocation of the registration of the establishment under sub-section (6) or the appeal so preferred has been dismissed,

shall employ any employee in the establishment.

(8) Notwithstanding anything contained in this Code, where any establishment, to which this Code applies, has already been registered under any—

(a) Central Labour law; or

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

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

Appeal.

4. (1) Any person aggrieved by an order made under section 3 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person notified in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal within a period of thirty days from the date of receipt of such appeal.

Notice by employer of commencement and cessation of operation.

5. (1) No employer of an establishment being factory or mine or relating to contract labour or building or other construction work shall use such establishment to commence the operation of any industry, trade, business, manufacturing or occupation thereon without sending notice of such purpose in such form and manner and to such authority and within such time as may be prescribed and shall also intimate the cessation thereof to the said authority in such manner as may be prescribed by the appropriate Government.

(2) The notice or intimation under sub-section (1) shall be given electronically.

CHAPTER III

DUTIES OF EMPLOYER AND EMPLOYEES, ETC.

Duties of employer.

6. (1) Every employer shall,—

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

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

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

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

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

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

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

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

(2) Without prejudice to the generality of the provisions of sub-section (1), the duties of an employer shall particularly in respect of factory, mines, dock, building or other construction work or plantation include—

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

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

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

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

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

7. (1) The owner and agent of every mine shall jointly and severally be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Code and the rules, regulations, bye-laws and orders made thereunder, relating to mine.

Duties and responsibilities of owner, agent and manager in relation to mine.

(2) In the event of any contravention by any person whosoever of any of the provisions of this Code or of the rules, regulations, bye-laws or orders made thereunder, relating to mine, except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, then, each of the following persons shall also be deemed to be guilty of such contravention unless he

proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention, namely:—

- (a) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;
- (b) the manager of the mine;
- (c) the owner and agent of the mine;
- (d) the person appointed, if any, to carry out the responsibility under section 24.

(3) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Code or that a person to carry the responsibility under section 24 has been appointed.

Duties of designers, manufacturers, importers or suppliers.

8. (1) Every person who designs, manufactures, imports or supplies any article for use in any establishment shall—

(a) ensure so far as is reasonably practicable, that the article is so designed and constructed in the establishment as to be safe and without risk to the health of the workers when properly used;

(b) carry out or arrange for the carrying out of such tests and examination in the establishment as may be considered necessary for the effective implementation of the provisions of clause (a);

(c) take steps as may be necessary to ensure that adequate information will be available—

(i) in connection with the use of the article in any establishment;

(ii) about the use for which such article is designed and tested; and

(iii) about any conditions necessary to ensure that the article, when put to such use, shall be safe, and without risk to the health of the workers:

Provided that where an article is designed or manufactured outside India, then it shall be obligatory on the part of the importer to see—

(A) that the article conforms to the same standards of such article manufactured in India; or

(B) if the standards adopted in the country outside India for the manufacture of such article is above the standards adopted in India, that the article conforms to such standards in such country;

(C) if there is no standard of such article in India, then, the article conforms to the standard adopted in the country from where it is imported at its national level.

(2) The designer, manufacturer, importer or supplier shall also comply with such duties as the Central Government may, in consultation with the National Occupational Safety and Health Advisory Board referred to in sub-section (1) of section 16, by regulations specify.

(3) Every person, who undertakes to design or manufacture any article and substance for use in any factory, may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably, practicable, the elimination or minimisation of any risks to the health or safety of the workers to which the design or manufacture of article and substance may give rise to such risk.

(4) Nothing contained in sub-sections (1) and (2) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

(5) Any duty imposed on any person by sub-sections (1) and (2) shall extend only to things done in the course of business carried on by him and to matters within his control.

(6) Every person,—

(a) who erects or installs any article for use in a factory, shall ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory;

(b) who manufactures, imports or supplies any substance for use in any factory shall—

(i) ensure, so far as practicable, that such substance when used in the factory does not make it unsafe or a risk to health of persons working in such factory;

(ii) carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;

(iii) take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;

(c) who undertakes the manufacture of any substance for use in any factory shall carry out or arrange for carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimisation of any risks to health or safety to which the substance may give rise out of such manufacture or research;

(7) For the purposes of this section, an article and substance is not to be regarded as properly used, if they are used without regard to any information or advice relating to their use which has been made available by the person who has designed, manufactured, imported or supplied the article and substance.

Explanation.—For the purpose of this section—

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

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

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

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

Duties of architect, project engineer and designer.

(2) Adequate care shall be taken by the architect, project engineer and other professionals involved in the project referred to in sub-section (1), not to include anything in the design which would involve the use of dangerous structures or other processes or materials, hazardous to health or safety of building workers and employees during the course of erection, operation and execution as the case may be.

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

Notice of
certain
accident.

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

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

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

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

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

(2) Where a notice given under sub-section (1) relates to an accident causing death in a plantation or an establishment relating to building or other construction work or any other establishment, the authority to whom the notice is sent shall make an inquiry into the occurrence within two months of the receipt of the notice or if there is no such authority, the Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry within the said period.

Notice of
certain
dangerous
occurrences.

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

Notice of
certain
diseases.

12. (1) Where any worker in an establishment contracts any disease specified in the Third Schedule, the employer of the establishment shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

(2) If any qualified medical practitioner attends on a person, who is or has been employed in an establishment, and who is, or is believed by the qualified medical practitioner, to be suffering from any disease specified in the Third Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector-cum-Facilitator in such form and manner and within such time as may be prescribed by the appropriate Government.

(3) If any qualified medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with penalty which may extend to ten thousand rupees.

Duties of
employee.

13. Every employee at workplace shall,—

(a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the workplace;

(b) comply with the safety and health requirements specified in the standards;

(c) co-operate with the employer in meeting the statutory obligations of the employer under this Code;

(d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable, report such situation to his employer or to the health and safety representative and in case of mine, agent or manager referred to in section 67, safety officers or an official for his workplace or section thereof, as the case may be, who

shall report it to the employer in the manner as may be prescribed by the appropriate Government;

(e) not wilfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers;

(f) not do, wilfully and without reasonable cause, anything, likely to endanger himself or others; and

(g) perform such other duties as may be prescribed by the appropriate Government.

14. (1) Every employee in an establishment shall have the right to obtain from the employer information relating to employee's health and safety at work and represent to the employer directly or through a member of the Safety Committee as constituted under section 22, if constituted by the employer for such purpose, regarding inadequate provision for protection of his safety or health in connection with the work activity in the workplace, and if not satisfied, to the Inspector-cum-Facilitator.

Rights of employee.

(2) Where the employee referred to in sub-section (1) in any workplace has reasonable apprehension that there is a likelihood of imminent serious personal injury or death or imminent danger to health, he may bring the same to the notice of his employer directly or through a member of the Safety Committee referred to in sub-section (1) and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

(3) The employer or any employee referred to in sub-section (1) shall take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum-Facilitator in such manner as may be prescribed by the appropriate Government.

(4) If the employer referred to in sub-section (3) is not satisfied about the existence of any imminent danger as apprehended by his employees, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

15. No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health, safety or welfare under this Code.

Duty not to interfere with or misuse things.

CHAPTER IV

OCCUPATIONAL SAFETY AND HEALTH

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

National Occupational Safety and Health Advisory Board.

(a) standards, rules and regulations to be declared or framed under this Code;

(b) implementation of the provisions of this Code and the standards, rules and regulations relating thereto;

(c) the issues of policy and programme relating to occupational safety and health referred to it, from time to time, by the Central Government; and

(d) any other matter in respect of this Code referred to it, from time to time, by the Central Government.

(2) The National Board shall consist of—

(a) Secretary, Ministry of Labour and Employment—Chairperson *ex officio*;

(b) Director General, Factory Advice Service and Labour Institutes, Mumbai—Member *ex officio*;

(c) Director General, Mines Safety, Dhanbad—Member *ex officio*;

(d) Chief Controller of Explosives, Nagpur—Member *ex officio*;

(e) Chairman, Central Pollution Control Board, New Delhi—Member *ex officio*;

(f) Chief Labour Commissioner (Central), New Delhi—Member *ex officio*;

(g) Principal Secretaries dealing with labour matters of four States (by rotation as the Central Government may deem fit)—Member *ex officio*;

(h) Director General, Employee's State Insurance Corporation, New Delhi—Member *ex officio*;

(i) Director General, Health Services, New Delhi—Member *ex officio*;

(j) five representatives of employers—Member *ex officio*;

(k) five representatives of employees—Member *ex-officio*;

(l) a representative of professional body associated with the matter for which standards, rules, policies being framed—Member;

(m) five eminent persons connected with the field of Occupational Safety and Health, or representatives from reputed research institutions or similar other discipline—Member;

(n) special invitees from the State Government or the Government of Union territory for seeking inputs in specific matters or industry or sector which is predominant in that State or Union territory—Member;

(o) Joint Secretary, Ministry of Labour and Employment—Member Secretary *ex officio*.

(3) The terms of office of the Members referred to in clauses (g), (j), (k), (l) and (m) of sub-section (2) shall be of three years and the procedure for their nomination, and discharge of their functions shall be such as may be prescribed by the Central Government.

(4) The Central Government may, in consultation with the National Board, determine the number, nature and categories of other officers and employees required to assist the National Board in the efficient discharge of its functions and terms and conditions of service of such officers and employees of the National Board shall be such as may be prescribed by the Central Government.

(5) The Central Government may constitute as many technical committees or advisory committees consisting of such number of members having such qualifications as may be prescribed by the Central Government, to assist the National Board in discharge of its function specified in sub-section (1).

(6) The National Board shall consult the State Governments whose Principal Secretaries are the Members of the National Board as required under clause (g) of sub-section (2) of section 16 and in case of specific issues relating to plantation, factories and like other issues, the State Government concerned may be invited by the National Board as special invitee for obtaining their inputs on such issues.

17. (1) The State Government shall constitute a Board to be called the State Occupational Safety and Health Advisory Board (hereinafter referred to as "State Advisory Board") to advise the State Government on such matters arising out of the administration of this Code as may be referred to it by the State Government.

(2) The constitution, procedure and other matters relating to State Advisory Board shall be such as may be prescribed by the State Government.

State
Occupational
Safety and
Health
Advisory
Board.

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

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

Occupational
safety and
health
standards.

(2) In particular and without prejudice to the generality of the power to declare standards to be followed under sub-section (1), such standards shall relate to—

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

(b) the norms—

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

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

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

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

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

(c) medical examination including criteria for detection and reporting of occupational diseases to be extended to the employees even after he ceases to be in employment, if he is suffering from an occupational disease which arises out of or in the course of employment;

(d) such aspects of occupational safety and health relating to workplaces which the Central Government considers necessary on the report of the authority designated by such Government for such purpose;

(e) such safety and health measures as may be required having regard to the specific conditions prevailing at the workplaces relating to mine, factory, building and other construction work, *beedi* and cigar, dock work or any other establishments notified; and

(f) matters specified in the Second Schedule to this Code.

(3) Notwithstanding anything contained in section 131, the Central Government may, on the basis of the recommendation of the National Board and after notifying its intention so to do for not less than forty-five days', by notification, amend the Second Schedule.

(4) The State Government may, with the prior approval of the Central Government, by notification amend the standards made under sub-section (1) and sub-section (2) for the establishment for which it is the appropriate Government situated in the State.

Research related activities.

19. It shall be the duty of such institutions in the field of occupational safety and health as the Central or State Government may notify to conduct research, experiments and demonstrations relating to occupational safety and health and thereafter submit their recommendations to the Central Government or the State Government, as the case may be:

Provided that the State Government shall consult National Board before notifying conduct of research, experiments and demonstration relating to occupational safety and health.

Safety and occupational health surveys.

20. (1) At any time during the normal working hours of an establishment or at any other time as he may deem necessary,—

(a) the Chief Inspector-cum-Facilitator in the case of factory or mine; or

(b) the Director General of Factory Advice Service and Labour Institute in the case of factory; or

(c) the Director General of Mines Safety in the case of mine; or

(d) the Director General of Health Services in the case of factory or mine; or

(e) such other officer as may be authorised by the appropriate Government in the case of any other establishment or class of establishments,

after giving notice in writing to the employer, conduct survey of the factory or mine or such other establishment or class of establishments and such employer shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

Explanation.—For the purposes of this sub-section, the expression "employer" includes manager for the factory or in the case of any other establishment or class of establishments such person who is for the time being responsible for the safety and the occupational health of such other establishment or class of establishments, as the case may be.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession which is relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be working hour for him.

Explanation.—For the purposes of this section, the report submitted to the appropriate Government by the person conducting the survey under sub-section (1) shall be deemed to be a report submitted by an Inspector-cum-Facilitator under this Code.

Collection of statistics and portal for inter-State migrant workers.

21. (1) For the purposes of this Code, the Central Government and the State Government shall collect, compile and analyse occupational safety and health statistics in such form and manner as may be prescribed.

(2) The Central Government and the State Governments shall maintain the database or record, for inter-State migrant workers, electronically or otherwise in such portal and in such form and manner as may be prescribed by the Central Government:

Provided that an inter-State migrant worker may register himself as an inter-State migrant worker on such portal on the basis of self-declaration and Aadhaar:

Provided further that the workers who have migrated from one State to any other State and are self-employed in that other State may also register themselves on that portal.

Explanation.—For the purposes of this sub-section, the expression "Aadhaar" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

22. (1) The appropriate Government may, by general or special order, require any establishment or class of establishments to constitute in the prescribed manner a Safety Committee consisting of representatives of employers and workers engaged in such establishment in such manner that the number of representatives of workers on the Committee shall not be less than the number of representatives of the employer and the representatives of the workers shall be chosen in such manner and for such purpose as may be prescribed by the appropriate Government.

Safety Committee and safety officers.

(2) In every establishment which is a—

(a) factory wherein five hundred workers or more; or

(b) factory carrying on hazardous process wherein two hundred fifty workers or more; or

(c) building or other construction work wherein two hundred fifty workers or more; or

(d) mine wherein one hundred workers or more, are ordinarily employed,

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

CHAPTER V

HEALTH, SAFETY AND WORKING CONDITIONS

23. (1) The employer shall be responsible to maintain in his establishment such health, safety and working conditions for the employees as may be prescribed by the Central Government.

Responsibility of employer for maintaining health, safety and working conditions.

(2) Without prejudice to the generality of the power conferred under sub-section (1), the Central Government may prescribe for providing all or any of the following matters in the establishment or class of establishments, namely:—

(i) cleanliness and hygiene;

(ii) ventilation, temperature and humidity;

(iii) environment free from dust, noxious gas, fumes and other impurities;

(iv) adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work rooms;

(v) potable drinking water;

(vi) adequate standards to prevent overcrowding and to provide sufficient space to employees or other persons, as the case may be, employed therein;

(vii) adequate lighting;

(viii) sufficient arrangement for latrine and urinal accommodation to male, female and transgender employee separately and maintaining hygiene therein;

(ix) effective arrangements for treatment of wastes and effluents; and

(x) any other arrangement which the Central Government considers appropriate.

CHAPTER VI

WELFARE PROVISIONS

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

Welfare facilities in the establishment, etc.

(i) adequate and suitable facilities for washing to male and female employees separately;

(ii) bathing places and locker rooms for male, female and transgender employees separately;

(iii) place of keeping clothing not worn during working hours and for the drying of wet clothing;

(iv) sitting arrangements for all employees obliged to work in a standing position;

(v) facilities of canteen in an establishment for employees thereof, wherein one hundred or more workers including contract labourers are ordinarily employed;

(vi) in case of mines, medical examination of the employees employed or to be employed in the mines, before their employment and at specific intervals;

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

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

(2) Without prejudice to the generality of the powers referred to under sub-section (1), the Central Government may also prescribe for the following matters, namely:—

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

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

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

(iv) the appointment of welfare officer in every factory, mine or plantation wherein two hundred and fifty or more workers are ordinarily employed and the qualification, conditions of service and duties of such welfare officer;

(v) for providing by the employer temporary living accommodation, free of charges and within the work site or as near to it as may be possible, to all building workers employed by him and for causing removal or demolition of such temporary living accommodation and for returning by the employer the possession of any land obtained by him for such purpose from Municipal Board or any other local authority;

(vi) for payment by the principal employer the expenses incurred on providing the accommodation to the contractor, where the building or other construction work is done through the contractor;

(vii) any other matter which may be prescribed.

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

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

CHAPTER VII

HOURS OF WORK AND ANNUAL LEAVE WITH WAGES

25. (1) No worker shall be required or allowed to work, in any establishment or class of establishment for more than—

Daily and weekly working hours, leave, etc.

(a) eight hours in a day; and

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

Provided that subject to clause (a) in the case of mines,—

(i) the persons employed below ground in a mine shall not be allowed to work for more than such hours as may be notified by the Central Government in any day;

(ii) no work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of work for each shift is not spread over more than the daily maximum hours as notified under clause (i);

(iii) no person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained under clause (a) of section 33:

Provided further that subject to clause (a) that the hours of work in case of motor transport worker shall include—

(i) the time spent in work done during the running time of the transport vehicle;

(ii) the time spent in subsidiary work; and

(iii) period of mere attendance at terminals of less than fifteen minutes.

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

(a) "running time" in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed by the Central Government during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work;

(b) "subsidiary work" means the work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular—

(i) the work in connection with accounts, paying of cash, signing of registers, handover of service sheets, the checking of tickets and other similar work;

(ii) taking over and garaging of the transport vehicles;

(iii) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;

(iv) work in connection with the upkeep and repair of the transport vehicle; and

(v) the loading and unloading of the transport vehicle;

(c) "period of mere attendance" means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule.

(2) Notwithstanding anything contained in sub-section (1), the hours of work for working journalist shall, subject to a maximum of one hundred and forty-four hours of work during any period of four consecutive weeks and a period of not less than twenty-four consecutive hours of rest during any period of seven consecutive days, be such as may be prescribed by the Central Government.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a sales promotion employee or the working journalist,—

(i) in addition to such holidays, casual leave or other kinds of leave as may be prescribed by the Central Government, shall be granted, if requested for—

(a) earned leave on full wages for not less than one-eleventh of the period spent on duty;

(b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service;

(ii) may accumulate earned leave up to such maximum limit as may be prescribed by the Central Government;

(iii) shall be entitled for the limit up to which the earned leave may be either encashed or availed of at a time by him and the reasons for which such limit may be exceeded shall be such as may be prescribed by the Central Government;

(iv) shall,—

(a) when he voluntarily relinquishes his post or retires from service; or

(b) when his services are terminated for any reason whatsoever (not being termination as punishment),

be entitled to cash compensation, subject to such conditions and restrictions as may be prescribed by the Central Government (including conditions by way of specifying the maximum period for which such cash compensation shall be payable), in respect of the earned leave earned by him and not availed of;

(v) who dies while in service, his heirs shall be entitled to cash compensation for the earned leave earned by him and not availed of his heirs shall be paid the cash compensation in respect of any period of earned leave for which he or his heirs, is or are entitled to cash compensation under clause (iv) or clause (v), which shall be an amount equal to the wages due to him for such period.

(4) Notwithstanding anything contained in this section, the working hours of an adolescent worker shall be regulated in accordance with the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

61 of 1986.

