

P.D.L. 457(N)
5,000

FINAL REPORT
(With DRAFT LABOUR CODE)
OF THE
STUDY GROUP ON
LABOUR LEGISLATION



NATIONAL COMMISSION ON LABOUR

Printed in India by Indraprastha Press (CBT), New Delhi in 1968.
Published by Manager of Publications, Civil Lines, Delhi-6.

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*Letter from the Chairman, Study Group on Labour Legislation to
the Chairman, National Commission on Labour*

STUDY GROUP ON LABOUR LEGISLATION

S. Mohan Kumaramangalam
Chairman

B O M B A Y
1st December, 1968

Dear Dr. Gajendragadkar,

I have great pleasure in forwarding to you the Final Report of the Study Group on Labour Legislation. I am sure you will appreciate that the Final Report and the Draft Code represent the consensus of opinion among the members of the Group. Despite difference of opinion among members on questions, some of considerable principle, the Group as a whole in the interests of a unanimous report have come to the conclusions now embodied in the Report and the Draft Code. Naturally, matters of importance and principle will come up for discussion before the Commission and it is in that forum that the final decisions will be taken.

With regards

सत्यमेव जयते

Yours sincerely,

Sd/- (S. Mohan Kumaramangalam)

Dr. P. B. Gajendragadkar,
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Bombay-32.

FOREWORD

The National Commission on Labour appointed the Study Group on Labour Legislation in its attempt to understand and evaluate the evolving pattern of Labour Legislation since Independence. The Study Group presented its interim report in February, 1968. On the suggestion of the Commission the Study Group prepared a Draft Labour Code. "Final Report and Draft Labour Code" prepared by the Study Group is now being published, to seek comments on it from persons/institutions interested in labour problems.

The views expressed in the Final Report are the views of the Study Group. In examining them for framing its final recommendations, the Commission will attach due importance to these views coming as they do from knowledgeable persons interested in labour legislation.

The Commission is grateful to the Chairman and Members of the Study Group individually for their report. The Commission is also grateful to all persons/institutions who may have helped the Study Group in reaching conclusions.

P. B. Gajendragadkar
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**Errata to the Final Report and the Draft
Labour Code**

| Page | Section | For the words | Substitute |
|------|--------------------|--|-----------------------------------|
| 14 | Sec. 2(11) (i) | "Navy (Discipline) Act, 1934 (24 of 1934)" | "Navy Act, 1957 (No. 62 of 1957)" |
| 89 | Sec. 167(2) line 2 | Delete the word 'not' | |
| 145 | Schedule V-2 | Delete item 24 "Airlines, Rail-way and other transport undertakings" and re-number item 25 as "24" | |



FINAL REPORT
of the
STUDY GROUP ON LABOUR LEGISLATION

1. The Study Group on Labour Legislation submitted its Interim Report to the National Commission on Labour on 19th February 1968, at Madras. The Interim Report (Chapter II) contains historical survey of the growth of labour legislation in India since 1859. The factors which influenced labour legislation in India were considered. The impact of World War I, the influence of the International Labour Organization, the recommendations of the first Royal Commission on Labour, the recommendations of several committees and commissions, the impact of World War II, the policies outlined in the three Five Year Plans after the independence and the deliberations and decisions of the tripartite bodies, like the Indian Labour Conference, Standing Labour Committee, the Committee on Conventions, Industrial Committees, all these contributed to enactment of labour laws from time to time to meet a particular exigency. In the next chapter (Chapter III) the Study Group emphasised the need for uniform Labour Code and made the following observations :

“3.4 There are on the statute book about 108 enactments, both Central and State. Inevitably the necessity to legislate with speed, both in the Centre and the State, has led to prolixity and repetitiveness in legislation. However, out of this mosaic pattern of Indian legislation, uniform standards must be evolved and incorporated into an all-India Code without detriment, either to the national interest or the interests of the working class, and at the same time safeguarding the gains made by labour and also standardizing terms and conditions of service in the interest of production and economic growth.”