Weekly and
compensatory
holidays.

26. (1) No worker shall be allowed to work in an establishment for more than six days in any one week:

Provided that in any motor transport undertaking, an employer may, in order to prevent any dislocation of a motor transport service, require a worker to work on any day of weekly holiday which is not a holiday so arranged that the worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

(2) The appropriate Government may, by notification, exempt such workers as it thinks fit from the provisions of sub-section (1), subject to such conditions as may be prescribed.

(3) Where, as a result of the passing of an order or the making of a rule under the provisions of this Code exempting an establishment or the workers therein from the provisions of sub-section (1), a worker is deprived of any of the weekly holidays, the worker shall be allowed, within the month in which the holidays were due or within the two months immediately following that month, compensatory holidays of equal number to the holidays, so deprived.

27. There shall be paid wages at the rate of twice the rate of wages in respect of overtime work, where a worker works in an establishment or class of establishment for more than such hours of work in any day or in any week as may be prescribed by the appropriate Government and the period of overtime work shall be calculated on a daily basis or weekly basis, whichever is more favourable to such worker:

Extra wages
for overtime.

Provided that a worker shall be required to work overtime by the employer subject to the consent of such worker for such work:

Provided further that the appropriate Government may prescribe the total number of hours of overtime.

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

Night shifts.

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

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

29. (1) The work shall not be carried on in any establishment by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

Prohibition of
overlapping
shifts.

(2) The appropriate Government or subject to the approval of the appropriate Government, the Chief Inspector-cum-Facilitator, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any establishment or class of establishments or any department or section of an establishment or any category or description of workers therein from the provisions of sub-section (1):

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

30. No worker shall be required or allowed to work in a mine or factory if he has already been working in any other such similar establishment within the preceding twelve hours, save in such circumstances as may be prescribed by the appropriate Government.

Restriction on
double
employment
in factory and
mine.

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

Notice of
periods of
work.

(2) The form of notice required by sub-section (1), the manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator shall be such as may be prescribed by the appropriate Government.

(3) Any proposed change in the system of work in any establishment which will necessitate a change in the notice referred to in sub-section (1) shall be intimated to the Inspector-cum-Facilitator before the change is made, and except with the previous sanction of the Inspector-cum-Facilitator, no such change shall be made until one week has elapsed since that last change.

Annual leave
with wages,
etc.

32. (1) Every worker employed in an establishment shall be entitled for leave in a calendar year with wages subject to the following conditions, namely:—

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The appropriate Government may, by notification, extend the provisions of sub-section (1) to any other establishment except railway establishment.

(3) The provisions of sub-section (1) shall not operate to the prejudice of any right to which a person employed in a mine may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that if such award, agreement or contract of service, provides for longer annual leave with wages than that provided in sub-section (1), the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service but leave shall be regulated in accordance with the provisions of sub-section (1) with respect of matters not provided for in such award, agreement or contract of service:

Provided further that where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in sub-section (1) it may, by order in writing and subject to such conditions as may be specified therein exempt the mine from all or any of the provisions of sub-section (1).

CHAPTER VIII

MAINTENANCE OF REGISTERS, RECORDS AND RETURNS

33. An employer of an establishment shall—

(a) maintain register in prescribed form, electronically or otherwise, containing such particulars of workers as may be prescribed by the appropriate Government including,—

Maintenance of registers, records and filing of returns.

(i) work performed by them;

(ii) number of hours of work constituting normal working hours in a day;

(iii) day of rest allowed in every period of seven days;

(iv) wage paid and receipts given therefor;

(v) leave, leave wages, overtime work, attendance and dangerous occurrences; and

(vi) employment of adolescent;

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

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

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

CHAPTER IX

INSPECTOR-CUM-FACILITATORS AND OTHER AUTHORITY

34. (1) The appropriate Government may, by notification, appoint Inspector-cum-Facilitators for the purposes of this Code who shall exercise the powers conferred on them under this Code throughout their respective jurisdiction specified in the notification.

Appointment of Inspector-cum-Facilitators.

(2) The Inspector-cum-Facilitators appointed under sub-section (1) shall, apart from other duties to be discharged by them under this Code, conduct such inspections as specified in sub-section (3).

(3) The appropriate Government may—

(i) for the purposes of inspection referred to in sub-section (2), by notification, lay down an inspection scheme which may provide for the generation of web-based

inspection and calling of information under this Code, electronically and such scheme shall, *inter alia*, have provisions to cater to special circumstances for assigning inspection and calling for information from establishment or any other person besides web-based inspections; and

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

(4) Without prejudice to the powers of the appropriate Government under this section, the inspection scheme referred to in sub-section (3) may be designed taking into account, *inter alia*, the following factors, namely:—

(a) assignment of unique number, to each establishment (which will be same as the registration number allotted to the establishment registered under section 3), unique number to each Inspector-cum-Facilitator and to each inspection in such manner as may be notified by the appropriate Government;

(b) timely uploading of inspection reports in such manner and subject to such conditions as may be notified in the scheme;

(c) provisions for special inspections based on such parameters as may be notified by the appropriate Government; and

(d) the characteristics of employment, the nature of work, and characteristics of the workplaces based on such parameters as may be notified by the appropriate Government.

(5) The appropriate Government may, by notification, appoint any person or persons possessing the prescribed qualifications and experience to be Chief Inspector-cum-Facilitator for the purposes of such establishments or class of establishments and for such local limits of jurisdiction as may be specified in the notification:

Provided that a Chief Inspector-cum-Facilitator may be appointed for the purposes of a State or more than one States or for the purposes of the whole of the Country.

(6) The appropriate Government may, by notification, appoint for the purposes of establishments as may be notified by that Government, as many Additional Chief Inspector-cum-Facilitators, Joint Chief Inspector-cum-Facilitators and Deputy Chief Inspector-cum-Facilitators or any other officer of any designation as it thinks appropriate, to exercise such powers of the Chief Inspector-cum-Facilitator within his jurisdiction, as may be specified in the notification.

(7) Every Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator and every other officer appointed under sub-section (6) shall, in addition to the powers of a Chief Inspector-cum-Facilitator specified in the notification by which the officer is appointed, exercise the powers of an Inspector-cum-Facilitator within such local limits as may be specified in the notification.

(8) No person shall be appointed under this section or having been so appointed, shall continue to hold office, who is, or who becomes, directly or indirectly interested in a workplace or work activity or in any process or business carried on in any workplace or in any plant or machinery connected therewith.

(9) The appropriate Government may also, by notification, appoint such public officers as it thinks fit to be Inspector-cum-Facilitators in addition to existing Inspector-cum-Facilitator for exercising the powers and discharging the duties of Inspector-cum-Facilitator for all or any of the purposes of this Code within such local limits as may be specified in such notification.

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

Provided that the Chief Inspector-cum-Facilitator, with the approval of the appropriate Government, may by order in writing, prohibit the exercise, by any Inspector-cum-Facilitator or any class of Inspector-cum-Facilitators specified in such order, of any such power by such Inspector-cum-Facilitator or class of Inspector-cum-Facilitators.

(11) Every Chief Inspector-cum-Facilitator, Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator, Inspector-cum-Facilitator and every other officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and shall be officially subordinate to such authority as the appropriate Government may specify in this behalf.

45 of 1860.

35. (1) Subject to any rules made in this behalf, an Inspector-cum-Facilitator may—

Powers of
Inspector-
cum-
Facilitators.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

45 of 1860.

(3) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

2 of 1974.

Powers and duties of District Magistrate.

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

Third party audit and certification.

37. (1) The appropriate Government may, by notification, formulate a scheme to empanel experts possessing such qualifications and experience as may be prescribed for the purpose of such start-up establishments or class of establishments, as may be specified in the notification.

(2) The experts empanelled under sub-section (1), shall,—

(a) be assigned the third party audit and certification in a randomised manner, by the appropriate Government through a web-based scheme;

(b) carry out the audit and certification in the manner and for the purpose specified in the scheme referred to in sub-section (1);

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

Special powers of Inspector-cum-Facilitator in respect of factory, mines, dock work and building or other construction work.

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

(A) shall have the following special powers in respect of a factory, namely:—

(a) where it appears to the Inspector-cum-Facilitator that conditions in a factory or part thereof are such that they may cause serious hazard or imminent danger by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard or imminent danger and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard or danger is removed;

(b) any order issued by the Inspector-cum-Facilitator under sub-clause (a) shall have effect for a period of three days until extended by the Chief Inspector-cum-Facilitator by a subsequent order;

(c) any person aggrieved by an order of the Inspector-cum-Facilitator under sub-clause (a), and the Chief Inspector-cum-Facilitator under sub-clause (b), shall have the right to appeal to the High Court;

(d) any person whose employment has been affected by an order issued under sub-clause (a), shall, without prejudice to the rights of the parties under the Industrial Disputes Act, 1947, be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible in such manner as may be prescribed by the appropriate Government;

14 of 1947.

(B) shall have the following special powers in respect of mines, namely:—

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

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

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

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

(e) every person whose employment is prohibited under sub-clause (b) or sub-clause (d) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment and the employer shall be liable for payment of such full wages of that person:

Provided that the employer may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited;

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

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

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

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

Provided that the Central Government may, on the application of the employer, suspend the operation of a notice under sub-clause (a), pending its decision on the objection;

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

2 of 1974.

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

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

(m) every person whose employment is prohibited under sub-clause (l), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager referred to in section 67 shall be liable for payment of such full wages of that person:

Provided that the employer may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-clause (l);

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

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

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

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

(C) shall have the following special powers in respect of dock work namely:—

(a) if it appears to an Inspector-cum-Facilitator that any place where any dock work is being carried on is in such a condition that it is dangerous to life, safety or health, of workers employed in dock work, he may, in writing, serve on the employer, an order prohibiting any dock work, in such place, until measures have been taken to remove the cause of the danger to his satisfaction;

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

(c) any person aggrieved by an order under clause (a) or clause (b) may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the Central Government and the Chief Inspector-cum-Facilitator or the Central Government shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty days:

Provided that the Chief Inspector-cum-Facilitator or the Central Government may entertain the appeal after the expiry of the said period of fifteen days, if he or it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

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

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

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

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

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

(3) Any person aggrieved by an order under clause (a) of sub-section (2), may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the appropriate Government and the Chief Inspector-cum-Facilitator or the appropriate Government, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty days:

Provided that the Chief Inspector-cum-Facilitator or the appropriate Government may, entertain the appeal after the expiry of the said period of fifteen days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the order under clause (a) of sub-section (2), shall be complied with, subject to the decision of the Chief Inspector-cum-Facilitator or the appropriate Government as the case may be.

Secrecy of information by Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, etc.

39. (1) All copies of, and extracts from, registers or other records pertaining to any establishment and all other information relating to any manufacturing or commercial business or any working process acquired by the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator or by any one assisting him, in the course of the inspection or survey of any establishment under this Code or acquired by any officer authorised under section 20 in the exercise of his duties thereunder, shall be regarded as confidential and shall not, while in service or after leaving the service, be disclosed to any person or authority unless the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator considers disclosure necessary to ensure the health, safety or welfare of any person employed in establishment.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information to—

(a) any court;

(b) any Committee or Board constituted under this Code;

(c) an official superior or the employer of the establishment concerned;

(d) a Commissioner for employees' compensation appointed under the Employees' Compensation Act, 1923;

8 of 1923.

(e) the Controller, Indian Bureau of Mines; and

(f) any such officer, authority or authorised person as may be specified in this behalf by the appropriate Government.

(3) Notwithstanding anything contained in the Right to Information Act, 2005, no Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator shall disclose the source of any complaint, made to him regarding the contravention of the provisions of this Code without the consent of the complainant and shall also not while making an inspection under this Code in pursuance of such complaint, disclose to the employer concerned or any of his representative that the inspection is being made in pursuance of such complaint.

22 of 2005.

Facilities to be afforded to Inspector-cum-Facilitator.

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

Powers of special officer to enter, measure, etc., in relation to mine.

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

Provided that, where in the opinion of the Chief Inspector-cum-Facilitator or of an

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

42. (1) The appropriate Government may appoint medical practitioners having prescribed qualification to be medical officers for the purposes of this Code in relation to factory, mines, plantation, motor transport undertakings and in any other establishment as may be prescribed: Medical officer.

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

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

(a) the examination and certification of workers in a mine or factory or in such other establishment engaged in such dangerous occupations or processes as may be prescribed;

(b) the exercise of such medical supervision for any factory, mines, plantation, motor transport undertaking and for such other establishment as may be prescribed by the appropriate Government where cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in such establishments;

(c) the examination and certification of adolescent for the purpose of ascertaining his fitness for employment in factory, plantation, motor transport undertakings and in any other establishment as may be prescribed by the appropriate Government in any work which is likely to cause injury to their health.

CHAPTER X

SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN

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

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

CHAPTER XI

SPECIAL PROVISIONS FOR CONTRACT LABOUR AND INTER-STATE MIGRANT WORKER, ETC.

PART I

CONTRACT LABOUR

45. (1) This Part shall apply to—

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

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

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

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

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

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

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

Appointment
of designated
authority.

46. The appropriate Government may, by an order, appoint such persons, being Gazetted officers of the Government, as it thinks fit to be designated as authority under sub-section (1) of section 119 and specify the limits of their jurisdiction and vest with such powers and duties including dealing with issuance and revocation of licences electronically as may be specified therein.

Licensing of
contractors.

47. (1) No contractor to whom this Part applies shall—

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

(b) undertake or execute the work through contract labour,

except under and in accordance with a licence issued to him by the authority referred to in sub-section (1) of section 119 in accordance with the provisions of that section after satisfying that the contractor fulfills such requisite qualifications or criteria as may be prescribed by the Central Government and such licence shall, in addition to the requisite particulars and conditions specified in sub-section (3), specify the number of such contract labour who can be supplied or engaged and the amount of security to be deposited by the contractor.

(2) Where the contractor does not fulfil the requisite qualifications or criteria referred to in sub-section (1), the authority referred to in sub-section (1) of section 119 may issue him a "work specific licence" electronically renewable within such period as may be prescribed by the Central Government to supply or engage the contract labour, or execute the work through contract labour, only for the concerned work order as may be specified in such licence and subject to such conditions as may be specified in such licence.

(3) Subject to the provisions of this Part,—

(a) a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as may be prescribed by the appropriate Government;

(b) the licence referred to in sub-section (1) or sub-section (2), shall be obtained from, if for such establishment the appropriate Government is—

(i) the Central Government, the authority referred to in sub-section (1) of section 119 designated by that Government; and

(ii) the State Government, the authority referred to in sub-section (1) of section 119 designated by that Government:

Provided that where the contractor is desirous of obtaining licence for supplying or engaging contract labour or undertaking or executing the contract works under sub-section (1) or sub-section (2) in more than one States or for the whole of India, then, he

may obtain the licence from the authority referred to in sub-section (1) of section 119 designated by the Central Government for such purpose and the provisions of that section shall apply:

Provided further that before issuing such licence the authority referred to in the first proviso shall consult the concerned State or States authorities designated under sub-section (1) of section 119, electronically before issuing licence for the establishments for which the appropriate Government is the State Government.

48. (1) Subject to the provisions of section 119, every application for issuing a licence under section 119 for the purposes of sub-section (1) or sub-section (2) of section 47 shall be made electronically in such form and manner and shall contain such particulars regarding the number of contract labour, nature of work for which contract labour is to be employed and such other particulars including the information relating to the employment of inter-State migrant workers as may be prescribed by the appropriate Government.

Procedure for issue or renewal of licence.

(2) Subject to the provisions of section 119, the authority referred to in sub-section (1) thereof shall follow such procedure as may be prescribed by the appropriate Government.

(3) Subject to the provisions of section 119, the licence issued for the purposes of sub-section (1) of section 47 shall be valid for a period of five years in respect of the number of contract labour specified therein and in case the contractor wants to increase the number of the contract labour, he shall apply in the prescribed manner for the amendment to the licence for such purpose to the authority referred to in sub-section (1) of section 119 and if the licence is so amended, the number of contract labour shall be increased to such extent by depositing such security deposit as specified in the amended licence for the balance period.

(4) Subject to the provisions of section 119, the licence issued for the purposes of sub-section (1) of section 47 shall contain responsibility of the contractor as may be prescribed by the appropriate Government.

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

No fees or commission or any cost to workers.

50. (1) When a contractor receives work order from an establishment either to supply contract labour in the establishment or to execute the contract through contract labour in the establishment he shall, within such time and in such manner as may be prescribed, intimate to the authority referred to in section 119.

Information regarding work order to be given to the appropriate Government.

(2) Where the contractor fails to give intimation under sub-section (1), the designated authority may, after giving the holder of the licence an opportunity of showing cause, suspend or cancel the licence in such manner as may be prescribed by the appropriate Government.

51. (1) If the authority referred to in sub-section (1) of section 119 is satisfied, either on a reference made to him in this behalf or otherwise, that—

Revocation, suspension and amendment of licence.

(a) a licence granted for the purposes of this Part has been obtained by misrepresentation or suppression of any material fact, or

(b) the holder of a licence has, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Part or the rules made thereunder, then,

without prejudice to any other penalty to which the contractor may be liable under this Code, the authority referred to in sub-section (1) of section 119 may, after giving the contractor an opportunity of showing cause, revoke or suspend the licence in accordance with the procedure as may be prescribed by the Central Government.

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

Appeal.

52. (1) Any person aggrieved by an order made under section 47, section 48 or section 51 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate authority prescribed by the appropriate Government under sub-section (6) of section 119:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within thirty days from the date on which the appeal is preferred.

Liability of principal employer for welfare facilities.

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

Effect of employing contract labour from a non-licenced contractor.

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

Responsibility for payment of wages.

55. (1) A contractor shall be responsible for payment of wages to each contract labour employed by him and such wages shall be paid before the expiry of such period as may be prescribed by the appropriate Government.

(2) Every contractor shall, make the disbursement of wages referred to in sub-section (1) through bank transfer or electronic mode and inform the principal employer electronically the amount so paid by such mode:

Provided that where it is not practicable to disburse payment in the mode specified in this section, then, the payment shall be made in such manner as may be prescribed by the appropriate Government.

(3) In case the contractor fails to make payment of wages referred to in sub-section (1) within the prescribed period or makes short payment, then, the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the concerned contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

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

Experience certificate.

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

Prohibition of employment of contract labour.

57. (1) Notwithstanding anything contained in this Part, employment of contract labour in core activities of any establishment is prohibited:

Provided that the principal employer may engage contract labour through a contractor to any core activity, if—

(a) the normal functioning of the establishment is such that the activity is ordinarily done through contractor; or

(b) the activities are such that they do not require full time workers for the major portion of the working hours in a day or for longer periods, as the case may be;

(c) any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.

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

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

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

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

PART II

INTER-STATE MIGRANT WORKERS

59. This Part shall apply to every establishment in which ten or more inter-State migrant workers are employed or were employed on any day of the preceding twelve months. Applicability of Part II.

60. It shall be the duty of every contractor or the employer, of an establishment employing inter-State migrant workers in connection with the work of that establishment— Facilities to inter-State migrant workers.

(i) to ensure suitable conditions of work to such worker having regard to the fact that he is required to work in a State different from his own State;

(ii) in case of fatal accident or serious bodily injury to any such worker, to report to the specified authorities of both the States and also the next of kin of the worker;

(iii) to extend all benefits to such worker which are available to a worker of that establishment including benefits under the Employees' State Insurance Act, 1948 or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any other law for the time being in force and the facility of medical check-up as available to a worker under clause (c) of sub-section (1) of section 6.

34 of 1948.
19 of 1952.

61. The employer shall pay, to every inter-State migrant worker employed in his establishment, in a year a lump sum amount of fare for to and fro journey to his native place from the place of his employment, in the manner taking into account the minimum service for entitlement, periodicity and class of travel and such other matters as may be prescribed by the appropriate Government. Journey allowance.

62. The appropriate Government shall make schemes to provide—

(a) option to an inter-State migrant worker for availing benefits of public distribution system either in his native State or the destination State where he is employed; and Benefits of public distribution system, etc.

(b) for portability of the benefits of the inter-State migrant worker working for building or other construction work out of the building and other construction cess fund in the destination State where such inter-State migrant worker is employed.

Toll free helpline.

63. The appropriate Government may provide facility of toll free helpline to the inter-State migrant workers in such manner as may be prescribed by that Government.

Study of inter-State migrant workers.

64. The appropriate Government may provide for study of inter-State migrant workers in such manner as may be prescribed by that Government.

Past liabilities.

65. No suit or other proceeding shall lie in any court or before any authority for the recovery of debt or any part thereof relating to an inter-State migrant worker after the completion of his employment where it remains unsettled obligation to the contractor or the principal employer and such debt or part thereof shall, on the completion of the period of employment of such worker, be deemed to have been extinguished.

PART III

AUDIO-VISUAL WORKERS

Prohibition of employment of audio-visual worker without agreement.

66. (1) No person shall be employed as an audio-visual worker in or in connection with production of any audio-visual programme unless,—

(a) an agreement in writing is entered into—

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

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

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

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

(2) Every agreement, referred to in sub-section (1) shall,—

(a) be in the prescribed form;

(b) specify the name and such other particulars as may be prescribed by the appropriate Government with respect to, such person to be employed under the agreement as audio-visual worker;

(c) include, where such audio-visual worker is employed through a contractor, a specific condition to the effect that in the event of the contractor failing to discharge his obligations under the agreement to the audio-visual worker with respect to payment of wages or any other matter, the producer of the audio-visual programme shall also be liable to discharge such obligations and shall be entitled to be reimbursed with respect thereto by the contractor.

(3) A copy of the agreement referred to in sub-section (1) with respect to the employment of the audio-visual worker shall, if such audio-visual worker is covered under the provision of an enactment for the time being in force for providing the benefit of provident fund to him, also be forwarded by the producer of the audio-visual programme to such authority as may be prescribed by the appropriate Government.

(4) Notwithstanding anything contained in Chapters V, VI and VII, the agreement referred to in sub-section (1) shall include,—

(i) nature of assignment;

- 19 of 1952. (ii) wages and other benefits (including provident fund, if covered under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952);
- (iii) health and working conditions;
- (iv) safety;
- (v) hours of work;
- (vi) welfare facilities; and
- (vii) dispute resolution process or mechanism, the constitution and other details of which shall be prescribed by the appropriate Government:

14 of 1947. Provided that in case of failure of the resolution of the dispute in such dispute resolution process or mechanism, either party in the dispute may invoke the jurisdiction of the Industrial Tribunal established by the appropriate Government under section 7A of the Industrial Disputes Act, 1947 and for such purpose such dispute shall be deemed to be industrial dispute within the meaning of that Act and it shall be the responsibility of the producer of the audio-visual programme to provide the facilities specified in the agreement to the audio-visual worker and the payment of wages shall be through electronic mode.

PART IV

MINES

67. (1) Save as may be otherwise prescribed, every mine shall be under a sole manager who shall have such qualifications as may be prescribed by the Central Government and the owner or agent of every mine shall appoint a person having such qualifications to be the manager. Managers.

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications.

(2) Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

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

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

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

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

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

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

Exemption from provision regarding employment.

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

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

(2) Every case in which action has been taken by the manager under sub-section (1), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator.

Employment of persons below eighteen years of age.

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

(2) Notwithstanding anything contained in sub-section (1), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager as referred to in section 67:

Provided that in the case of trainees, other than apprentices, prior approval of the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator shall be obtained before they are allowed to work.

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

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

52 of 1961.

Exemption to certain persons.

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

Establishment, maintenance of rescue services and vocational training.

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

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

Decision of question whether a mine is covered under this Code.

PART V

BEEDI AND CIGAR WORKERS

74. (1) Save as otherwise provided in this Part, no employer shall use or allow to use any place or premises as an industrial premises unless he holds a valid licence issued under section 119 for the purposes of this Part and no such premises shall be used except in accordance with the terms and conditions of such licence.

Licence to industrial premises and person.

(2) Subject to the provisions of section 119, any person who intends to use or allows to use any place or premises specified in sub-section (1) shall make an application to the authority referred to in sub-section (1) of section 119, in such form and on payment of such fees as may be prescribed by the State Government, for a licence to use, or allow to use, such premises as an industrial premises.

(3) Subject to the provisions of section 119, the application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed by the State Government.

(4) Subject to the provisions of section 119, the authority referred to in sub-section (1) thereof shall, in deciding whether to grant or refuse to grant a licence, have regard to the following matters, namely:—

(a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;

(b) previous experience of the applicant or he has employed experienced person or has entered into agreement with the experienced person for employment for the period of licence;

(c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;

(d) whether the application is made *bona fide* on behalf of the applicant himself or in *benami* of any other person;

(e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed by the State Government.

(5) Subject to the provisions of section 119, a licence granted under the said section for the purposes of this section shall be valid for five years and may be renewed thereafter.

(6) Subject to the provisions of section 119, an application for the renewal of a licence for the purposes of this Part shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed by the State Government, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof:

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

Provided further that the authority referred to in sub-section (1) of section 119 shall renew or refuse to renew the licence within such period as may be prescribed by the State Government and in deciding whether to renew a licence or to refuse a renewal thereof shall have regard to the matters specified in sub-section (4).

(7) Subject to the provisions of section 119, the authority referred to in sub-section (1) thereof may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under section 119 for the purposes of this Part, if it appears to it that such licence has been obtained by misrepresentation or fraud or that the licence has contravened or failed to comply with any of the provisions of this Part or the rules made thereunder or any of the terms or conditions of the licence.

(8) The State Government may issue in writing to an authority referred to in sub-section (1) of section 119 such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licence under section 119 relating to this section.

(9) Subject to section 119 and the foregoing provisions of this section, the authority referred to in sub-section (1) of section 119 may grant or renew licence relating to this Part on such terms and conditions as it may determine and where such authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

Appeals.

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

Permission to work by employees outside industrial premises.

76. (1) The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees, subject to such conditions as may be prescribed.

(2) The employer shall maintain the record of the work permitted under sub-section (1), to be carried on outside the industrial premises, in such form as may be prescribed.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises:

Provided that nothing in this sub-section shall apply to any worker who is given raw material by an employer or a contractor to make beedi or cigar or both at home.

Part not to apply to self-employed persons in private dwelling houses.

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

Explanation.—For the purposes of this section,—

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

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

61 of 1986.

PART VI

BUILDING OR OTHER CONSTRUCTION WORKERS

78. No person, about whom the employer knows or has reasons to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness, shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

Prohibition of employment of certain persons in certain building or other construction work.

PART VII

FACTORIES

79. (1) The appropriate Government may make rules in respect of factory or class or description of factories for—

Approval and licensing of factories.

(a) the submission of plans including specifications, nature and certification thereof;

(b) the previous permission for the site on which the factory is to be situated and for the construction or extension thereof; and

(c) subject to the provision of sub-section 119, licensing and renewal thereof including fees to be payable for such, licensing and renewal, if required, as the case may be.

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

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

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

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

Liability of owner of premises in certain circumstances.

81. (1) The appropriate Government may, by notification, declare that all or any of the provisions of this Part shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is ordinarily carried on irrespective of the number of workers working in the factory.

Power to apply Code to certain premises.

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

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

Dangerous operations.

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

(a) specifying the manufacturing process or operation and declaring it to be dangerous;

(b) prohibiting or restricting the employment of pregnant women in the manufacturing process or operation;

(c) the periodical medical examination before, or at any time during the employment to ascertain the fitness of a worker or employee for such employment on the cost of the occupier; and

(d) welfare amenities, sanitary facilities, protective equipment and clothing, and any other requirement necessary for dangerous operations.

Constitution of site appraisal committee.

83. (1) The appropriate Government may, constitute one or more site appraisal committees consisting of a chairman and other members, for such purpose as may be prescribed including to consider and to give recommendations on an application for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of such factory.

(2) The site appraisal committee referred to in sub-section (1) shall make its recommendation within a period of thirty days of the receipt of the application for any of the purpose referred to in the said sub-section in such form, as may be prescribed.

Compulsory disclosure of information by occupier.

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

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

(3) The information furnished under sub-section (1) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(4) Every occupier shall, with the approval of the Chief Inspector-cum-Facilitator, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

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

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

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

85. Every occupier of a factory involving any hazardous process shall—

Specific responsibility of the occupier in relation to hazardous processes.

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

(b) appoint persons who possess prescribed qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed by the State Government:

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector-cum-Facilitator shall be final;

(c) provide for medical examination of every worker—

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

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

86. (1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, direct the National Board to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed by the State Government for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected due to such failure or neglect and for the prevention of recurrence of such extraordinary situations in future in such factory or elsewhere.

National Board to inquire into certain situations.

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

87. (1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Directorate General Occupational Safety and Health formerly known as the Directorate General of Factory Advice Service and Labour Institutes or any Institution authorised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

Emergency standards.

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Code, be enforceable and have the same effect as if they had been incorporated in the rules made under this Code.

Permissible limits of exposure of chemicals and toxic substances.

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

Right of workers to warn about imminent danger.

89. (1) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may, bring the same to the notice of the occupier, agent, manager or any other person who is in-charge of the factory or the process concerned directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

(2) It shall be the duty of such occupier, agent, manager or the person in-charge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum-Facilitator.

(3) If the occupier, agent, manager or the person in-charge referred to in sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by the workers, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

Appeal against the order of Inspector-cum-Facilitator in case of factory.

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

Power to make rules to exempt.

91. (1) The appropriate Government may make rules,—

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

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

(2) The appropriate Government or the Chief Inspector-cum-Facilitator may, by order in writing, exempt subject to such conditions as it may deem expedient, any or all of the adult workers in any establishment or class of establishments.

PART VIII

PLANTATION

Facilities for workers in plantation.

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

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

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

Provided that,—

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

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

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

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

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

34 of 1948.

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

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

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

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

93. (1) In every plantation, arrangement shall be made by the employer to provide for the safety of a worker in connection with the use, handling, storage and transport of insecticides, pesticides and chemicals and toxic substances. Safety.

(2) The State Government may prescribe for special safeguards for employment of women or adolescents in using or handling hazardous chemicals.

(3) The employer of a plantation shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(4) Every employer of a plantation shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides, chemicals and toxic substances and such other matters as may be prescribed by the State Government.

(5) Every worker in a plantation who is exposed to insecticides, pesticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed by the State Government.

(6) Every employer of a plantation shall maintain health record of every worker in plantation who is exposed to insecticides, pesticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

(7) Every employer of a plantation shall provide—

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

(b) protective clothing and equipment,

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

(8) Every employer of a plantation shall display in the plantation, a list of permissible concentrations of insecticides, pesticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of insecticides, pesticides, chemicals and toxic substances in the plantation.

(9) Every employer of a plantation shall exhibit such precautionary notices in the plantation as may be prescribed by the State Government indicating the hazards of insecticides, pesticides, chemicals and toxic substances.

CHAPTER XII

OFFENCES AND PENALTIES

General
penalty for
offences.

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

Punishment
for causing
obstruction to
Chief
Inspector-
cum-
Facilitator or
Inspector-cum-
-Facilitator,
etc.

95. (1) Whoever wilfully—

(i) prevents or causes obstruction to a Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or an officer of the appropriate Government or a person authorised to discharge any duty or to exercise any powers under this Code or the rules or the regulations or the bye-laws made thereunder, from discharging such duty or exercising such power; or

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

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

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

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

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

Penalty for
non-
maintenance
of register,
records and
non-filing of
returns, etc.

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

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

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

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

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.

97. (1) Any person, who, save as permitted by or under this Code, contravenes, any—

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

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

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

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both.

98. (1) Whoever—

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

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

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

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

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

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

100. (1) Whoever being the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or any other person referred to in section 39 or section 121 discloses, contrary to the provisions of that section, any such information as is referred to in that section without the consent of the appropriate Government, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

Punishment for contravention of certain provisions.

Punishment for falsification of records, etc.

Penalty for omission to furnish plans, etc.

Punishment for disclosure of information.

(2) No court shall proceed with the trial of any offence under this section except with the previous sanction of the appropriate Government.

Punishment for wrongfully disclosing results of analysis.

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

Punishment for contravention of provisions of duties relating to hazardous processes.

102. (1) Whoever fails to comply with or contravenes any of his duties specified under—

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

(ii) section 80,

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

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to three years or with a fine of twenty lakh rupees, or with both.

Punishment for contravention of provisions of duties relating to safety provisions resulting in an accident.

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

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

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

Provided that while imposing the fine under this section, the court may direct that a portion of the fine, which shall not be less than fifty per cent. thereof, shall be given as compensation to the victim or to the legal heirs of the victim, in the case of his death.

(2) Where a person having been convicted under sub-section (1) is again convicted thereunder, shall be punishable with double the punishment provided under that sub-section for first conviction.

Special provision for contravention of order under section 38.

104. Whoever continues to work in contravention of any general or special order issued under the provisions of section 38, shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine which may extend to five lakh rupees:

Provided that the court shall not impose a fine under this section which shall be less than two lakh rupees without recording in the judgment the reasons for imposing such fine.

Failure to appoint manager in mine.

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

106. (1) Subject to the provisions of section 13, except clause (d) thereof, if any employee employed in a workplace contravenes any provision of this Code or any rules or orders made thereunder, imposing any duty or liability on employee, he shall be punishable with penalty which may extend to ten thousand rupees.

Offences by employees.

(2) Where an employee is convicted of an offence punishable under sub-section (1), the employer of the establishment shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

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

Prosecution of owner, agent or manager of mine.

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

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

108. Where the owner, agent or manager of the mine or employer or occupier of the factory is charged with an offence punishable under this Code he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

Exemption of owner, agent or manager of mine or occupier of factory from liability in certain cases.

(a) that he has exercised due diligence to enforce the execution of this Code, or

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he was the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and the owner, agent or manager of a mine or the occupier or the manager of the factory shall be, discharged from any liability under this Code in respect of such offence:

Provided that in seeking to prove as aforesaid the owner, agent or manager of a mine or the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support, shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and shall, if the offence be proved, convict him.

Offences by companies, etc.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

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

(b) "director" means,—

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

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

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

Limitation of prosecution and cognizance of offences.

110. (1) Notwithstanding anything contained in this Chapter, the Inspector-cum-Facilitator shall, not initiate prosecution proceeding against an employer for any offence under this Chapter, give an opportunity to comply with relevant provisions of this Act within a period of thirty days from the date of notice giving opportunity, and, if the employer complies with such provisions within such period, then, no such proceeding shall be initiated against such employer:

Provided that no such opportunity shall be accorded to an employer in case of an accident and if the violation of the same nature of the provisions under this Code is repeated within a period of three years from the date on which such first violation was committed and in such case the prosecution shall be initiated in accordance with provisions of sub-section (2).

(2) No court shall take cognizance of any offence punishable under this Code, unless a complaint in respect thereof is made within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector-cum-Facilitator and a complaint is filed in that regard by him.

(3) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Code.

Explanation.—For the purposes of this section,—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act, time is granted or extended on an application made by the employer of an establishment, the period of limitation shall be computed from the date on which the time so granted or extended expired.

111. (1) Notwithstanding anything contained in section 110, for the purpose of imposing penalty under sub-section (3) of section 12 or sections 94, 96, 97, 99, 106 and sub-section (3) of section 114, the appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government.

Power of officers of appropriate Government to impose penalty in certain cases.

(2) While holding the enquiry, the officer referred to in sub-section (1) shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of such officer, may be useful for or relevant to the subject-matter of the enquiry and if, on such enquiry, he is satisfied that the person has committed any offence under the provisions referred to in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of that sub-section.

(3) Any person aggrieved by an order made by the officer under sub-section (2) may prefer an appeal, in such form and manner and accompanied by such fee as may be prescribed, to the appellate authority to be appointed by the appropriate Government from amongst officers not below the rank of Deputy Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, within sixty days from the date on which the copy of the order made by the officer referred in sub-section (1) is received by the aggrieved person.

(4) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against, within a period of sixty days from the date of receipt of appeal.

(5) Where a person fails to pay the penalty so imposed within a period of ninety days from the date of receipt of the copy of the order, he shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend up to two lakh rupees.

(6) The amount of penalty imposed and received under this section shall be credited to the fund established under sub-section (1) of section 115.

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

Jurisdiction of court for entertaining proceedings, etc., for offence.

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

Power of court to make orders.

(2) Where an order is made under sub-section (1), the employer of the mine or the factory shall not be liable under this Code in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully complied with, employer shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

114. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any penalty under sub-section (3) of section 12 or section 94 or section 96 or sub-section (1) of section 97 or section 99 or section 106 or sub-section (3) or any offence

Composition of certain offences.

under sub-section (2) of section 97 or sub-section (1) of section 100 or section 101 or clause (b) of sub-section (1) of section 103 or section 105 or sub-section (2) of section 113 may either before or after the holding the enquiry or, as the case may be, of institution of prosecution may be compounded by such officer of the appropriate Government as may be notified by that Government in the manner as may be prescribed by it—

(a) in a case of penalty for a sum of fifty per cent. of the maximum penalty provided for such penalty; and

(b) in a case of offence for a sum of seventy-five per cent. of the maximum fine provided for such offence.

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

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

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

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

(a) which was earlier compounded; or

(b) for which such person was earlier convicted.

CHAPTER XIII

SOCIAL SECURITY FUND

Social security fund.

115. (1) There shall be established by the appropriate Government a social security fund for the welfare of the unorganised workers to which there shall be credited the amount received from composition of the offence as specified in sub-section (4) of section 114 and the amount of the penalty as specified in sub-section (6) of section 111.

(2) The fund may also be funded by such other sources as may be prescribed by the appropriate Government.

(3) The fund shall be administered and expended for welfare of the unorganised workers in such manner as may be prescribed by the appropriate Government including the transfer of the amount in the fund to any fund established under any other law for the time being in force for the welfare of the unorganised workers.

Explanation.—For the purpose of this section the expression "unorganised worker" shall have the same meaning as is assigned to it under clause (m) of section 2 of the Unorganised Workers Social Security Act, 2008.