“3.5 Any social law to be effective should not only be broad based and pervasive but should be simple and direct so that it could be understood and respected and, therefore accepted by the masses it seeks to govern. Its implementation should be easy so that the benefits

could flow speedily and the access to the law should be inexpensive so that to the person denied or aggrieved the law is a reality as well as a true instrument of relief."

The Study Group then proceeded to give a synopsis of the Code chapterwise and formulated an outline consisting of 15 chapters.

2. Thereafter, the Study Group took upon itself the complex and arduous task of drafting a Code, section by section, under different chapters. The Group, of course, was fully-conscious of the difficulties it faced in taking up this task; after all, consolidation of more than 100 enactments is no easy matter. But despite the magnitude, the Group decided to make an attempt so as to demonstrate that the proposal to draft a Code is a feasible and practical proposal.

3. To speed up the actual work of drafting, the Group decided to constitute a sub-committee to undertake the task of drafting various sections of the chapters, circulate them, discuss and finalise. The Sub-Committee consisted of the following persons :

- (1) Shri G. B. Pai
- (2) Shri B. R. Dolia
- (3) Shri C. J. Venkatachari
- (4) Shri K. R. Wazkar

and

- (5) Shri Ishwar K. Ramrakhiani.

The Sub-Committee as well as the Study Group also met from time to time and finalised the chapters of the Code.

4. The Study Group has made a slight change in the serial order of the chapters from that given in the Interim Report. It was decided to delete Chapter VII "Apprentice Training" and introduce a chapter on "Industrial Housing Corporation" and a chapter on "Labour-Management Participation". Consequently, the chapters of the Code are as follows :

- | | |
|-------------|------------------------------------|
| Chapter I | .. Definitions. |
| Chapter II | .. Registration of Establishments. |
| Chapter III | .. Standing Orders. |
| Chapter IV | .. Terms of Employment. |
| Chapter V | .. Conditions of Service. |

- Chapter VI .. Regulation of Employment.
- Chapter VII .. Terminal and Unemployment Benefits.
- Chapter VIII .. Social Security.
- Chapter IX .. Industrial Housing Corporation.
- Chapter X .. Freedom of Association.
- Chapter XI .. Authorities.
- Chapter XII .. Collection of Statistics.
- Chapter XIII .. Labour-Management Participation.
- Chapter XIV .. Remedies.
- Chapter XV .. Offences and Penalties.
- Chapter XVI .. Miscellaneous.

5. The principal object of the Code is to provide for the basic essentials to govern the terms of employment and conditions of service and to encourage effectively collective bargaining for settlement of all industrial disputes. We have also provided, as an alternative, a mechanism for such settlement through industrial arbitration. Resort to conciliation has been made compulsory before access to judicial authority for determination of disputes. The cumbersome procedure followed till now has been sought to be shortened by laying down a simplified procedure for adjudicating disputes and by giving the judicial authority sufficient discretionary power with the object of avoiding the recording of elaborate, unnecessary and time-consuming evidence. We have suggested recourse to affidavits in place of oral evidence and the making of statistical material supplied by the statistical authority under the Code admissible in evidence without proof; for this purpose, care has been taken to improve and strengthen the machinery for collection of statistics.

6. For any collective bargaining to be effective, there should be a meaningful dialogue between the representatives of the employer and the employees; and if the dialogue is to be successful, the bargaining parties on either side should be in a position to deliver the goods. For this purpose, it is necessary that there should be a recognised union which can speak with one voice on behalf of labour and the representative on behalf of the employer should talk from the highest level. In order to enable the dialogue to be

carried on in a regular form, the Study Group has recommended the strengthening of the Shop Committees and the introduction of Joint Management Councils, making it compulsory that the Council is presided over by the officer at the highest level. In this way it is hoped that the dialogue is continuous, resulting in better understanding of the view point of each side.