33 of 2008.

CHAPTER XIV

MISCELLANEOUS

Delegation of powers.

116. The Central Government may, by notification, direct that any power exercisable by it under this Code or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by the State Government or by such officer or authority subordinate to the State Government as may be specified in the said notification.

117. (1) When any offence is committed under this Code involving an issue of a certain age of a person and such person is in the opinion of the court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age. Onus as to age.

(2) The medical authority prescribed by the Central Government shall, while examining a worker for issuing the certificate of age for the purposes of this Code, take into account the Aadhaar card of the worker, and in the absence thereof, the date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination Board of the worker, if available, and in the absence thereof, the birth certificate of the worker given by a corporation or a municipal authority or a Panchayat, and only in the absence of any of the methods specified in this sub-section, the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test.

118. In any proceeding for an offence for the contravention of any provision of this Code or regulations or bye-laws or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or all practicable measures were taken to satisfy the duty or requirement. Onus of proving limits of what is practicable, etc.

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

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

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

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

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

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

Provided that where the licence is deemed to be issued, no further inquiry shall be made:

Provided further that the form of licence shall, as far as practicable, be similar throughout India:

Provided also that where such authority rejects the application he shall assign the reason for such rejection.

(5) Notwithstanding anything contained in this Code, any licence in respect of a factory, industrial premises for *beedi* and cigar work and for engaging contract labour has been obtained under any Central labour law before the commencement of this Code, in respect of any establishment shall be deemed to have been obtained under the provisions of this Code and shall be valid for the period for which it was issued and shall have to be obtained afresh after its expiration.

(6) Any person aggrieved by an order passed under this section by the authority referred to in sub-section (1) may file, within thirty days from the date of the order, an appeal in such form, accompanied with such fee to such appellate authority as may be prescribed by the appropriate Government and the appeal shall be disposed of electronically within thirty days of the filing of the appeal.

Effect of law and agreements inconsistent with Code.

120. (1) The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement or contract of service whether made before or after the commencement of this Code:

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Code, the employee shall continue to get the former notwithstanding that he receives benefits in respect of other matters under this Code.

(2) Nothing contained in this Code shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Code.

Power of appropriate Government to direct inquiry in certain cases.

121. (1) The appropriate Government may, in the event of the occurrence of an accident in an establishment which has caused or had the potentiality to cause serious danger to employees and other persons within, and in the vicinity of the workplace or whether immediate or delayed, or any occupational disease as specified in the Third Schedule, which has been or is suspected to have been contracted, in epidemic proportions, appoint one or more persons possessing legal or special knowledge to act as assessors or competent persons in such inquiry in order to inquire into the causes of the accident and disease, fix responsibilities and suggest a plan of action for the future to prevent such accidents or diseases and submit the report to the appropriate Government.

(2) The appropriate Government may direct a Chief Inspector-cum-Facilitator or any other officer under the control of the Government concerned or appoint a committee to undertake a survey in such manner as may be prescribed by the appropriate Government on the situation relating to safety or health at work at any workplace or class of workplaces or into the effect of work activity on the health of the employees and other persons within and in the vicinity of the workplace.

(3) The officer directed or committee appointed, under sub-section (1) or sub-section (2), to hold an inquiry, shall have the powers of a civil court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also so far as may be necessary for the purposes of the inquiry, exercise such powers of an Inspector-cum-Facilitator under this Code as may be necessary.

5 of 1908.

(4) The Central Government may make rules for regulating the procedure of inquiry and survey and other related matters under this section.

Publication of reports.

122. The appropriate Government may, if it thinks fit, cause to be published any report submitted to it by the National Board or State Advisory Board or any extracts from any report submitted to it under this Code.

Powers of Central Government to give directions.

123. The Central Government may give directions to a State Government for the implementation of the provisions of this Code.

General restriction on disclosure of information.

124. (1) No person shall in respect of the establishment, disclose any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of the business or process or for the purposes of any legal proceeding (including adjudication or arbitration), pursuant to any of the relevant statutory provisions or of any criminal proceeding under this Code which may be taken, whether pursuant to any of the relevant statutory provisions or otherwise, or for the purposes of any report of any such proceedings.

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

Jurisdiction of civil courts barred.

126. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-laws or order made thereunder.

Protection of action taken in good faith.

(2) No prosecution or other legal proceeding shall lie against the Government, any Board or committees constituted under this Code or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-laws or order made or issued thereunder.

127. (1) The appropriate Government may, by notification and subject to such conditions and restrictions, if any, and for such period or periods as may be specified in the notification, direct that all or any of the provisions of this Code or the rules or the regulations made thereunder shall not apply to or in relation to any establishment or class of establishments.

Power to exempt in special cases.

(2) Without prejudice to the generality of sub-section (1), where the State Government is satisfied in the public interest that it is necessary to create more economic activities and employment opportunities, it may, by notification, exempt, subject to such conditions as it may think fit, any new factory or class or description of new factories from all or any of the provisions of this Code for such period from the date on which such commercial production starts, as may be specified in the notification:

63 of 1948.

Provided that any notification issued by a State Government under the Factories Act, 1948 for the time being in force in the State prior to the commencement of this Code to achieve the same purpose as is specified in this sub-section, shall remain in force after such commencement for its remaining period as if the provisions of this Code, to the extent they defeat any purpose to be achieved by such notification issued by the State Government, were not in force.

Explanation.—For the purpose of this sub-section, the expression "new factory or class or description of new Factories" means such factory or class or description of Factories which are established and whose commercial production start within such period as may be specified in the notification.

128. In case of a public emergency or disaster or pandemic in whole of India or part thereof, the appropriate Government may, by notification, exempt any workplace or work activity or class thereof from all or any of the provisions of this Code for such period and subject to such conditions as it may think fit:

Power to exempt during public emergency.

Provided that no such notification shall be made for a period exceeding one year at a time.

Explanation.—For the purposes of this section "public emergency" means a grave emergency whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

Power to exempt public institution.

129. The appropriate Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training, research or information, from all or any of the provisions of this Code:

Provided that no such exemption shall be granted from the provisions relating to hours of work and holidays unless the persons having the control of the institution submit, for the approval of the appropriate Government, a scheme of the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates for the institution, and the appropriate Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Code.

Persons required to give notice, etc., legally bound to do so.

130. Every person required to give any notice or to furnish any information to any authority in relation to the provisions of this Code shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

45 of 1860.

Power of Central Government to amend Schedule.

131. The Central Government may, by notification, amend any Schedule by way of addition, alteration or omission therein and on any such notification being issued, the Schedule shall be deemed to be amended accordingly.

Power to remove difficulties.

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

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

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

Power of appropriate Government to make rules.

133. (1) The appropriate Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Code.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) income from the sources under *Explanation* to clause (x) of sub-section (1) of section 2;

(b) substance or quantity of substance under clause (zb) of sub-section (1) of section 2;

(c) the late fee under the proviso to sub-section (1) of section 3;

(d) the manner of submitting application under sub-section (2) of section 3 and the form of such application and the particulars to be contained therein and the fees to be accompanied therewith;

(e) the form and manner of sending the notice and the authority to whom the notice shall be sent and the manner of intimating the authority under sub-section (1) of section 5;

(f) annual health examination or test free of costs, age of employees or class of employees or establishment or class of establishments under clause (c) of sub-section (1) of section 6;

(g) the information to be included in the letter of appointment and the form of such letter under clause (f) of sub-section (1) of section 6;

(h) the nature of bodily injury and the manner of notice and the time within which the notice shall be sent and the authority to which notice shall be sent under sub-section (1) of section 10;

(i) nature of dangerous occurrence and the form of notice, the time within which and the authority to which notice shall be sent under section 11;

(j) the form of notice related to certain diseases and the time within which the notice shall be sent and the authority to which the notice shall be sent under sub-section (1) of section 12;

(k) the form and manner of the report and the time within which such report shall be sent to the office of the Chief Inspector-cum-Facilitator under sub-section (2) of section 12;

(l) manner of making report by employee under clause (d) and other duties of employees under clause (g) of section 13;

(m) manner of sending report of action taken under sub-section (3) of section 14;

(n) the manner of constituting a safety committee and the manner and the purpose for choosing the representative of the workers in the Safety Committee under sub-section (1) of section 22;

(o) the qualifications, duties and number of safety officers under sub-section (2) of section 22;

(p) conditions for exemption of workers from weekly and compensatory holidays under sub-section (2) of section 26;

(q) the total number of overtime under second proviso to section 27;

(r) circumstances for exemption from restriction on double employment in factory and mine under section 30;

(s) the form of notice and manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator under sub-section (2) of section 31;

(t) the form of register and particulars of workers under clause (a) of section 33;

(u) the manner and form of displaying notices under clause (b) of section 33;

(v) return, manner of filing the return and periods of filing return to the Inspector-cum-Facilitator under clause (d) of section 33;

(w) the qualification and experience of Chief Inspector-cum-Facilitator under sub-section (5) of section 34;

(x) the manner of taking samples of any article or substance found in any premises and air of atmosphere under clause (x) of sub-section (1) of section 35;

(y) the other powers and duties under clause (xiv) of sub-section (1) of section 35;

(z) the specialised qualification and experience, duties and responsibilities of experts to be empanelled under section 37;

(za) the manner of providing alternative employment under sub-clause (d) of clause (A) of sub-section (1) of section 38;

(zb) the qualification for the appointment of medical practitioner and other establishment under sub-section (1) of section 42;

(zc) other establishment engaged in the dangerous occupation or processes under clause (a) of sub-section (2) of section 42;

(zd) medical supervision and other establishment under clause (b) of sub-section (2) of section 42;

(ze) other establishment under clause (c) of sub-section (2) of section 42;

(zf) conditions relating to safety, holidays and working hours or any other condition to be observed by the employer under section 43;

(zg) the manner of requiring the employer to provide the adequate safeguards under section 44;

(zh) conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour under clause (a) of sub-section (3) of section 47;

(zi) the form and manner of application and the particulars which such application shall contain regarding the number of contract labour, nature of work for which contract labour is to be employed and other particulars including the information relating to the employment of inter-State migrant workers under sub-section (1) of section 48;

(zj) the procedure under sub-section (2) of section 48;

(zk) manner of applying for the renewal of licence and the manner of renewal of licence under sub-section (3) of section 48;

(zl) responsibility of the contractor under sub-section (4) of section 48;

(zm) the manner of intimation of work order and time-limit for such intimation under sub-section (1) of section 50;

(zn) the manner of suspending or cancelling the licence under sub-section (2) of section 50;

(zo) the period before which the wages shall be paid under sub-section (1) of section 55;

(zp) the mode of payment of wages under proviso to sub-section (2) of section 55;

(zq) the manner of payment of wages from security deposit under sub-section (4) of section 55;

(zr) the form of issuing experience certificate under section 56;

(zs) the form and manner of making application under clause (b) of sub-section (2) of section 57;

(zt) period of making report and the period of deciding the question under clause (c) of sub-section (2) of section 57;

(zu) minimum service for entitlement, class of travel and other matters under section 61;

(zv) manner of providing facility of toll free helpline under section 63;

(zw) manner of providing for study on inter-State migrant workers under section 64;

(zx) authority to whom a copy of the agreement shall be forwarded by the producer under sub-section (3) of section 66;

(zy) details under clause (vii) of sub-section (4) of section 66;

(zz) rules in respect of factory or class or description of factories under sub-section (1) of section 79;

(zza) mode of submission of application under sub-section (2) of section 79;

(zzb) common facilities and services for joint liability of owner of premises and occupiers of the factories under section 80;

(zzc) rules under section 82;

(zzd) purposes under sub-section (1) of section 83;

(zze) form of application under sub-section (2) of section 83;

(zzf) the appellate authority for appeal against the order of Inspector-cum-Facilitator of factory and the manner of appeal under section 90;

(zzg) rules under section 91;

(zzh) manner of holding enquiry under sub-section (1) of section 111;

(zzi) form and manner of preferring appeal and the fee to accompany such appeal under sub-section (3) of section 111;

(zzj) manner of compounding under sub-section (1) of section 114;

(zzk) other sources of fund under sub-section (2) of section 115;

(zxl) the manner of administering and expending the Fund under sub-section (3) of section 115;

(zzm) the form of application, manner of filing the application and the fee to be accompanied therewith including the information relating to the employment of inter-State migrant workers under sub-section (2) of section 119;

(zzn) actions, manner of taking actions and inquiry under sub-section (3) of section 119;

(zzo) the form of appeal, the fee to be accompanied therewith and the appellate authority under sub-section (6) of section 119;

(zzp) the manner of survey under sub-section (2) of section 121;

(zzq) any other matter which is required to be, or may be, prescribed under this Code.

134. (1) The Central Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Code.

Power of
Central
Government
to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the other authority under sub-clause (iii) of clause (zs) of sub-section (1) of section 2;

(b) the matters which are directly related to the condition of ship under the proviso to sub-clause (iii) of clause (zs) of sub-section (1) of section 2;

(c) other period under clause (a) of sub-section (1) of section 3;

(d) the form of certificate of registration, the time within which and the conditions subject to which such certificate shall be issued under sub-section (3) of section 3;

(e) the form of intimation by the employer electronically and the manner of amendment in the certificate electronically under sub-section (4) of section 3;

(f) the manner of informing closing of establishment and certifying payment to the registering officer under sub-section (5) of section 3;

- (g) procedure for nomination and discharge of functions of Members of National Board under sub-section (3) of section 16;
- (h) the terms and conditions of service of officers and employees of the National Board under sub-section (4) of section 16;
- (i) the number of members of technical committees or advisory committees and their qualifications under sub-section (5) of section 16;
- (j) the form and manner of collecting, compiling and analyzing occupational safety and health statistics under sub-section (1) of section 21;
- (k) the form and manner of maintaining database electronically or otherwise and the documents to be produced under sub-section (2) of section 21;
- (l) health and working conditions under sub-section (1) of section 23;
- (m) regarding matters specified in sub-section (2) of section 23;
- (n) welfare facilities for the employees under sub-section (1) of section 24;
- (o) regarding matters specified in sub-section (2) of section 24;
- (p) facility of crèche under sub-section (3) of section 24;
- (q) definition of "running time" in relation to a working day under clause (a) of the *Explanation* to sub-section (1) of section 25;
- (r) the hours of work for working journalist under sub-section (2) of section 25;
- (s) other kinds of leave under clause (i) of sub-section (3) of section 25;
- (t) the maximum period of accumulating leave under clause (ii) of sub-section (3) of section 25;
- (u) the limit up to which the earned leave may be availed of at a time and the reasons for which such leave may be exceeding under clause (iii) of sub-section (3) of section 25;
- (v) conditions and restrictions for entitlement of cash compensation under clause (iv) of sub-section (3) of section 25;
- (w) powers and duties of District Magistrate under section 36;
- (x) requisite qualifications or criteria under sub-section (1) of section 47;
- (y) period of renewal of licence under sub-section (2) of section 47;
- (z) procedure under clause (b) of sub-section (1) of section 51;
- (za) form of agreement under clause (a), and the name and other particulars under clause (b) of sub-section (2) of section 66;
- (zb) the matter which may be saved and the qualifications of sole manager under sub-section (1) of section 67;
- (zc) the conditions relating to number of employees, depth of excavation and other matters under clause (a) of sub-section (1) of section 68;
- (zd) conditions relating to workings, opencast workings and explosives under clause (b) of sub-section (1) of section 68;
- (ze) to declare the mines and part thereof for the purpose of applicability of the provisions of this Code under sub-section (2) of section 68;
- (zf) the authority, the manner of informing such authority and the time limit for making such information under sub-section (3) of section 68;
- (zg) to provide for medical examination of apprentice, other trainee or employee under sub-section (3) of section 70;

(zh) to exempt certain persons or category of persons holding positions of supervision or management and the persons employed in mine and the persons employed therein under section 71;

(zi) to provide for vocational training and rescue and recovery services to the persons employed in a mine under section 72;

(zj) medical authority under sub-section (2) of section 117;

(zk) rules under sub-section (4) of section 121;

(zl) the language of the bye-laws under sub-section (7) of section 139;

(zm) any other matter which is required to be, or may be prescribed.

135. (1) The State Government may, subject to the condition of previous publication and by notification, make rules for the carrying out the provisions of this Code. Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the constitution, procedure and other matters relating to State Advisory Board under sub-section (2) of section 17;

(b) the number of members and their qualifications under sub-section (3) of section 17;

(c) the form of application and the payment of fees under sub-section (2) of section 74;

(d) the manner of preparing the plan of the place or premises under sub-section (3) of section 74;

(e) other matters under clause (e) of sub-section (4) of section 74;

(f) fees under sub-section (6) of section 74;

(g) period under the second proviso to sub-section (6) of section 74;

(h) the time of filing appeal and fees under section 75;

(i) the form of application by the employee and conditions under sub-section (1) of section 76;

(j) form of maintaining the record of the work under sub-section (2) of section 76;

(k) the manner of disclosing information by occupier of a factory under sub-section (1) of section 84;

(l) the interval of informing Chief Inspector-cum-Facilitator and the local authority about the policy with respect to the health and safety of the workers under sub-section (2) of section 84;

(m) the form and manner of informing Chief Inspector-cum-Facilitator under sub-section (5) of section 84;

(n) the manner of publicising among the workers and the general public living in the vicinity of the factory the measures and disposal laid down under sub-section (7) of section 84;

(o) the conditions for accessibility to the record by the workers under clause (a) of section 85;

(p) the qualification and experience of persons handling hazardous substance and manner of providing necessary facilities for protecting the workers under clause (b) of section 85;

(q) the manner of providing for medical examination of a worker under sub-clause (ii) of clause (c) of section 85;

(r) the measures or standards under sub-section (1) of section 86;

(s) the value of the maximum permissible limit of exposure of chemical and toxic substances in manufacturing process in any factory under section 88;

(t) requiring every employer to make in his plantation provisions in respect of as specified in clauses (a) to (d) of sub-section (1) of section 92;

(u) for prohibiting or, restricting employment of women or adolescents under sub-section (2) of section 93;

(v) qualifications under sub-section (3) of section 93;

(w) other matters under sub-section (4) of section 93;

(x) manner of periodical medical examination of worker under sub-section (5) of section 93;

(y) the manner of providing facilities, clothing and equipment under sub-section (7) of section 93;

(z) precautionary notices under sub-section (9) of section 93;

(za) any other matter which is required to be, or may be, prescribed.

(3) The Central Government may, by notification and in consultation with the State Government, make rules for the purposes of bringing uniformity, throughout the country, in occupational safety, health or such other matters as it considers necessary in respect of factories.

Power of Central Government to make regulations in relation to mines and dock work.