7. After a study of collective bargaining as it has developed in this country, we are convinced that it would not be possible to bar altogether State interference or access to outside judicial authority. At the Fifth Session of the Indian Labour Conference¹ the general opinion expressed was that some form of compulsion would be necessary but that before such compulsion was applied, every endeavour should be made to persuade the parties to come to an agreement. This was said in the context of the then existing emergency. But the general principles therein were endorsed even at the Twelfth Session of the Indian Labour Conference² when the following analysis was made by Shri V. V. Giri who presided over the Conference.

"...I shall....carefully consider the view held by the majority of the members that collective bargaining and mutual settlement of disputes should be encouraged without prejudice to the ultimate use of the weapon of compulsory arbitration i.e. as a last resort and in exceptional circumstances when all other methods have failed. If eventually we accept that view as the policy for the immediate future, we shall have to examine how best it can be achieved and what amendments of the existing law are called for to bring about the desired result....."

Our study of this matter has reinforced our original thinking as embodied in our Interim Report. There can be no doubt that the utmost encouragement must be given to the free play of collective bargaining. For this purpose, we have envisaged various steps by which the parties will be helped to come to a reasonable settlement of their various disputes. We have provided in every settlement a compulsory clause for voluntary arbitration in matters of interpretation of the concerned settlement and in matters of

1. Dated 6-7 September 1943.

2. Dated 8-11 October 1952.

individual disputes arising during the period of that settlement. In this way voluntary arbitration would also be sufficiently encouraged. As a corollary to voluntariness in labour relations we have provided for direct access to tribunals, reserving for the State the power of reference in cases where public interest is involved. Thus it will be seen that the scheme of the Code is to leave the parties, as far as possible, to take their own decisions in order to settle their disputes. The compulsion of the State is brought in only at the stage when continuance of the dispute would lead to disruption of production.

8. We are alive to the difference of opinion about the applicability of the Code to all levels of employment and also in regard to the additional powers of the tribunals in the matter of discipline. But further study has reinforced our earlier opinion that job security should be given to employees, irrespective of their status and salary and the extent of the job security and the powers of the tribunal to enforce such security should be unlimited.

9. We draw support from the views expressed by the recent Royal Commission on Labour (United Kingdom) in the following words :

"We propose that the jurisdiction of the Tribunals should cover all the contracts of employment irrespective of the nature of work done by the employee and irrespective of his place in the hierarchy of employment and that it should extend to persons in public as well to persons in private employment."³

"It should be possible to state that dismissal is justified only if there is a valid reason for it connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service and that in the absence of valid reasons, it is unfair.

"It is therefore our view that reinstatement and compensation should be both envisaged as remedies. It would be possible to provide that order of reinstatement should be the primary relief."⁴

We are of the firm opinion that job security at all levels of

3. Vide para 575, p. 156.

4. Vide para 552, p. 148.

employment is the corner stone of development of industrial economy in this country. A professional manager and technician should be free to function effectively without fear of his job being in jeopardy. This is an additional reason why we are of the opinion that the law of the land should give adequate protection to these employees as well.

10. In the matter of recognition of trade unions, there was difference of opinion about the method of ascertainment of majority affiliation of employees to the union and the two methods suggested are verification and ballot. In the light of this difference of opinion on this subject, we have adopted the provisions of the Bombay Industrial Relations Act, 1946, and we have left it to the registering authority to hold such inquiry as he thinks fit in the circumstances of the case.

11. Development of industry leads to concentration of industrial undertakings in large townships. As a corollary there is a migration of rural population seeking employment in urban areas. The result is that with industrial growth there is scarcity of housing and large areas of slums develop in the neighbourhood of industrial activity. Subsidised industrial housing is the only solution and this has been considered time and again in our plans and in the labour conferences. Though attempts have been made by various housing boards to construct workers' houses, progress in this direction is clearly unsatisfactory. In view of this, we have provided in the Code for an Industrial Housing Corporation to finance and assist the various housing boards and voluntary organisations. We consider this provision as essential for the industrial growth in this country. In this connection, we have provided for debentures to be issued by the Housing Corporation and investment by the Social Security Corporation out of its funds in these debentures. This would be a form of self-help by the employees for their own advancement.