136. The Central Government may, by notification, make regulations consistent with this Code for all or any of the following purposes, namely:—

(a) for specifying the qualifications required for appointment as Inspector-cum-Facilitator;

(b) for specifying and regulating the duties and powers of the Chief Inspector-cum-Facilitator and of Inspector-cum-Facilitators in regard to the inspection of mines under this Code;

(c) for specifying the duties of owners, agents and managers of mines and of persons acting under them, and for specifying the qualifications (including age) of agents and managers of mines and of persons acting under them;

(d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

(e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mines to be under a manager not having the specified qualifications;

- 5 of 1908. (h) for providing for inquiries to be made under this Code, including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Code and for the suspension or cancellation of any such certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects;
- 4 of 1884. (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage, conveyance and use of explosives;
- (j) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such persons and for limiting the weight of any single load that may be carried by any such person;
- (k) for providing for the safety of the persons employed in a mine, their means of entrance there into and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
- (l) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;
- (m) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction or reduction of pillars or blocks of minerals and the maintenance of sufficient barriers between mine and mine;
- (n) for the inspection of workings and sealed off fire- areas in a mine, and for the restriction of workings in the vicinity of the sea or any lake or river or any other body of surface water, whether natural or artificial, or of any public road or building, and for requiring due precaution to be taken against the irruption or inrush of water or other liquid matter into, outbreak of fire in or premature collapse of, any workings;
- (o) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;
- 36 of 2003. (p) for regulating, subject to the provisions of the Electricity Act, 2003, and of any rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines and of all other machinery and plant therein;
- (q) "for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads and for restricting the use of certain classes of locomotives underground;
- (r) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;
- (s) for providing against explosions or ignitions of inflammable gas or dust or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of workings or to result in or to aggravate the collapse of workings or irruptions of water or ignitions in mines;
- (t) for specifying type of accidents for the purposes of notice under section 10 and for specifying the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters

provided for by regulations, to be furnished by owners, agents and managers of mines, and for specifying the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(*u*) for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for specifying the plans and sections and field notes connected therewith to be kept by them and the manner and places in which such plans, sections and field notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector-cum-Facilitator, and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue;

(*v*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about, mines; for dealing effectively with the situation;

(*w*) for specifying the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 5;

(*x*) for specifying the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within forty-five meters of any railway subject to the provisions of the Indian Railways Act, 1989 or of any public roads or other works as the case may be, which are maintained by the Government or any local authority; 24 of 1989.

(*y*) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1989; 24 of 1989.

(*z*) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner in the same manner as an arrear of land revenue;

(*za*) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public;

(*zb*) for specifying the number of officials to be appointed;

(*zc*) for specifying the qualifications of the officials to be appointed;

(*zd*) for specifying the qualifications and experience of the agents;

(*ze*) for specifying the period during which the agent shall be resident in India;

(*zf*) for specifying duties and responsibilities of suppliers, designers, importer and contractors for safety in mines;

(*zg*) for requiring the owners, agents and managers of mines to formulate, maintain and enforce safety management plan in their mines;

(*zh*) for requiring the managers of mines to formulate and implement codes of practice or standard operating procedure in respect of any machinery or operation used in the mines;

(*zi*) for providing for the safety in opencast mines and associated operations and machineries used therein;

(*zj*) for regulating the extraction of methane from working or abandoned coal mines or from virgin coal seam;

(zk) for specifying the forms of returns which shall be filed by the establishments or the class of establishments under this Code;

(zl) for the general requirement relating to the construction, equipping and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;

(zm) for the safety of any regular approaches over a dock, wharf, quay or other places which dock workers have to use for going for work and for fencing of such places and projects;

(zn) for the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;

(zo) providing and maintaining adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;

(zp) providing for the fire and explosion prevention and protection;

(zq) providing for safe means of access to ships, holds, stagings, equipment, lifting appliances and other working places;

(zr) providing for the safety of workers engaged in the opening and closing of hatches, protection of ways and other openings in the docks which may be dangerous to them;

(zs) providing for the safety of workers on docks from the risk of falling overboard being struck by cargo during loading or unloading operations;

(zt) providing for the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;

(zu) providing for the safety of workers employed in freight container terminals or other terminals for handling unitised cargo;

(zv) providing for the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;

(zw) providing for the construction, maintenance and use of staging;

(zx) providing for the rigging and use of ship's derricks;

(zy) providing for the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work;

(zz) providing for the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;

(zza) providing for the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;

(zzb) providing for the handling of dangerous substances and working in dangerous or harmful environments and the precautions to be taken in connection with such handling;

(zzc) providing for the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;

(zzd) providing for the employment of persons for handling cargo, handling appliances, power operated hatch covers or other power operated ship's equipment, such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;

(zze) providing for the transport of dock workers;

(zzf) providing for the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibrations and air pollution at the workplace;

(zzg) providing for protective equipment or protective clothing;

(zzh) providing for the sanitary, washing and welfare facilities;

(zzi) providing for—

(i) the medical supervision;

(ii) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

(iii) the safety and health organisation; and

(iv) the training of dock workers and for the obligations and rights of the dock workers for their safety and health at the workplace;

(zzj) providing for the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

(zzk) providing for the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers; and

(zzl) any other matter which is required to be or may be specified by regulation.

Prior publication of rules, etc.

137. The power to make rules, regulations, and bye-laws under this Code shall be subject to the condition of the previous publication of the same being made, in the following manner, namely:—

(a) the date to be specified after a draft of rule, regulation, and bye-laws proposed to be made will be taken under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rule, regulation and bye-laws is published for general information;

(b) rule, regulation and bye-laws shall be published in the Official Gazette and on such publication, shall have effect as if enacted in this Code.

Power to make regulation without previous publication.

138. Notwithstanding anything contained in section 137, regulations under section 136 may be made without previous publication and without reference to the National Occupational Safety Health Advisory Board constituted under sub-section (1) of section 16, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger and to avoid delay it is necessary to dispense with from such publication and reference.

Bye-laws.

139. (1) The employer of a mine may, and shall, if called upon to do so by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, frame and submit to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator a draft of such bye-laws, not being inconsistent with this Code or any rules or regulations or standards for the time being in force, governing the use of any particular machinery or the adoption of a particular method of working in the mine, as the employer may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such employer—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator; or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator sufficient, the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator may—

(i) propose a draft of such bye-laws as appear to him to be sufficient; or

(ii) propose such amendments in any draft submitted to him by the employer as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the employer for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator to the employer under the provisions of sub-section (2), the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the employer are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator shall refer the draft bye-laws for settlement to the technical committee constituted under sub-section (5) of section 16 in respect of mines.

(4) When such draft bye-laws have been agreed to by the employer and the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, or, when they are unable to agree, have been settled by the technical Committee constituted under sub-section (5) of section 16 in respect of mines, a copy of the draft bye-laws shall be sent by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator to the Central Government for approval:

Provided that the Central Government may make such modification of the draft bye-laws as it thinks fit:

Provided further that before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, a notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(5) Every objection under second proviso to sub-section (4) shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(6) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(7) The employer shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed by the Central Government, to be pasted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as and when the same become defaced, obliterated or destroyed, shall cause them to be pasted again.

(8) The Central Government may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

Powers to regulate general safety and health.

140. Notwithstanding any law for the time being in force, the Central Government may make rules to regulate general safety and health of the persons residing in whole or part of India, in the event of declaration of an epidemic, pandemic or disaster, for such period as may be notified by the Central Government.

Laying of regulations, rules, bye-laws, etc., before Parliament.

141. Every rule, regulation, standard and bye-laws notified or made by the Central Government under this Code shall be laid, as soon as may be after it is notified or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation, standard or bye-law or both Houses agree that the rule, regulation, standard or bye-law should not be made, the rule, regulation, standard or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation, standard or bye-law, as the case may be.

Laying of rules made by State Government.

142. Every rule made by the State Government under this Code shall be laid, as soon as may be, after it is made, before the State Legislature.

Repeal and Savings.

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

(a) The Factories Act, 1948;	63 of 1948.
(b) The Plantations Labour Act, 1951;	69 of 1951.
(c) The Mines Act, 1952;	35 of 1952.
(d) The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955;	45 of 1955.
(e) The Working Journalists (Fixation of Rates of Wages) Act, 1958;	29 of 1958.
(f) The Motor Transport Workers Act, 1961;	27 of 1961.
(g) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966;	32 of 1966.
(h) The Contract Labour (Regulation and Abolition) Act, 1970;	37 of 1970.
(i) The Sales Promotion Employees (Conditions of Service) Act, 1976;	11 of 1976.
(j) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;	30 of 1979.
(k) The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981;	50 of 1981.
(l) The Dock Workers (Safety, Health and Welfare) Act, 1986;	54 of 1986.
(m) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.	27 of 1996.

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

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

10 of 1897. (4) Without prejudice to the provisions of sub-section (2), provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactments.

THE FIRST SCHEDULE

[See section 2(z*a*)]

List of Industries involving hazardous processes:

1. Ferrous Metallurgical Industries
 - Integrated Iron and Steel
 - Ferro-alloys
 - Special Steels.
2. Non-ferrous metallurgical Industries
 - Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium.
3. Foundries (ferrous and non-ferrous)
 - Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting.
4. Coal (including coke) industries
 - Coal, Lignite, Coke and like other substances
 - Fuel Gases (including Coal Gas, Producer Gas, Water Gas).
5. Power Generating Industries.
6. Pulp and paper (including paper products) industries.
7. Fertiliser Industries
 - Nitrogenous
 - Phosphatic
 - Mixed.
8. Cement Industries
 - Portland Cement (including slag cement, puzzolona cement and their products).
9. Petroleum Industries
 - Oil Refining
 - Lubricating Oils and Greases.
10. Petro-chemical Industries.
11. Drugs and Pharmaceutical Industries
 - Narcotics, Drugs and Pharmaceuticals.
12. Fermentation Industries (Distilleries and Breweries).
13. Rubber (Synthetic) Industries.
14. Paints and Pigment Industries.
15. Leather Tanning Industries.
16. Electro-plating Industries.
17. Chemical Industries.

(*a*) Coke Oven by-products and Coaltar Distillation products:

(b) Industrial Gases (nitrogen, oxygen, acetylene, argon, carbon dioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, or any like gases);

(c) Industrial Carbon;

(d) Alkalies and Acids;

(e) Chromates and dichromates;

(f) Lead and its compounds;

(g) Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides);

(h) Electrothermal produces (artificial abrasive, calcium carbide);

(i) Nitrogenous compounds (cyanides, cyanamides and other nitrogenous compounds);

(j) Phosphorous and its compounds;

(k) Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine);

(l) Explosives (including industrial explosives and detonators and fuses).

18. Insecticides, Fungicides, Herbicides and other Pesticides Industries.

19. Synthetic Resin and plastics.

20. Man made Fibre (Cellulosic and non-cellulosic) industry.

21. Manufacture and repair of electrical accumulators.

22. Glass and Ceramics.

23. Grinding or glazing of metals.

24. Manufacture, handling and processing of asbestos and its products.

25. Extraction of oils and fats from vegetable and animal sources.

26. Manufacture, handling and use of benzene and substances containing benzene.

27. Manufacturing processes and operations involving carbon disulphide.

28. Dyes and Dyestuff including their intermediates.

29. Highly flammable liquids and gases.

30. Printing and dyeing on fabrics in textiles and plywood and laminate manufacturing process.

31. Process involving usage of radium or Radioactive Substances.

32. Stone Crushing industry.

33. Extraction of Oil and Raw material from the scrap tyres.

34. Cigarette manufacturing industry.

35. Ship breaking industry.

36. Hazardous waste and e-waste processing plants.

37. Semiconductor manufacturing industry.

38. Styrene manufacturing, handling and processing industry.

39. Nano-particles utilising industry.

40. Manufacturing, processing, preparation and utilisation of Mercury or Compounds of Mercury, Lead Tetra-ethyl, Manganese, Arsenic, Chrome, Aliphatic series, Beryllium, Phosgene and Isocyanates.

THE SECOND SCHEDULE

[See section 18(2)(f)]

List of matters:

- (1) fencing of machinery;
- (2) work on or near machinery in motion;
- (3) employment of adolescents on dangerous machines;
- (4) striking gear and devices for cutting off power;
- (5) self acting machines;
- (6) casing of new machinery;
- (7) prohibition of employment of women, children and adolescent near cotton openers;
- (8) hoists and lifts;
- (9) lifting machines, chains, ropes and lifting tackles;
- (10) revolving machinery;
- (11) pressure plant;
- (12) floors, stairs and means of access;
- (13) pits, sumps, openings in floors and other similar indentation of area;
- (14) safety officers;
- (15) protection of eyes;
- (16) precautions against dangerous fumes, gases, etc.;
- (17) precautions regarding the use of portable electric light;
- (18) explosive or inflammable dust, gas, and other like dusts or gases;
- (19) safety committee;
- (20) power to require specifications of defective parts or tests of stability;
- (21) safety of buildings and machinery;
- (22) maintenance of buildings;
- (23) prohibition in certain cases of danger;
- (24) notice in respect of accidents;
- (25) court of inquiry in case of accidents;
- (26) safety management in plantation;
- (27) the general requirement relating to the construction, equipments and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;
- (28) the safety of any regular approaches over a dock, wharf, quay or other places which dock worker have to use for going for work and for fencing of such places and projects;
- (29) the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;

(30) adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;

(31) the fire and explosion preventions and protection;

(32) safe means of access to ships, holds, stagings, equipment, appliances and other working places;

(33) the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;

(34) the safety of workers employed in freight container terminals of other terminals for handing unitized cargo;

(35) the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;

(36) the construction, maintenance and use of staging;

(37) the rigging and use of ship's derricks;

(38) the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work;

(39) the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;

(40) the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;

(41) the handling of dangerous substances and working, in dangerous or harmful environments and the precautions to be taken in connection with such handling;

(42) the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;

(43) the employment of persons for handling cargo, handling appliances, power operated batch covers or other power operated ship's equipment such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;

(44) the transport of dock workers;

(45) the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibration and air pollution at the work place;

(46) protective equipment and protective clothing;

(47) the sanitary, washing and welfare facilities;

(48) the medical supervision;

(49) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

(50) the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

(51) the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers.

(52) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(53) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person for the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(54) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(55) the erection installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(56) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;

(57) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;

(58) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;

(59) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;

(60) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working only of the operations and as if it were securely fenced;

(61) the safe handling and use of plant, including tools and equipment operated by compressed air;

(62) the precaution to be taken in case of fire;

(63) the limits of weight to be lifted or moved by workers;

(64) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(65) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;

(66) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

(67) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipment and floating operational equipments;

(68) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(69) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefore and the

matters connected therewith, to be framed by the employers and contractors for tile operations to be carried on in a building or other construction work;

(70) emergency standards for enforcement of suitable standards in respect of hazardous processes in a factory;

(71) the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory;

(72) lightning; and

(73) any other matter which the Central Government considers under the circumstance for better working condition for safety at the workplace.

THE THIRD SCHEDULE

[See section 12(1)]

List of Notifiable Diseases:

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead-tetra-ethyle poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
 - (a) radium or other radio-active substances;
 - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.
18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.
19. Byssionosis.
20. Asbestosis.
21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.
22. Noise induced hearing loss (exposure to high noise levels).
23. Beryllium poisoning.
24. Carbon monoxide poisoning.

25. Coal miners' pneumoconiosis.
 26. Phosgene poisoning.
 27. Occupational cancer.
 28. Isocyanates poisoning.
 29. Toxic nephritis.
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DR. G. NARAYANARAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 63] नई दिल्ली, मंगलवार, सितम्बर 29, 2020/ आश्विन 7, 1942 (शक)
No. 63] NEW DELHI, TUESDAY, SEPTEMBER 29, 2020/ASVINA 7, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 29th September, 2020/Asvina 7, 1942 (Saka)

The following Act of Parliament received the assent of the President on the 29th September, 2020 and is hereby published for general information:—

THE TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020

No. 38 OF 2020

[29th September, 2020.]

AN ACT to provide for relaxation and amendment of provisions of certain Acts and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

Short title and commencement.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 31st day of March, 2020.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "notification" means the notification published in the Official Gazette;

(b) "specified Act" means—

- | | |
|-----------------------------------------------------------------------------------------------|-------------|
| (i) the Wealth-tax Act, 1957; | 27 of 1957. |
| (ii) the Income-tax Act, 1961; | 43 of 1961. |
| (iii) the Prohibition of <i>Benami</i> Property Transactions Act, 1988; | 45 of 1988. |
| (iv) Chapter VII of the Finance (No. 2) Act, 2004; | 22 of 2004. |
| (v) Chapter VII of the Finance Act, 2013; | 17 of 2013. |
| (vi) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015; | 22 of 2015. |
| (vii) Chapter VIII of the Finance Act, 2016; or | 28 of 2016. |
| (viii) the Direct Tax <i>Vivad se Vishwas</i> Act, 2020. | 3 of 2020. |

(2) The words and expressions used herein and not defined, but defined in the specified Act, the Central Excise Act, 1944, the Customs Act, 1962, the Customs Tariff Act, 1975 or the Finance Act, 1994, as the case may be, shall have the same meaning respectively assigned to them in that Act.

	1 of 1944.
	52 of 1962.
	51 of 1975.
	32 of 1994.

CHAPTER II

RELAXATION OF CERTAIN PROVISIONS OF SPECIFIED ACT

Relaxation of certain provisions of specified Act.

3. (1) Where, any time-limit has been specified in, or prescribed or notified under, the specified Act which falls during the period from the 20th day of March, 2020 to the 31st day of December, 2020, or such other date after the 31st day of December, 2020, as the Central Government may, by notification, specify in this behalf, for the completion or compliance of such action as—

(a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval, or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the specified Act; or

(b) filing of any appeal, reply or application or furnishing of any report, document, return or statement or such other record, by whatever name called, under the provisions of the specified Act; or

(c) in case where the specified Act is the Income-tax Act, 1961,— 43 of 1961.

(i) making of investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purposes of claiming any deduction, exemption or allowance under the provisions contained in—

(I) sections 54 to 54GB, or under any provisions of Chapter VI-A under the heading "B.—Deductions in respect of certain payments" thereof; or

(II) such other provisions of that Act, subject to fulfilment of such conditions, as the Central Government may, by notification, specify; or

(ii) beginning of manufacture or production of articles or things or providing any services referred to in section 10AA of that Act, in a case where the letter of approval, required to be issued in accordance with the provisions of the Special Economic Zones Act, 2005, has been issued on or before the 31st day of March, 2020, 28 of 2005.

and where completion or compliance of such action has not been made within such time, then, the time-limit for completion or compliance of such action shall, notwithstanding anything contained in the specified Act, stand extended to the 31st day of March, 2021, or such other date after the 31st day of March, 2021, as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions:

Provided further that such action shall not include payment of any amount as is referred to in sub-section (2):

43 of 1961.