12. One of the features of the changing industrial scene is rationalisation and automation and the consequent—unfortunate, even though temporary, dislocation of employment. At present the law on the subject of rationalisation and its impact on labour is vague and unclear. Though the matter was discussed in detail at the Fifteenth and Twentyfourth sessions of the Indian Labour Conference⁵ and the resolutions

5. Dated 11-12 July 1957 and dated 29-30 July 1966.

of these conferences require the employers to discuss with the representatives of the employees the problems arising from rationalisation and automation in so far as they affect the employees, no statutory effect has been given to these resolutions. There are, however, certain provisions in the Bombay Industrial Relations Act, 1946 in this behalf. We have embodied in the Code the essence of these provisions and the resolutions of the conferences so as to make it compulsory for the employer to discuss any proposal for rationalisation or automation with the recognised union before embarking on such schemes.

13. The existing statutory provisions in the matter of employees' participation in management are confined to the provisions relating to Works Committees in the Industrial Disputes Act, 1947. These committees have proved ineffective. The principal reasons for their failure lies in the composition of these committees and the subject matter required to be discussed by these committees. The subject matter should be sufficiently important and necessarily the participants should be of sufficiently high stature to give weight to the discussion. With the recognition of trade unions, the representatives of such unions on the Works Committee will have sufficient authority to speak on behalf of labour. The importance of the Committees will be further enhanced by the incorporation in the Code additional subjects of an important nature which have to be discussed in these committees. We hope this would lead to greater interest being shown by labour in such committees. We have recommended that in larger establishments there should be Joint Management Councils presided over by the highest executive in the establishment and all subjects of direct importance to the employees should be placed on the agenda of these Councils. We hope this will give a good start for active participation of employees in the management of affairs of the industries for the benefit of the industries.

14. Another important feature of the Code is the establishment of an integrated Social Security Corporation and the provision for a compulsory gratuity scheme. Such schemes were generally considered in the Fifteenth and Sixteenth sessions of the Standing Labour Committee.⁶ We have analysed the decisions of courts and tribunals in this behalf and

6. Dated 4-5 April 1956 and 17-18 October 1957.

have laid down general terms for payment of compulsory gratuity. Since we are of the opinion that it is too early in the day to introduce a compulsory pension scheme, we hope the compulsory gratuity scheme would go a long way to ameliorate the conditions of employees.

15. We have attempted to give as careful an examination as possible of all aspects of employment, recruitment, conditions of service while in employment with accent on productivity, retirement benefits and security of service and the leisure that should be afforded to the employees while in service. We have also introduced a provision relating to incentive wages.

16. Regarding the question of bonus, it will be noticed that we have incorporated in our Code the principal provisions of the Payment of Bonus Act, 1965. However, we consider that the majority report of the Bonus Commission would provide a more satisfactory basis for the resolution of bonus disputes between employers and employees. We further suggest that provision for gratuity, in case it is debited to the profit and loss account, should not be considered as an item of expenditure. In our opinion, this item is not one of expenditure at all and is only a provision for meeting contingent liability. We, therefore, suggest that as and when provision in respect of gratuity has been made in the profit and loss account, it should be added back to the gross profits, to the extent it has been charged to the profit and loss account.