Provided also that where the specified Act is the Income-tax Act, 1961 and the compliance relates to—

(i) furnishing of return under section 139 thereof, for the assessment year commencing on the—

(a) 1st day of April, 2019, the provision of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2021", the figures, letters and words "30th day of September, 2020" had been substituted;

(b) 1st day of April, 2020, the provision of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2021", the figures, letters and words "30th day of November, 2020" had been substituted;

(ii) delivering of statement of deduction of tax at source under sub-section (2A) of section 200 of that Act or statement of collection of tax at source under sub-section (3A) of section 206C thereof for the month of February or March, 2020, or for the quarter ending on the 31st day of March, 2020, as the case may be, the provision of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2021", the figures, letters and words "15th day of July, 2020" had been substituted;

(iii) delivering of statement of deduction of tax at source under sub-section (3) of section 200 of that Act or statement of collection of tax at source under proviso to sub-section (3) of section 206C thereof for the month of February or March, 2020, or for the quarter ending on the 31st day of March, 2020, as the case may be, the provision of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2021", the figures, letters and words "31st day of July, 2020" had been substituted;

(iv) furnishing of certificate under section 203 of that Act in respect of deduction or payment of tax under section 192 thereof for the financial year commencing on the 1st day of April, 2019, the provision of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2021", the figures, letters and words "15th day of August, 2020" had been substituted;

(v) sections 54 to 54GB of that Act, referred to in item (I) of sub-clause (i) of clause (c), or sub-clause (ii) of the said clause, the provision of this sub-section shall have the effect as if—

(a) for the figures, letters and words "31st day of December, 2020", the figures, letters and words "29th day of September, 2020" had been substituted for the time-limit for the completion or compliance; and

(b) for the figures, letters and words "31st day of March, 2021", the figures, letters and words "30th day of September, 2020" had been substituted for making such completion or compliance;

(vi) any provisions of Chapter VI-A under the heading "B.— Deductions in respect of certain payments" of that Act, referred to in item (I) of sub-clause (i) of clause (c), the provision of this sub-section shall have the effect as if—

(a) for the figures, letters and words "31st day of December, 2020", the figures, letters and words "30th day of July, 2020" had been substituted for the time-limit for the completion or compliance; and

(b) for the figures, letters and words "31st day of March, 2021", the figures, letters and words "31st day of July, 2020" had been substituted for making such completion or compliance;

(vii) furnishing of report of audit under any provision thereof for the assessment year commencing on the 1st day of April, 2020, the provision of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2021", the figures, letters and words "31st day of October, 2020" had been substituted:

Provided also that the extension of the date as referred to in sub-clause (b) of clause (i) of the third proviso shall not apply to *Explanation 1* to section 234A of the Income-tax Act, 1961 in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of the said section exceeds one lakh rupees: 43 of 1961.

Provided also that for the purposes of the fourth proviso, in case of an individual resident in India referred to in sub-section (2) of section 207 of the Income-tax Act, 1961, the tax paid by him under section 140A of that Act within the due date (before extension) provided in that Act, shall be deemed to be the advance tax: 43 of 1961.

Provided also that where the specified Act is the Direct Tax *Vivad Se Vishwas Act, 2020*, the provision of this sub-section shall have the effect as if— 3 of 2020.

(a) for the figures, letters and words "31st day of December, 2020", the figures, letters and words "30th day of December, 2020" had been substituted for the time limit for the completion or compliance of the action; and

(b) for the figures, letters and words "31st day of March, 2021", the figures, letters and words "31st day of December, 2020" had been substituted for making such completion or compliance.

(2) Where any due date has been specified in, or prescribed or notified under the specified Act for payment of any amount towards tax or levy, by whatever name called, which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify in this behalf, and if such amount has not been paid within such date, but has been paid on or before the 30th day of June, 2020, or such other date after the 30th day of June, 2020, as the Central Government may, by notification, specify in this behalf, then, notwithstanding anything contained in the specified Act,—

(a) the rate of interest payable, if any, in respect of such amount for the period of delay shall not exceed three-fourth per cent. for every month or part thereof;

(b) no penalty shall be levied and no prosecution shall be sanctioned in respect of such amount for the period of delay.

Explanation.—For the purposes of this sub-section, "the period of delay" means the period between the due date and the date on which the amount has been paid.

CHAPTER III

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amendment of
Act 43 of
1961.

4. In the Income-tax Act, 1961,—

(1) in section 6, with effect from the 1st day of April, 2021,—

(a) in clause (1), in *Explanation 1*, in clause (b), for the words "the citizen or person of Indian origin", the words "such person" shall be substituted;

(b) in clause (1A), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that this clause shall not apply in case of an individual who is said to be resident in India in the previous year under clause (1).";

(c) in clause (6), in the *Explanation*, the words "and which is not deemed to accrue or arise in India." shall be added at the end;

(II) in section 10,—

(a) in clause (4D), with effect from the 1st day of April, 2021,—

(i) for the words "convertible foreign exchange, to the extent such income accrued or arisen to, or is received in respect of units held by a non-resident", the words and brackets 'convertible foreign exchange or as a result of transfer of securities (other than shares in a company resident in India) or any income from securities issued by a non-resident (not being a permanent establishment of a non-resident in India) and where such income otherwise does not accrue or arise in India or any income from a securitisation trust which is chargeable under the head "profits and gains of business or profession", to the extent such income accrued or arisen to, or is received, is attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) computed in the prescribed manner' shall be substituted;

(ii) in the *Explanation*, after clause (b), the following clauses shall be inserted, namely:—

'(ba) "permanent establishment" shall have the same meaning assigned to it in clause (iiia) of section 92F;

(bb) "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and shall also include such other securities or instruments as may be notified by the Central Government in the Official Gazette in this behalf;

(bc) "securitisation trust" shall have the same meaning assigned to it in clause (d) of the *Explanation* to section 115TCA;';

(b) in clause (23C),—

(i) in sub-clause (i), after the word "Fund", the words and brackets "or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2020;

(ii) for the first and second provisos,—

(A) with effect from the 1st day of June, 2020, the following provisos shall be substituted and shall be deemed to have been substituted, namely:—

"Provided that the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via):

Provided further that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the compliance of such requirements under any other law for the time being in force by such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as are material for the purpose of achieving its objects and the prescribed authority may also make such inquiries as it deems necessary in this behalf:";

(B) with effect from the 1st day of April, 2021, the following provisos shall be substituted, namely:—

"Provided that the exemption to the fund or trust or institution or university or other educational institution or hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), under the respective sub-clauses, shall not be available to it unless such fund or trust or institution or university or other educational institution or hospital or other medical institution makes an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

(i) where such fund or trust or institution or university or other educational institution or hospital or other medical institution is approved under the second proviso [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain provisions) Act, 2020], within three months from the 1st day of April, 2021;

(ii) where such fund or trust or institution or university or other educational institution or hospital or other medical institution is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;

(iii) where such fund or trust or institution or university or other educational institution or hospital or other medical institution has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;

(iv) in any other case, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought,

and the said fund or trust or institution or university or other educational institution or hospital or other medical institution is approved under the second proviso:

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall,—

(i) where the application is made under clause (i) of the said proviso, pass an order in writing granting approval to it for a period of five years;

(ii) where the application is made under clause (ii) or clause (iii) of the said proviso,—

(a) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) the genuineness of activities of such fund or trust or institution or university or other educational institution or hospital or other medical institution; and

(B) the compliance of such requirements of any other law for the time being in force by it as are material for the purpose of achieving its objects; and

(b) after satisfying himself about the objects and the genuineness of its activities under item (A), and compliance of the requirements under item (B), of sub-clause (a),—

(A) pass an order in writing granting approval to it for a period of five years;

(B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its approval after affording it a reasonable opportunity of being heard;

(iii) where the application is made under clause (iv) of the said proviso, pass an order in writing granting approval to it provisionally for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the fund or trust or institution or university or other educational institution or hospital or other medical institution:";

(iii) for the eighth and ninth provisos,—

(A) with effect from the 1st day of June, 2020, the following provisos shall be substituted and shall be deemed to have been substituted, namely:—

"Provided also that any notification issued by the Central Government under sub-clause (iv) or sub-clause (v), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any

one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:

Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall be granted or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received:";

(B) with effect from the 1st day of April, 2021, the following provisos shall be substituted, namely:—

"Provided also that any approval granted under the second proviso shall apply in relation to the income of the fund or trust or institution or university or other educational institution or hospital or other medical institution,—

(i) where the application is made under clause (i) of the first proviso, from the assessment year from which approval was earlier granted to it;

(ii) where the application is made under clause (iii) of the first proviso, from the first of the assessment years for which it was provisionally approved;

(iii) in any other case, from the assessment year immediately following the financial year in which such application is made:

Provided also that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the second proviso shall be passed, in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received:";

(iv) in the twelfth proviso, for the word, figures and letters "section 12AA", the words, figures and letters "section 12AA or section 12AB" shall be substituted with effect from the 1st day of April, 2021;

(v) after fifteenth proviso, with effect from the 1st day of June, 2020, the following proviso shall be inserted and shall be deemed to have been inserted, namely:—

"Provided also that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after the 1st day of June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be made on or before the 30th day of September of the relevant assessment year from which the exemption is sought:";

(vi) with effect from the 1st day of April, 2021, the sixteenth proviso as so inserted, shall be omitted;

(vii) for the eighteenth proviso,—

(A) with effect from the 1st day of June, 2020, the following proviso shall be substituted and shall be deemed to have been substituted, namely:—

"Provided also that all pending applications, on which no notification has been issued under sub-clause (iv) or sub-clause (v) before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority may proceed with such applications under those sub-clauses from the stage at which they were on that day:";

(B) with effect from the 1st day of April, 2021, the following proviso shall be substituted, namely:—

"Provided also that all applications made under the first proviso [as it stood before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020] pending before the Principal Commissioner or Commissioner, on which no order has been passed before the 1st day of April, 2021, shall be deemed to be applications made under clause (iv) of the first proviso on that date:";

(c) after clause (23FBB), the following clause shall be inserted, with effect from the 1st day of April, 2021, namely:—

"(23FBC) any income accruing or arising to, or received by, a unit holder from a specified fund or on transfer of units in a specified fund.

Explanation.—For the purposes of this clause, the expressions—

(a) "specified fund" shall have the same meaning as assigned to it in clause (c) of the *Explanation* to clause (4D);

(b) "unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests.";

(d) in clause (23FE), in the *Explanation*, with effect from the 1st day of April, 2021,—

(i) in clause (a), in sub-clause (ii), for the words "United Arab Emirates", the words "Abu Dhabi" shall be substituted";

(ii) in clause (b), in sub-clause (vi), after the words "for this purpose", the words "and fulfils conditions specified in such notification" shall be inserted;

(iii) in clause (c), in sub-clause (iv), for the words "for this purpose", the words "for this purpose and fulfils conditions specified in such notification" shall be substituted;

(III) in section 11,—

(a) in sub-section (1), in *Explanation 2*, after the word, figures and letters "section 12AA", the words, figures and letters "or section 12AB, as the case may be" shall be inserted with effect from the 1st day of April, 2021;

(b) in sub-section (7),—

(i) for the words, figures and letters "under section 12AA or section 12AB", the words, brackets, letters and figures "under clause (b) of sub-section (1) of section 12AA" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2020;

(ii) for the words, brackets, letters and figures "under clause (b) of sub-section (1) of section 12AA", the words, figures and letters "under section 12AA or section 12AB" shall be substituted with effect from the 1st day of April, 2021;

(iii) in the second proviso,—

(A) with effect from the 1st day of June, 2020, for the words, figures and letters "under section 12AB", the words, figures and letters "under section 12AA," shall be substituted and shall be deemed to have been substituted;

(B) with effect from the 1st day of April, 2021, after the words, figures and letters "under section 12AA", the words, figures and letters "or section 12AB" shall be inserted;

(IV) in section 12A,—

(a) in sub-section (1),—

(i) with effect from the 1st day of June, 2020, clause (ac) shall be omitted and shall be deemed to have been omitted;

(ii) with effect from the 1st day of April, 2021, after clause (ab), the following clause shall be inserted, namely:—

"(ac) notwithstanding anything contained in clauses (a) to (ab), the person in receipt of the income has made an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution,—

(i) where the trust or institution is registered under section 12A [as it stood immediately before its amendment by the Finance (No. 2) Act, 1996] or under section 12AA [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;

(ii) where the trust or institution is registered under section 12AB and the period of the said registration is due to expire, at least six months prior to expiry of the said period;

(iii) where the trust or institution has been provisionally registered under section 12AB, at least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier;

(iv) where registration of the trust or institution has become inoperative due to the first proviso to sub-section (7)

of section 11, at least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative;

(v) where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of thirty days from the date of the said adoption or modification;

(vi) in any other case, at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought,

and such trust or institution is registered under section 12AB;"

(b) in sub-section (2),—

(A) with effect from the 1st day of June, 2020,—

(i) the first proviso shall be omitted and shall be deemed to have been omitted;

(ii) in the second proviso, for the words, figures and letters "Provided further that where registration has been granted to the trust or institution under section 12AA or section 12AB", the words, figures and letters "Provided that where registration has been granted to the trust or institution under section 12AA" shall be substituted and shall be deemed to have been substituted;

(iii) in the third proviso, for the words "provided also", the words "provided further" shall be substituted and shall be deemed to have been substituted;

(iv) in the fourth proviso, for the words, figures and letters "section 12AA or section 12AB", the word, figures and letters "section 12AA" shall be substituted and shall be deemed to have been substituted;

(B) with effect from the 1st day of April, 2021,—

(i) in the first proviso, for the words figures and letters "Provided that where registration has been granted to the trust or institution under section 12AA", the following shall be substituted, namely:—

"Provided that the provisions of sections 11 and 12 shall apply to a trust or institution, where the application is made under—

(a) sub-clause (i) of clause (ac) of sub-section (1), from the assessment year from which such trust or institution was earlier granted registration;

(b) sub-clause (iii) of clause (ac) of sub-section (1), from the first of the assessment year for which it was provisionally registered:

Provided further that where registration has been granted to the trust or institution under section 12AA or section 12AB";

(ii) in the second proviso, for the words "Provided further", the words "Provided also" shall be substituted;

(iii) in the fourth proviso, for the word, figures and letters "section 12AA", the words, figures and letters "section 12AA or section 12AB" shall be substituted;

(V) in section 12AA,—

(a) sub-section (5) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(b) after sub-section (4), the following sub-section shall be inserted with effect from the 1st day of April, 2021, namely:—

"(5) Nothing contained in this section shall apply on or after the 1st day of April, 2021.";

(VI) section 12AB shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(VII) after section 12AA, the following section shall be inserted with effect from the 1st day of April, 2021, namely:—

"12AB. (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall,—

(a) where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years;

(b) where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause,—

(i) call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) the genuineness of activities of the trust or institution; and

(B) the compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects;

(ii) after satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A) and compliance of the requirements under item (B), of sub-clause (i),—

(A) pass an order in writing registering the trust or institution for a period of five years; or

(B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard;

(c) where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought,

and send a copy of such order to the trust or institution.

(2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (b) of

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sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be applications made under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.

(3) The order under clause (a), sub-clause (ii) of clause (b) and clause (c), of sub-section (1) shall be passed, in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received.

(4) Where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, the Principal Commissioner or Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution after affording a reasonable opportunity of being heard.

(5) Without prejudice to the provisions of sub-section (4), where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, it is noticed that—

(a) the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13; or

(b) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality,

then, the Principal Commissioner or the Commissioner may, by an order in writing, after affording a reasonable opportunity of being heard, cancel the registration of such trust or institution.";

(VIII) in section 13, in *Explanation 1*, after the figures and letter "12A", the figures and letters ", 12AA, 12AB" shall be inserted with effect from the 1st day of April, 2021;

(IX) in section 35,—

(a) in sub-section (1),—

(i) with effect from the 1st day of June, 2020, in clause (iii), in the *Explanation*,—

(A) for the words, brackets, figures and letter "to which clause (ii) or clause (iii) or to a company to which clause (iia)", the words, brackets and figures "to which clause (ii) or clause (iii)" shall be substituted and shall be deemed to have been substituted;

(B) for the words, brackets, figures and letter "clause (ii) or clause (iii) or to a company referred to in clause (iia)", the words, brackets and figures "clause (ii) or clause (iii)" shall be substituted and shall be deemed to have been substituted;

(ii) with effect from the 1st day of April, 2021, in sub-clause (iii), in the *Explanation*,—

(A) for the words, brackets and figures "to which clause (ii) or clause (iii)", the words, brackets, figures and letter "to which clause (ii) or clause (iii) or to a company to which clause (iia)" shall be substituted;

(B) for the words, brackets and figures "clause (ii) or clause (iii)", the words, brackets, figures and letter "clause (ii) or clause (iii) or to a company referred to in clause (iia)" shall be substituted;

(iii) the fifth and sixth provisos occurring after clause (iv) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(iv) after the fourth proviso occurring after clause (iv), the following provisos shall be inserted with effect from the 1st day of April, 2021, namely:—

"Provided also that every notification under clause (ii) or clause (iii) in respect of the research association, university, college or other institution or under clause (iia) in respect of the company issued on or before the date on which this proviso has come into force, shall be deemed to have been withdrawn unless such research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) makes an intimation in such form and manner, as may be prescribed, to the prescribed income-tax authority within three months from the date on which this proviso has come into force, and subject to such intimation the notification shall be valid for a period of five consecutive assessment years beginning with the assessment year commencing on or after the 1st day of April, 2022:

Provided also that any notification issued by the Central Government under clause (ii) or clause (iia) or clause (iii), after the date on which the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Bill, 2020 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding five assessment years as may be specified in the notification.";

(b) sub-section (IA) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(c) after sub-section (I), the following sub-section shall be inserted with effect from the 1st day of April, 2021, namely:—

"(IA) Notwithstanding anything contained in sub-section (I), the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (I) shall not be entitled to deduction under the respective clauses of the said sub-section, unless such research association, university, college or other institution or company—

(i) prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the said prescribed income-tax authority or the person authorised by such authority such statement in such form, verified in such manner, setting forth such particulars and within such time, as may be prescribed:

Provided that such research association, university, college or other institution or the company may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed;

(ii) furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of sum, as may be prescribed.";

(X) in section 35AC, with effect from the 1st day of November, 2020,—

(i) in sub-section (4)—

(a) in clause (i), for the word "Committee", the words and brackets "the Principal Chief Commissioner of Income Tax (Exemption) or the Chief Commissioner of Income Tax (Exemption)" shall be substituted;

(b) in clause (ii), for the words "National Committee", the words and brackets "the Principal Chief Commissioner of Income Tax (Exemption) or the Chief Commissioner of Income Tax (Exemption)" shall be substituted;

(c) in the long line, for the words "National Committee", the words and brackets "the Principal Chief Commissioner of Income Tax (Exemption) or the Chief Commissioner of Income Tax (Exemption)" shall be substituted;

(d) in the proviso, for the words "National Committee", the words and brackets "the Principal Chief Commissioner of Income Tax (Exemption) or the Chief Commissioner of Income Tax (Exemption)" shall be substituted;

(ii) in sub-section (5),—

(a) in clause (i), for the words "National Committee", the words and brackets "the Principal Chief Commissioner of Income Tax (Exemption) or the Chief Commissioner of Income Tax (Exemption)" shall be substituted;

(b) in the first proviso, for the words "National Committee", the words and brackets "the Principal Chief Commissioner of Income Tax (Exemption) or the Chief Commissioner of Income Tax (Exemption)" shall be substituted;

(iii) in sub-section (6), in clause (ii), after the words "National Committee", the words and brackets "or the Principal Chief Commissioner of Income Tax (Exemption) or the Chief Commissioner of Income Tax (Exemption), as the case may be," shall be inserted;