17. We wish to point out the difficulties experienced by public servants (not coming within the definition of "employee" in the draft Labour Code) in seeking redressal of their grievances, especially in regard to the validity of orders of dismissal, discharge or reduction in rank and compulsory retirement. At present these public servants have no remedy in this respect except to file writ petitions in the High Court. The jurisdiction of the High Court under Article 226 of the Constitution to interfere with such orders is limited. The protection afforded under Article 311 of the Constitution to public servants covers the observance of principles of natural justice and the requirement of the order being passed by an authority not lower than the appointing authority. This Article does not give the public servants a right to canvass the merits of the order of dismissal, discharge or reduction in rank. Experience has shown that long delay in writ proceedings is inevitable. The result is that the Government

servants do not get any effective relief in time and in many cases they retire long before the cases are disposed of finally. Often the relief granted is only to send them back to face a fresh departmental inquiry. We are of the opinion that the right should be conferred on such public servants, belonging to these categories, to question before the Industrial Tribunal or the Labour Court the validity of orders of dismissal, discharge, reduction in rank or compulsory retirement and canvass the merits of the order. The right to approach the Tribunal or the Labour Court could be made dependant upon the salary group to which the employee belongs.

18. The effectiveness of any enactment rests on the possibility of its easy implementation. For this purpose, we have integrated various authorities under different enactments and have also provided for a strong, independent and separate labour judiciary. Side by side we have provided for the development of a well-organised machinery for collection of statistics. We hope that the composite effect of all these provisions will lead to speedier settlement of industrial disputes, if not their avoidance, which is so essential for our developing economy.

19. On the question of representation of the parties before the industrial courts and tribunals there was considerable discussion and different views were expressed. One approach was that since section 36 had been in the Industrial Disputes Act, 1947 for a large number of years it may not be proper to change it. It was further pointed out that in enactments like the Bombay Industrial Relations Act, 1946, Payment of Wages Act, 1936, Workmen's Compensation Act, 1923 and the various Shop Acts in all the States and allied enactments where judicial process is utilised for giving relief, there is no objection to the appearance of lawyers and prohibition as embodied in section 36 of the Industrial Disputes Act 1947 will, therefore, mean taking away the right of representation by legal practitioners which exists under many of these enactments. It was further pointed out that under the Advocates Act, 1961, advocates are entitled to appear for parties not only in all courts but also in all tribunals. Another aspect which weighed heavily with the Group was that as a result of provisions of recognition of union, the workers would be in a position to have far more effective and representative organisations to present their point of view and in that background they would not be at any real disadvantage if the

parties before the tribunals or courts were entitled to be represented by legal practitioners. This would be more so in the light of the simplification and streamlining of procedures before the tribunals and courts under the Code. On the balance, therefore, it was finally agreed that the provisions contained in Section 36 of the Industrial Disputes Act, 1947 should not be introduced in the Code but the position as it stands in other enactments, whereby the parties are entitled to be represented by legal practitioners should be continued.

20. Before we conclude, we wish to emphasise that we have put before ourselves the objective of the enactment of the Code which will reduce litigation and provide speedy method of settlement of all types of labour disputes, individual and collective. We have attempted to extend substantially the area of collective bargaining. We have given great importance to the role of recognised union as an authorised spokesman of employees. It is our hope that this will lead to the emergence of a more powerful, respected and responsible trade union movement which will have self-confidence to achieve settlement of labour disputes, individual and collective, outside the courts. We have at the same time suggested the creation of a hierarchy of courts, manned by competent and specially trained personnel, who will have the requisite knowledge and experience to solve effectively those problems which cannot be solved by direct discussions between the parties.

21. We expect that all this will reduce the need for invoking the special jurisdiction of the High Court under Article 226 and of the Supreme Court under Article 136 of the Constitution of India. It cannot be denied that there is a widespread feeling that this has led to prolongation of litigation and on occasions even to interference on matters of detail which ordinarily be settled speedily either in the process of collective bargaining or in courts specially equipped to settle such matters.

22. In drafting the Code, the more important provisions conferring substantive rights have been put in the various sections in different chapters, and others which are mere matters of detail and procedure have been relegated to the schedules which also form part of the Code. The statutory standing orders and provisions about health, safety and welfare which in many respects are common to employees employed in factories, mines, plantations and which pertain to

day to day work, have been put in the schedules. We would also recommend the inclusion of schemes like the Dock Labour Decasualisation Scheme, the Provident Fund Scheme, etc. in the schedules. We have suggested the framing of regulations and rules in various sections. If the Code is accepted by the Commission and ultimately by the Government then all these schemes, regulations, rules, etc., will have to be drafted with some care by the competent authority and adopted to the various sections of the Code. At some places with the object of simplifying procedure, we have prescribed certain forms, so that the ultimate drafting authority will have an idea of what was in the mind of the Group. We have provided in the Code the basic guidelines and the pattern of the future all-India unified and common Labour Code.

23. The Code has been drafted in the short time available to the Study Group and, as such, we make no claim to perfection in all details. The Code will undoubtedly undergo further changes depending on the Final Report of the Commission and discussions in the public and finally in Parliament. In fact one of our objects in drafting this Code and making it available to the public is to encourage the widest discussion among all sections of people, particularly the representatives of labour and capital. Thus by the time action on the Code comes up for decision by the Government and Parliament, we hope that informed public opinion will have given its serious consideration to one of the most important problems facing our country today, the achievement of a proper balance between the claims of the country, of labour and of capital.

24. We have no doubt that even after the Code is adopted by Parliament and passed into an enactment, it will require modifications, from time to time in the light of the experience. For this purpose we would suggest, as has been done by the Royal Commission on Labour in the United Kingdom, the constitution of a special Industrial Law Committee to advise the Labour Ministry to keep this legislation under constant review and to recommend to the Government and to the Parliament amendment when necessary.

25. In conclusion we would like to express our gratitude to Miss C. Hughes, Secretary to Shri Pai, and her assistants and to Shri V. M. Marathe, Stenographer to Shri Wazkar in the Industrial Court, without whose hard and devoted work, it

would have been impossible for us to have completed our report and draft Code.

Dated, Bombay, the 1st December 1968.

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G. B. Pai

K. R. Wazkar

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THE LABOUR CODE, 1969

An Act to consolidate and codify all existing legislation on employment, welfare, social security and insurance, industrial disputes and trade union organisation and other related matters.

Whereas it is expedient to consolidate and comprehensively codify all existing legislation pertaining to employment, welfare, social security and insurance, industrial disputes and trade union organisation and other related matters; It is hereby enacted as follows :

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—

- (1) This Act may be called the Labour Code, 1969.
- (2) It extends to the whole of India.
- (3) It shall come into force on————.
- (4) Save as otherwise provided, the provisions of this Code shall apply to every establishment.

2. *Definitions.*—

In this Act unless there is anything repugnant in the subject or context:—

- (1) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year;
- (2) “adult” means a person who has completed his eighteenth year of age;
- (3) “allocable surplus” means:—
 - (a) in relation to an employer, being a company (other than a banking company) which has not made the arrangements prescribed under the Income-tax Act, 1961, for the declaration and payment within India of the dividends payable out of its profits in accordance

with the provisions of section 194 of that Act, sixty-seven per cent. of the available surplus in an accounting year;

(b) in any other case, sixty per cent. of such available surplus;

(4) "apprentice trainee" means a person who is undergoing apprenticeship training in a designated trade in pursuance of a contract of apprenticeship under the Apprentices Act, 1961;

(5) "appropriate Government" means in respect of an establishment under the control of the Central Government or a Railway administration or in a major port, mine or oil-field, the Central Government, and in all other cases, the State Government;

(6) "award" means an interim or a final decision of a judicial authority under this Code in relation to a labour dispute or any question relating thereto, other than an order and includes supplementary award;

(7) "child" means a person who has not completed his fifteenth year of age;

(8) "closure" means the closing of any place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, whether such closing, suspension or refusal is or is not in consequence of a labour dispute but does not include a lock-out;

(9) "corporation" means Social Security Corporation established under section 65;