(XI) in section 56, in sub-section (2),—

(a) with effect from the 1st day of June, 2020,—

(i) in clause (v), in the proviso, in clause (g), for the words, figures and letters "section 12AA or section 12AB", the word, figures and letters "section 12AA" shall be substituted and shall be deemed to have been substituted;

(ii) in clause (vi), in the proviso, in clause (g), for the words, figures and letters "section 12AA or section 12AB", the word, figures and letters "section 12AA" shall be substituted and shall be deemed to have been substituted;

(iii) in clause (vii), in the second proviso, in clause (g), for the words, figures and letters "section 12AA or section 12AB", the word, figures and letters "section 12AA" shall be substituted and shall be deemed to have been substituted;

(b) with effect from the 1st day of April, 2021,—

(i) in clause (v), in the proviso, in clause (g), for the word, figures and letters "section 12AA", the words, figures and letters "section 12AA or section 12AB" shall be substituted;

(ii) in clause (vi), in the proviso, in clause (g), for the word, figures and letters "section 12AA", the words, figures and letters "section 12AA or section 12AB" shall be substituted;

(iii) in clause (vii), in the second proviso, in clause (g), for the word, figures and letters "section 12AA", the words, figures and letters "section 12AA or section 12AB" shall be substituted;

(c) in clause (x), in the proviso, in clause (VII),—

(i) for the words, figures and letters "section 12A or section 12AA or section 12AB", the words, figures and letters "section 12A or section 12AA" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2020;

(ii) for the words, figures and letters "section 12A or section 12AA", the words, figures and letters "section 12A or section 12AA or section 12AB" shall be substituted with effect from the 1st day of April, 2021;

(XII) in section 80G,—

(a) in sub-section (2), in clause (a), in sub-clause (iia), after the word "Fund", the words and brackets "or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2020;

(b) in sub-section (5),—

(i) with effect from the 1st day of June, 2020,—

(A) in clause (vi), for the words "approved by the Principal Commissioner or Commissioner;" the words "approved by the Commissioner in accordance with the rules made in this behalf; and" shall be substituted and shall be deemed to have been substituted;

(B) clauses (viii) and (ix) shall be omitted and shall be deemed to have been omitted;

(ii) with effect from the 1st day of April, 2021,—

(A) in clause (vi), for the words "approved by the Commissioner in accordance with the rules made in this behalf; and", the words "approved by the Principal Commissioner or Commissioner;" shall be substituted;

(B) after clause (vii), the following clauses shall be inserted, namely:—

"(viii) the institution or fund prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed:

Provided that the institution or fund may also deliver to the said prescribed authority, a correction statement for

rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed; and

(ix) the institution or fund furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of donation, as may be prescribed:

Provided that the institution or fund referred to in clause (vi) shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

(i) where the institution or fund is approved under clause (vi) [as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020], within three months from the 1st day of April, 2021;

(ii) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;

(iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;

(iv) in any other case, at least one month prior to commencement of the previous year relevant to the assessment year from which the said approval is sought:

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall,—

(i) where the application is made under clause (i) of the said proviso, pass an order in writing granting it approval for a period of five years;

(ii) where the application is made under clause (ii) or clause (iii) of the said proviso,—

(a) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) the genuineness of activities of such institution or fund; and

(B) the fulfilment of all the conditions laid down in clauses (i) to (v);

(b) after satisfying himself about the genuineness of activities under item (A), and the fulfilment of all the conditions under item (B), of sub-clause (a),—

(A) pass an order in writing granting it approval for a period of five years; or

(B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its approval after

affording it a reasonable opportunity of being heard;

(iii) where the application is made under clause (iv) of the said proviso, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the registration is sought,

and send a copy of such order to the institution or fund:

Provided also that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the first proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received:

Provided also that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—

(a) clause (i) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;

(b) clause (iii) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;

(c) in any other case, from the assessment year immediately following the financial year in which such application is made.";

(c) sub-section (5E) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(d) after sub-section (5D), the following sub-section shall be inserted with effect from the 1st day of April, 2021, namely:—

"(5E) All applications, pending before the Commissioner on which no order has been passed under clause (vi) of sub-section (5) before the date on which this sub-section has come into force, shall be deemed to be applications made under clause (iv) of the first proviso to sub-section (5) on that date.";

(e) *Explanation 2A* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(f) after *Explanation 2*, the following *Explanation* shall be inserted with effect from the 1st day of April, 2021, namely:—

"*Explanation 2A*.—For the removal of doubts, it is hereby declared that claim of the assessee for a deduction in respect of any donation made to an institution or fund to which the provisions of sub-section (5) apply, in the return of income for any assessment year filed by him, shall be allowed on the basis of

information relating to said donation furnished by the institution or fund to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.";

(XIII) in section 92CA, after sub-section (7), the following sub-sections shall be inserted with effect from the 1st day of November, 2020, namely:—

"(8) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of determination of the arm's length price under sub-section (3), so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the Transfer Pricing Officer and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based determination of arm's length price with dynamic jurisdiction.

(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(10) Every notification issued under sub-section (8) and sub-section (9) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XIV) in section 115AD, with effect from the 1st day of April, 2021,—

(a) in sub-section (1),—

(i) in the opening portion, for the words "Foreign Institutional Investor", the words "specified fund or Foreign Institutional Investor" shall be substituted;

(ii) for clause (i), the following clause shall be substituted, namely:—

"(i) the amount of income-tax calculated on the income in respect of securities referred to in clause (a), if any, included in the total income,—

(A) at the rate of twenty per cent. in case of Foreign Institutional Investor;

(B) at the rate of ten per cent. in case of specified fund;"

(iii) in clause (iv), for the words "Foreign Institutional Investor", the words "specified fund or Foreign Institutional Investor" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), in case of specified fund, the provision of this section shall apply only to the extent of income that is attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) calculated in the prescribed manner.";

(c) in sub-section (2), for the words "Foreign Institutional Investor", at both the places where they occur, the words "specified Fund or Foreign Institutional Investor" shall be substituted;

(d) in the *Explanation*, for clause (b), the following clauses shall be substituted, namely:—

'(b) the expression "permanent establishment" shall have the meaning assigned to it in clause (iiia) of section 92F;

(c) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 1956.

(d) the expression "specified fund" shall have the same meaning assigned to it in clause (c) of the *Explanation* to clause (4D) of section 10.;

(XV) in section 115BBDA, in the *Explanation*, in clause (b), in sub-clause (iii),—

(i) for the words, figures and letters "under section 12A or section 12AA or section 12AB", the words, figures and letters "under section 12A or section 12AA" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2020;

(ii) for the words, figures and letters, "under section 12A or section 12AA" the words, figures and letters "under section 12A or section 12AA or section 12AB" shall be substituted with effect from the 1st day of April, 2021;

(XVI) in section 115JEE, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2021, namely:—

"(2A) The provisions of this Chapter shall not apply to specified fund referred to in clause (c) of the *Explanation* to clause (4D) of section 10.;"

(XVII) in section 115TD,—

(i) for the words, figures and letters "under section 12AA or section 12AB" wherever they occur, the words, figures and letters "under section 12AA" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2020;

(ii) for the words, figures and letters "under section 12AA" wherever they occur, the words, figures and letters "under section 12AA or section 12AB" shall be substituted with effect from the 1st day of April, 2021;

(XVIII) after section 129, the following section shall be inserted with effect from the 1st day of November, 2020, namely:—

"130. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of—

(a) exercise of all or any of the powers and performance of all or any of the functions conferred on, or, as the case may be, assigned to income-tax authorities by or under this Act as referred to in section 120; or

(b) vesting the jurisdiction with the Assessing Officer as referred to in section 124; or

(c) exercise of power to transfer cases under section 127; or

(d) exercise of jurisdiction in case of change of incumbency as referred to in section 129,

so as to impart greater efficiency, transparency and accountability by—

(i) eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;

(ii) optimising utilisation of the resources through economies of scale and

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jurisdiction of
income-tax
authorities.

functional specialisation;

(iii) introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XIX) in section 133A, with effect from the 1st day of November, 2020,—

(i) in sub-section (6), for the proviso, the following proviso shall be substituted, namely:—

"Provided that no action under this section shall be taken by an income-tax authority without the approval of the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner.";

(ii) in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

'(a) "income-tax authority" means—

(i) a Principal Commissioner or Commissioner, a Principal Director or Director, a Joint Commissioner or Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer; and

(ii) includes an Inspector of Income-tax, for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3) and sub-section (5),

who is subordinate to the Principal Director General of Income-tax (Investigation) or the Director General of Income-tax (Investigation) or the Principal Chief Commissioner of Income-tax (TDS) or the Chief Commissioner of Income-tax (TDS), as the case may be;'

(XX) in section 133C, with effect from the 1st day of November, 2020,—

(a) in sub-section (2), for the words "such information or document and make available the outcome of such processing to the Assessing Officer", the words, brackets, figures and letter "and utilise such information and document in accordance with the scheme notified under sub-section (3) or the provisions of section 135A" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The scheme made under sub-section (3) shall cease to have effect from the date on which the scheme notified under section 135A in respect of this section comes into effect.";

(XXI) after section 135, the following section shall be inserted with effect from the 1st day of November, 2020, namely:—

"135A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of calling for information under section 133, collecting certain information under section 133B, or calling for information by

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collection of
information.

prescribed income-tax authority under section 133C, or exercise of power to inspect register of companies under section 134, or exercise of power of Assessing Officer under section 135 so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based exercise of powers, including to call for, or collect, or process, or utilise, the information, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXII) after section 142A, the following section shall be inserted with effect from the 1st day of November, 2020, namely:—

"142B. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuing notice under sub-section (1) or making inquiry before assessment under sub-section (2), or directing the assessee to get his accounts audited under sub-section (2A) of section 142, or estimating the value of any asset, property or investment by a Valuation Officer under section 142A, so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority or Valuation Officer and the assessee or any person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based issuance of notice or making of enquiries or issuance of directions or valuation with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXIII) in section 143, with effect from the 1st day of April, 2021,—

(i) in sub-section (3B), in the proviso, for the figures "2022", the figures "2021" shall be substituted;

(ii) after sub-section (3C), the following sub-section shall be inserted, namely:—

"(3D) Nothing contained in sub-section (3A) and sub-section (3B) shall apply to the assessment made under sub-section (3) or under section 144, as the case may be, on or after the 1st day of April, 2021.";

Faceless
inquiry or
Valuation.

(XXIV) after section 144A, the following section shall be inserted with effect from the 1st day of April, 2021, namely:—

'144B. (1) Notwithstanding anything to the contrary contained in any other provisions of this Act, the assessment under sub-section (3) of section 143 or under section 144, in the cases referred to in sub-section (2), shall be made in a faceless manner as per the following procedure, namely:—

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assessment.

(i) the National Faceless Assessment Centre shall serve a notice on the assessee under sub-section (2) of section 143;

(ii) the assessee may, within fifteen days from the date of receipt of notice referred to in clause (i), file his response to the National Faceless Assessment Centre;

(iii) where the assessee—

(a) has furnished his return of income under section 139 or in response to a notice issued under sub-section (1) of section 142 or under sub-section (1) of section 148, and a notice under sub-section (2) of section 143 has been issued by the Assessing Officer or the prescribed income-tax authority, as the case may be; or

(b) has not furnished his return of income in response to a notice issued under sub-section (1) of section 142 by the Assessing Officer; or

(c) has not furnished his return of income under sub-section (1) of section 148 and a notice under sub-section (1) of section 142 has been issued by the Assessing Officer,

the National Faceless Assessment Centre shall intimate the assessee that assessment in his case shall be completed in accordance with the procedure laid down under this section;

(iv) the National Faceless Assessment Centre shall assign the case selected for the purposes of faceless assessment under this section to a specific assessment unit in any one Regional Faceless Assessment Centre through an automated allocation system;

(v) where a case is assigned to the assessment unit, it may make a request to the National Faceless Assessment Centre for—

(a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;

(b) conducting of certain enquiry or verification by verification unit; and

(c) seeking technical assistance from the technical unit;

(vi) where a request for obtaining further information, documents or evidence from the assessee or any other person has been made by the assessment unit, the National Faceless Assessment Centre shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit;

(vii) the assessee or any other person, as the case may be, shall file his response to the notice referred to in clause (vi), within the time specified therein or such time as may be extended on the basis of an application in this regard, to the National Faceless Assessment Centre;

(viii) where a request for conducting of certain enquiry or verification by the verification unit has been made by the assessment unit, the request

shall be assigned by the National Faceless Assessment Centre to a verification unit in any one Regional Faceless Assessment Centre through an automated allocation system;

(ix) where a request for seeking technical assistance from the technical unit has been made by the assessment unit, the request shall be assigned by the National Faceless Assessment Centre to a technical unit in any one Regional Faceless Assessment Centre through an automated allocation system;

(x) the National Faceless Assessment Centre shall send the report received from the verification unit or the technical unit, based on the request referred to in clause (viii) or clause (ix) to the concerned assessment unit;

(xi) where the assessee fails to comply with the notice referred to in clause (vi) or notice issued under sub-section (1) of section 142 or with a direction issued under sub-section (2A) of section 142, the National Faceless Assessment Centre shall serve upon such assessee a notice under section 144 giving him an opportunity to show-cause, on a date and time to be specified in the notice, why the assessment in his case should not be completed to the best of its judgment;

(xii) the assessee shall, within the time specified in the notice referred to in clause (xi) or such time as may be extended on the basis of an application in this regard, file his response to the National Faceless Assessment Centre;

(xiii) where the assessee fails to file response to the notice referred to in clause (xi) within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;

(xiv) the assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in clause (xiii) is received from the National Faceless Assessment Centre, make in writing, a draft assessment order to the best of its judgment, either accepting the income or sum payable by, or sum refundable to, the assessee as per his return or making variation to the said income or sum, and send a copy of such order to the National Faceless Assessment Centre;

(xv) the assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any;

(xvi) the National Faceless Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to—

(a) finalise the assessment, in case no variation prejudicial to the interest of assessee is proposed, as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or

(b) provide an opportunity to the assessee, in case any variation prejudicial to the interest of assessee is proposed, by serving a notice calling upon him to show-cause as to why the proposed variation should not be made; or

(c) assign the draft assessment order to a review unit in any one Regional Faceless Assessment Centre, through an automated allocation system, for conducting review of such order;

(xvii) the review unit shall conduct review of the draft assessment order referred to it by the National Faceless Assessment Centre whereupon it may decide to—

(a) concur with the draft assessment order and intimate the National Faceless Assessment Centre about such concurrence; or

(b) suggest such variation, as it may deem fit, in the draft assessment order and send its suggestions to the National Faceless Assessment Centre;

(xviii) the National Faceless Assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in—

(a) sub-clause (a) of clause (xvi); or

(b) sub-clause (b) of clause (xvi);

(xix) the National Faceless Assessment Centre shall, upon receiving suggestions for variation from the review unit, assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system;

(xx) the assessment unit shall, after considering the variations suggested by the review unit, send the final draft assessment order to the National Faceless Assessment Centre;

(xxi) the National Faceless Assessment Centre shall, upon receiving final draft assessment order follow the procedure laid down in—

(a) sub-clause (a) of clause (xvi); or

(b) sub-clause (b) of clause (xvi);

(xxii) the assessee may, in a case where show-cause notice has been served upon him as per the procedure laid down in sub-clause (b) of clause (xvi), furnish his response to the National Faceless Assessment Centre on or before the date and time specified in the notice or within the extended time, if any;

(xxiii) the National Faceless Assessment Centre shall,—

(a) where no response to the show-cause notice is received as per clause (xxii),—

(A) in a case where the draft assessment order or the final draft assessment order is in respect of an eligible assessee and proposes to make any variation which is prejudicial to the interest of said assessee, forward the draft assessment order or final draft assessment order to such assessee; or

(B) in any other case, finalise the assessment as per the draft assessment order or the final draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(b) in any other case, send the response received from the assessee to the assessment unit;

(xxiv) the assessment unit shall, after taking into account the response furnished by the assessee, make a revised draft assessment order and send it to the National Faceless Assessment Centre;

(xxv) the National Faceless Assessment Centre shall, upon receiving the revised draft assessment order,—

(a) in case the variations proposed in the revised draft assessment order are not prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order, and—

(A) in case the revised draft assessment order is in respect of an eligible assessee and there is any variation prejudicial to the interest of the assessee proposed in draft assessment order or the final draft assessment order, forward the said revised draft assessment order to such assessee;

(B) in any other case, finalise the assessment as per the revised draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(b) in case the variations proposed in the revised draft assessment order are prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order, provide an opportunity to the assessee, by serving a notice calling upon him to show-cause as to why the proposed variation should not be made;

(xxvi) the procedure laid down in clauses (xxiii), (xxiv) and (xxv) shall apply *mutatis mutandis* to the notice referred to in sub-clause (b) of clause (xxv);

(xxvii) where the draft assessment order or final draft assessment order or revised draft assessment order is forwarded to the eligible assessee as per item (A) of sub-clause (a) of clause (xxiii) or item (A) of sub-clause (a) of clause (xxv), such assessee shall, within the period specified in sub-section (2) of section 144C, file his acceptance of the variations to the National Faceless Assessment Centre;

(xxviii) the National Faceless Assessment Centre shall,—

(a) upon receipt of acceptance as per clause (xxvii); or

(b) if no objections are received from the eligible assessee within the period specified in sub-section (2) of section 144C,

finalise the assessment within the time allowed under sub-section (4) of section 144C and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(xxix) where the eligible assessee files his objections with the Dispute Resolution Panel, the National Faceless Assessment Centre shall upon receipt of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, forward such directions to the concerned assessment unit;

(xxx) the assessment unit shall in conformity of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, prepare a draft assessment order in accordance with sub-section (13) of section 144C and send a copy of such order to the National Faceless Assessment Centre;

(xxxi) the National Faceless Assessment Centre shall, upon receipt of draft assessment order referred to in clause (xxx), finalise the assessment within the time allowed under sub-section (13) of section 144C and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(xxxii) The National Faceless Assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

(2) The faceless assessment under sub-section (1) shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.

(3) The Board may, for the purposes of faceless assessment, set up the following Centres and units and specify their respective jurisdiction, namely:—

(i) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner, which shall be vested with the jurisdiction to make faceless assessment;

(ii) Regional Faceless Assessment Centres, as it may deem necessary, to facilitate the conduct of faceless assessment proceedings in the cadre controlling region of a Principal Chief Commissioner, which shall be vested with the jurisdiction to make faceless assessment;

(iii) assessment units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under the Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making faceless assessment;

(iv) verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification;

(v) technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter which may be required in a particular case or a class of cases, under this section; and

(vi) review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of the draft assessment order, which includes checking whether the relevant and material evidence has been brought on record, whether the relevant points

of fact and law have been duly incorporated in the draft order, whether the issues on which addition or disallowance should be made have been discussed in the draft order, whether the applicable judicial decisions have been considered and dealt with in the draft order, checking for arithmetical correctness of variations proposed, if any, and such other functions as may be required for the purposes of review.

(4) The assessment unit, verification unit, technical unit and the review unit shall have the following authorities, namely:—

(a) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;

(b) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;

(c) such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by the Board.

(5) All communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre.