(10) "dependent" means the spouse of the employee and his children, step-children and lawfully adopted children who are unmarried and are under the age of 18 years and in case where the employee is a male, the parents of the employee and minor, aged or infirm relatives of the employee, entirely dependent on him;

(11) "employee" means a person (including an apprentice) employed to perform work for a remuneration by an employer, such as skilled, semi-skilled or unskilled manual, clerical, technical, operational, supervisory, managerial or administrative work but shall exclude only a person—

(i) who is subject to the Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950), or the Navy (Discipline) Act, 1934 (24 of 1934); or

- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed as a managing director, director, general manager or person in charge of an establishment employing more than fifty employees during a period of one year; or
- (iv) who is an apprentice trainee; or
- (v) who is employed as a domestic servant; or
- (vi) who is employed or engaged as a "seaman" or member of the crew of a ship as defined under the Merchant Shipping Act, 1958;

Explanation:— For the purposes of remedies under this Code in relation to his employment, the term 'employee' shall include an employee who is no longer in the service of the employer.

(12) "employer" means any person or body of persons whether incorporated or not, who employs one or more employees and includes Governments and local authorities employing persons in activities in the nature of industry, trade or commerce, or in rendering service to the community or public, and includes an association or group of associations of employers;

(13) "establishment" means a place of employment in which an employer employs one or more employees and shall include a:

- (i) Beedi and Cigar establishment;
- (ii) Club and Sports association;
- (iii) Commercial establishment;
- (iv) Dockyard;
- (v) Educational and Charitable institution;
- (vi) Factory;
- (vii) Hospital;
- (viii) Hotel;
- (ix) Mine;
- (x) Plantation;
- (xi) Quarry;
- (xii) Restaurant;
- (xiii) Shop;
- (xiv) Theatre;

(xv) Motor Transport Undertaking;

but shall exclude places exclusively devoted to public worship;

- (i) "beedi and cigar establishment" means any place or premises including the precincts thereof in which or in any part of which any manufacturing process connected with the making of beedi or cigar or both is being or is ordinarily carried on;
- (ii) "club and sports association" means voluntary association of persons formed for social, cultural or recreational purposes including playing of games, holding tournaments and carrying on other sports activities;
- (iii) "commercial establishment" means a place where any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession is carried on and/or where any service is rendered to customers, and includes a society registered under the Societies Registration Act, 1960, and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession or work in connection with or incidental or ancillary thereto;
- (iv) "dockyard" means an area in the vicinity of a port where work in connection with loading, unloading, movement or storage of cargo or work in connection with preparation of ships or other vessels for the receipt or discharge of cargo or leaving the port is carried on;
- (v) "educational and charitable institution" means
 - (i) establishments maintained or run for the purpose of imparting any education or for doing any scientific or any other research work or work connected with incidental to or ancillary to advancement of technological studies or of learning or pursuit of literary activities, or fine arts;

- (ii) establishments set up for public, religious or charitable purposes;
- (vi) "factory" means an open or enclosed place or any portion thereof where manufacturing process otherwise than for the exclusive benefit of a household established therein is carried on; and
 "manufacturing process" means any process for—
 - (a) 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
 - (b) pumping oil, water or sewage; or
 - (c) generating, transforming or transmitting power; or
 - (d) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or
 - (e) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;
- (vii) "hospital" means a place where medical aid or treatment is rendered to the members of the public and includes a dispensary and diagnostic centre;
- (viii) "hotel" means a building where lodging is usually obtainable for payment;
- (ix) "mine" means an open or enclosed place for the extraction of substance situated under the ground;
- (x) "plantation" means any land used or intended to be used for growing tea, coffee, rubber or cinchona which admeasures 25 acres or more and also includes any land which admeasures 25 acres or more used for growing any other plant which is declared to be a plantation by the appropriate Government, and includes offices, hospitals, dispensaries,

schools or any other building or premises used for any purpose connected with such plantation;