(6) All communications between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and all internal communications between the National Faceless Assessment Centre, Regional Faceless Assessment Centres and various units shall be exchanged exclusively by electronic mode:

Provided that the provisions of this sub-section shall not apply to the enquiry or verification conducted by the verification unit in the circumstances referred to in sub-clause (g) of clause (xii) of sub-section (7).

(7) For the purposes of faceless assessment—

(i) an electronic record shall be authenticated by—

(a) the National Faceless Assessment Centre by affixing its digital signature;

(b) assessee or any other person, by affixing his digital signature if he is required to furnish his return of income under digital signature, and in any other case, by affixing his digital signature or under electronic verification code in the prescribed manner;

(ii) every notice or order or any other electronic communication shall be delivered to the addressee, being the assessee, by way of—

(a) placing an authenticated copy thereof in the assessee's registered account; or

(b) sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative; or

(c) uploading an authenticated copy on the assessee's Mobile App,

and followed by a real time alert;

(iii) every notice or order or any other electronic communication shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert;

(iv) the assessee shall file his response to any notice or order or any other electronic communication, through his registered account, and once an acknowledgement is sent by the National Faceless Assessment Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated;

(v) the time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000;

21 of 2000.

(vi) a person shall not be required to appear either personally or through authorised representative in connection with any proceedings before the income-tax authority at the National Faceless Assessment Centre or Regional Faceless Assessment Centre or any unit set up under this sub-section;

(vii) in a case where a variation is proposed in the draft assessment order or final draft assessment order or revised draft assessment order, and an opportunity is provided to the assessee by serving a notice calling upon him to show-cause as to why the assessment should not be completed as per the such draft or final draft or revised draft assessment order, the assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority in any unit;

(viii) the Chief Commissioner or the Director General, in charge of the Regional Faceless Assessment Centre, under which the concerned unit is set up, may approve the request for personal hearing referred to in clause (vii) if he is of the opinion that the request is covered by the circumstances referred to in sub-clause (h) of clause (xii);

(ix) where the request for personal hearing has been approved by the Chief Commissioner or the Director General, in charge of the Regional Faceless Assessment Centre, such hearing shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, in accordance with the procedure laid down by the Board;

(x) subject to the proviso to sub-section (6), any examination or recording of the statement of the assessee or any other person (other than statement recorded in the course of survey under section 133A of the Act) shall be conducted by an income-tax authority in any unit, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony in accordance with the procedure laid down by the Board;

(xi) the Board shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorised representative, or any other person is not denied the benefit of faceless assessment merely on the consideration that such assessee or his

authorised representative, or any other person does not have access to video conferencing or video telephony at his end;

(xii) the Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre shall, with the prior approval of the Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Assessment Centre, Regional Faceless Assessment Centres and the unit set up, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following, namely:—

(a) service of the notice, order or any other communication;

(b) receipt of any information or documents from the person in response to the notice, order or any other communication;

(c) issue of acknowledgement of the response furnished by the person;

(d) provision of "e-proceeding" facility including login account facility, tracking status of assessment, display of relevant details, and facility of download;

(e) accessing, verification and authentication of information and response including documents submitted during the assessment proceedings;

(f) receipt, storage and retrieval of information or documents in a centralised manner;

(g) circumstances in which proviso to sub-section (6) shall apply;

(h) circumstances in which personal hearing referred to clause (viii) shall be approved;

(i) general administration and grievance redressal mechanism in the respective Centres and units.

(8) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Principal Chief Commissioner or the Principal Director General in charge of National Faceless Assessment Centre may at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.

(9) Notwithstanding anything contained in any other provision of this Act, assessment made under sub-section (3) of section 143 or under section 144 in the cases referred to in sub-section (2) [other than the cases transferred under sub-section (8)], on or after the 1st day of April, 2021, shall be non-est if such assessment is not made in accordance with the procedure laid down under this section.

Explanation.—In this section, unless the context otherwise requires—

(a) "addressee" shall have the same meaning as assigned to it in clause (b) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(b) "authorised representative" shall have the same meaning as assigned to it in sub-section (2) of section 288;

(c) "automated allocation system" means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial

intelligence and machine learning, with a view to optimise the use of resources;

(d) "automated examination tool" means an algorithm for standardised examination of draft orders, by using suitable technological tools, including artificial intelligence and machine learning, with a view to reduce the scope of discretion;

21 of 2000.

(e) "computer resource" shall have the same meaning as assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000;

21 of 2000.

(f) "computer system" shall have the same meaning as assigned to it in clause (l) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(g) "computer resource of assessee" shall include assessee's registered account in designated portal of the Income-tax Department, the Mobile App linked to the registered mobile number of the assessee, or the registered email address of the assessee with his email service provider;

21 of 2000.

(h) "digital signature" shall have the same meaning as assigned to it in clause (p) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(i) "designated portal" means the web portal designated as such by the Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre;

(j) "Dispute Resolution Panel" shall have the same meaning as assigned to it in clause (a) of sub-section (15) of section 144C;

(k) "faceless assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal;

21 of 2000.

(l) "electronic record" shall have the same meaning as assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(m) "eligible assessee" shall have the same meaning as assigned to it in clause (b) of sub-section (15) of section 144C;

(n) "email" or "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message;

21 of 2000.

(o) "hash function" and "hash result" shall have the same meaning as assigned to them in the *Explanation* to sub-section (2) of section 3 of the Information Technology Act, 2000;

(p) "Mobile app" shall mean the application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the registered mobile number of the assessee;

21 of 2000.

(q) "originator" shall have the same meaning as assigned to it in clause (za) of sub-section (1) of section 2 of the Information Technology Act, 2000;

(r) "real time alert" means any communication sent to the assessee, by way of Short Messaging Service on his registered mobile number, or by

way of update on his Mobile App, or by way of an email at his registered email address, so as to alert him regarding delivery of an electronic communication;

(s) "registered account" of the assessee means the electronic filing account registered by the assessee in designated portal;

(t) "registered e-mail address" means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including—

(i) the e-mail address available in the electronic filing account of the addressee registered in designated portal; or

(ii) the e-mail address available in the last income-tax return furnished by the addressee; or

(iii) the e-mail address available in the Permanent Account Number database relating to the addressee; or

(iv) in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India; or

(v) in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or

(vi) any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority.

(u) "registered mobile number" of the assessee means the mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal;

(v) "video conferencing or video telephony" means the technological solutions for the reception and transmission of audio-video signals by users at different locations, for communication between people in real-time.;

(XXV) in section 144C, after sub-section (14A), the following sub-sections shall be inserted with effect from the 1st day of November, 2020, namely:—

“(14B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel, so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.

(14C) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (14B), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(14D) Every notification issued under sub-section (14B) and sub-section (14C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXVI) after section 151, the following section shall be inserted with effect from the 1st day of November, 2020, namely:—

"151A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of assessment, reassessment or re-computation under section 147 or issuance of notice under section 148 or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by—

Faceless
assessment of
income
escaping
assessment.

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXVII) after section 157, the following section shall be inserted with effect from the 1st day of November, 2020, namely:—

"157A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of rectification of any mistake apparent from record under section 154 or other amendments under section 155 or issue of notice of demand under section 156, or intimation of loss under section 157, so as to impart greater efficiency, transparency and accountability by—

Faceless
rectification,
amendments
and issuance
of notice or
intimation.

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based rectification of mistakes, amendment of orders, issuance of notice of demand or intimation of loss, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2)

shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXVIII) in section 196D, after sub-section (I), the following sub-section shall be inserted with effect from the 1st day of November, 2020, namely:—

"(IA) Where any income in respect of securities referred to in clause (a) of sub-section (I) of section 115AD, not being income by way of interest referred to in section 194LD, is payable to a specified fund [referred to in clause (c) of the *Explanation* to clause (4D) of section 10], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee, or at the time of payment thereof by any mode, whichever is earlier, deduct the income-tax thereon at the rate of ten per cent.:

Provided that no deduction shall be made in respect of an income exempt under clause (4D) of section 10.";

(XXIX) after section 197A, the following section shall be inserted and shall be deemed to have been inserted with effect from the 14th day of May, 2020, namely:—

"197B. In case the provisions of sections 193, 194, 194A, 194C, 194D, 194DA, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194-IB, 194-IC, 194J, 194K, 194LA, sub-section (I) of section 194LBA, clause (i) of section 194LBB, sub-section (I) of section 194LBC, sections 194M and 194-O require deduction of tax at source during the period commencing from the 14th day of May, 2020 to the 31st day of March, 2021, then notwithstanding anything contained in these sections the deduction of tax shall be made at the rate being the three-fourth of the rate specified in these sections.";

(XXX) in section 206C, after sub-section (10), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 14th day of May, 2020, namely:—

"(10A) In case the provisions of sub-sections (I) [except the goods referred to at serial number (i) in the TABLE], (1C), (1F) or (1H) require collection of tax at source during the period commencing from the 14th day of May, 2020 to the 31st day of March, 2021, then, notwithstanding anything contained in these sub-sections the collection of tax shall be made at the rate being the three-fourth of the rate specified in these sub-sections.";

(XXXI) after section 230, the following section shall be inserted with effect from the 1st day of November, 2020, namely:—

"231. (I) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of certificate for deduction of income-tax at any lower rates or no deduction of income-tax under section 197, or deeming a person to be an assessee in default under sub-section (I) of section 201 or sub-section (6A) of section 206C, issuance of certificate for lower collection of tax under sub-section (9) of section 206C or passing of order or amended order under sub-section (3) or sub-section (4) of section 210, or reduction or waiver of the amount of interest paid or payable by an assessee under sub-section (2A), or extending the time for payment or allowing payment by instalment under sub-section (3), or treating the assessee as not being in default under sub-section (6) or sub-section (7) of section 220, or levy of penalty under section 221, or drawing of certificate by the Tax Recovery Officer under section 222, or jurisdiction of Tax Recovery Officer under section 223, or stay of proceedings in pursuance of certificate and amendment or cancellation thereof by the Tax Recovery Officer under section 225, or other modes of recovery under section 226 or issuance of tax clearance certificate under section 230 so as to impart greater efficiency, transparency and accountability by—

Lower deduction in certain cases for a limited period.

Faceless collection and recovery of tax.

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based issuance of certificate for deduction or collection of income-tax at lower rate, or for no deduction, or for deeming a person to be an assessee in default, or for passing of an order or amended order, or extending the time for payment, or allowing payment by instalment, or reduction or waiver of interest, or for treating the assessee as not being in default, or for levy of penalty or for drawing of certificate or stay of proceedings in pursuance of certificate and amendment or cancellation thereof, by, or jurisdiction of, Tax Recovery Officer or other modes of recovery or issuance of tax clearance certificate, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXXII) in section 253,—

(a) in sub-section (1), in clause (c),—

(i) for the words, figures and letters "under section 12AA or section 12AB", the words, figures and letters "under section 12AA" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2020;

(ii) for the words, figures and letters "under section 12AA", the words, figures and letters "under section 12AA or section 12AB" shall be substituted with effect from the 1st day of April, 2021;

(b) after sub-section (7), the following sub-sections shall be inserted with effect from the 1st day of November, 2020, namely:—

"(8) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of appeal to the Appellate Tribunal under sub-section (2), so as to impart greater efficiency, transparency and accountability by—

(a) optimising utilisation of the resources through economies of scale and functional specialisation;

(b) introducing a team-based mechanism for appeal to the Appellate Tribunal, with dynamic jurisdiction.

(9) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (8), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(10) Every notification issued under sub-section (8) and sub-section (9) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXXIII) in section 263, in sub-section (1), in *Explanation 1*, in clause (b), and in *Explanation 2*, after the words "the Principal", the words "Chief Commissioner or Chief Commissioner or Principal" shall be inserted with effect from the 1st day of November, 2020;

(XXXIV) in section 264, in sub-section (1), in sub-section (2), in proviso to sub-section (3), in sub-section (4), in *Explanation 1* and in *Explanation 2*, after the words "the Principal", the words "Chief Commissioner or Chief Commissioner or Principal" shall be inserted with effect from the 1st day of November, 2020;

(XXXV) after section 264, the following sections shall be inserted with effect from the 1st day of November, 2020, namely:—

"264A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of revision of orders under section 263 or section 264, so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based revision of orders, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

264B. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of giving effect to an order under section 250, 254, 260, 262, 263 or 264, so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based giving of effect to orders, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2)

Faceless
revision of
orders.

Faceless
effect of
orders.

shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXXVI) section 271K shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2020;

(XXXVII) after section 271J, the following section shall be inserted with effect from the 1st day of April, 2021, namely:—

"271K. Without prejudice to the provisions of this Act, the Assessing Officer may direct that a sum not less than ten thousand rupees but which may extend to one lakh rupees shall be paid by way of penalty by—

Penalty for failure to furnish statements, etc.

(i) the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) of section 35, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (i), or furnish a certificate prescribed under clause (ii) of sub-section (1A) of that section; or

(ii) the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (viii) of sub-section (5) of section 80G, or furnish a certificate prescribed under clause (ix) of the said sub-section.";

(XXXVIII) in section 274, in sub-section (2A), in clause (a), for the words "Assessing Officer and the assessee in the course of proceedings", the words "income-tax authority and the assessee or any other person" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2020;

(XXXIX) in section 279, after sub-section (3), the following sub-sections shall be inserted with effect from the 1st day of November, 2020, namely:—

"(4) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of granting sanction under sub-section (1) or compounding under sub-section (2), so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based sanction to proceed against, or for compounding of, an offence, with dynamic jurisdiction.

(5) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (4), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(6) Every notification issued under sub-section (4) and sub-section (5) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.";

(XXXX) after section 293C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of November, 2020, namely:—

"293D. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of granting approval or registration, as the case may be, by income-tax authority under any provision of the Act, so as to impart greater efficiency, transparency and accountability by—

Faceless approval or registration.

(a) eliminating the interface between the income-tax authorities and the assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based grant of approval or registration, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament."

CHAPTER IV

AMENDMENTS TO THE DIRECT TAX *VIVAD SE VISHWAS* ACT

Amendment of section 3 of Act 3 of 2020.

5. In section 3 of the Direct Tax *Vivad Se Vishwas* Act, 2020,—

(a) in the opening portion, for the words, "under the provisions of this Act on or before the last date" the words "under the provisions of this Act on or before such date as may be notified" shall be substituted and shall be deemed to have been substituted;

(b) in the Table,—

(i) in third column, in the heading, for the figures, letters and words "31st day of March, 2020", the figures, letters and words "31st day of December, 2020 or such later date as may be notified" shall be substituted and shall be deemed to have been substituted;

(ii) in fourth column, in the heading, for the figures, letters and words "1st day of April, 2020", the figures, letters and words "1st day of January, 2021 or such later date as may be notified" shall be substituted and shall be deemed to have been substituted;

CHAPTER V

RELAXATION OF TIME LIMIT UNDER CERTAIN INDIRECT TAX LAWS

Relaxation of time limit under Central Excise Act, 1944, Customs Act, 1962, Customs Tariff Act, 1975 and Finance Act, 1994.

6. Notwithstanding anything contained in the Central Excise Act, 1944, the Customs Act, 1962 (except sections 30, 30A, 41, 41A, 46 and 47), the Customs Tariff Act, 1975 or Chapter V of the Finance Act, 1994, as it stood prior to its omission *vide* section 173 of the Central Goods and Services Tax Act, 2017 with effect from the 1st day of July, 2017, the time limit specified in, or prescribed or notified under, the said Acts which falls during the period from the 20th day of March, 2020 to the 29th day of September, 2020 or such other date after the 29th day of September, 2020 as the Central Government may, by notification, specify, for the completion or compliance of such action as—

1 of 1944.
52 of 1962
51 of 1975.
32 of 1994.
12 of 2017.

(a) completion of any proceeding or issuance of any order, notice, intimation, notification or sanction or approval, by whatever name called, by any authority, commission, tribunal, by whatever name called; or

(b) filing of any appeal, reply or application or furnishing of any report, document, return or statement, by whatever name called,

shall, notwithstanding that completion or compliance of such action has not been made within such time, stand extended to the 30th day of September, 2020 or such other date after 30th day of September, 2020 as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions under clause (a) or clause (b).

CHAPTER VI

AMENDMENT TO THE CENTRAL GOODS AND SERVICES TAX ACT, 2017

7. After section 168 of the Central Goods and Services Tax Act, 2017, the following section shall be inserted, namely:—

Insertion of new section 168A in Act 12 of 2017.

'168A. (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to *force majeure*.

Power of Government to extend time limit in special circumstances.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation.—For the purposes of this section, the expression "*force majeure*" means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.'

CHAPTER VII

AMENDMENT TO THE FINANCE (No. 2) ACT, 2019

8. In section 127 of the Finance (No.2) Act, 2019,—

Amendment of section 127 of Act 23 of 2019.

(i) in sub-section (1), for the words "within a period of sixty days from the date of receipt of the said declaration", the words, figures and letters "on or before the 31st day of May, 2020" shall be substituted;

(ii) in sub-section (2), for the words "within thirty days of the date of receipt of the declaration", the words, figures and letters "on or before the 1st day of May, 2020" shall be substituted;

(iii) in sub-section (4), for the words "within a period of sixty days from the date of receipt of the declaration", the words, figures and letters "on or before the 31st day of May, 2020" shall be substituted;

(iv) in sub-section (5), for the words "within a period of thirty days from the date of issue of such statement", the words, figures and letters "on or before the 30th day of June, 2020" shall be substituted.

CHAPTER VIII

AMENDMENT TO THE FINANCE ACT, 2020

9. In the Finance Act, 2020, in section 2, with effect from the 1st day of April, 2020,—

Amendment of Act 12 of 2020.

(i) in sub-section (6),—

(A) in clause (a), for the words "being a non-resident", the words, figures and letter "being a non-resident, except in case of deduction on income by way of dividend under section 196D of the Income-tax Act" shall be substituted and shall be deemed to have been substituted;

(B) after clause (a), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

"(aa) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, being a non-resident, in case of deduction on income by way of dividend under section 196D of that Act, calculated,—

(i) at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be

paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

(ii) at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;"

(ii) in sub-section (9), in the third proviso, in clause (aa),—

(A) in sub-clause (iii), for the words "excluding the income", the words "excluding the income by way of dividend or income" shall be substituted and shall be deemed to have been substituted;

(B) in sub-clause (iv), for the words "excluding the income", the words "excluding the income by way of dividend or income" shall be substituted and shall be deemed to have been substituted;

(C) in sub-clause (v), for the words "including the income", the words "including the income by way of dividend or income" shall be substituted and shall be deemed to have been substituted;

(D) in the proviso, for the words "any income", the words "any income by way of dividend or income" shall be substituted and shall be deemed to have been substituted.

Power to
remove
difficulties.

10. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the end of the month in which this Act has received the assent of the President.

(2) Every order made under this section shall be laid before each House of Parliament.

Repeal and
savings.

11. (1) The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 is hereby repealed.

(2) Notwithstanding such repeal, anything done, any notification issued or any action taken under the said Ordinance, shall be deemed to have been done, issued or taken under the corresponding provisions of this Act.

Ord. 2 of
2020.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.