- (xi) "quarry" means an open or enclosed place for the extraction of substance which are usually to be found near the surface of the soil;
- (xii) "restaurant" means an open or enclosed place where food or drink is usually sold exclusively or mainly for consumption on the premises or is usually prepared in connection with such sale;
- (xiii) "shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers and includes an office, a store room, godown warehouse or work place, whether in the same premises or otherwise, mainly used in connection with such trade or business;
- (xiv) "theatre" includes any premises or place intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph, or other suitable apparatus or the dramatic performance or for any other public amusement or entertainment or knowledge;
- (xv) "motor transport undertaking" means a motor transport undertaking engaged in carrying passengers or goods or both by road for hire or reward and includes a private carrier.

(14) "Fund" means the Social Security Fund referred to in section 69;

(15) "Housing Corporation" means the Industrial Housing Corporation established under section 102;

(16) "judicial authority" means the National Tribunal, Industrial Tribunal or the Labour Court, appointed by the appropriate Government under this Code;

(17) "labour dispute" means any dispute or difference between employees and employer or between employer and employer or employees and employees which is connected with the employment or non-employment or terms of

employment and conditions of labour of any person and includes any such dispute of an individual employee whether in service or not;

(18) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to an employee whose name is borne on the muster rolls of his establishment and who had not been retrenched;

Explanation.— Every employee whose name is borne on the muster rolls of the 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 employee, 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 wages for that part of the day;

(19) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by any employer to continue to employ any number of employees employed by him in consequence of labour dispute;

(20) "officer" means a member of the executive committee of a trade union or an employers' organisation;

(21) "order" means a decision of a judicial authority during the course of proceedings on an interlocutory matter or a decision rendered in implementation, execution, recovery or penal proceedings under the Code;

(22) "prescribed" means prescribed by rules made under the Code;

(23) "remuneration" means earnings or emoluments, however designated or calculated, capable of being expressed in terms of money in a written or unwritten contract of employment, payable by an employer to an employee for work done or to be done or for services rendered or to be rendered and includes wages, allowances, payments made to the employees to defray expenses, commission, bonus, incentive payments, contributions, unemployment compensation and terminal benefits;

- (i) "wages" means that part of remuneration which is payable as a basic wage, a dearness allowance or cost of living allowance, house-rent allowance, sickness allowance, food subsidy or any other monetary or non-monetary benefit regularly received by the employee which goes to defray his living expenses and which are capable of being computed in terms of money whether paid as a consolidated sum or otherwise but does not include allowances, expenses, commission, bonus, incentive payments, contributions, unemployment compensation, terminal benefits as defined hereunder;
- (ii) "allowances" means that part of the remuneration which is payable for occasional services like overtime or a fixed allowance or a commuted payment made for a specific purpose other than the allowance or payments included in the term "wages";
- (iii) "expenses" means payments made to the employees to defray expenses in connection with the business of the employer;
- (iv) "commission" means payment made to any person in relation to sale of goods, or for rendering any services;
- (v) "bonus" means bonus payable according to section 19 of the Code and includes customary and festival and other types of bonus not related to profits;
- (vi) "incentive payment" means the amount payable in terms of section 18 of the Code or the amount of a like nature;
- (vii) "contributions" means payments made or to be made by the employer or the employee to the Social Security Fund;

(viii) "unemployment compensation" means layoff compensation payable according to section 60 of the Code;

(ix) "terminal benefits" means that part of the remuneration which is payable to an employee on his ceasing to be in employment such as, gratuity, pension or retrenchment compensation;

(24) "retrenchment" means the termination by the employer of the service of an employee for the reason that he is surplus to requirements of the establishment;

(25) "settlement" means a settlement arrived at in the course of conciliation proceedings and includes a written agreement between the employer and employees arrived at otherwise than in the course of conciliation proceedings;

(26) "stoppage" means total or partial cessation of work by the employee in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, whether such cessation or refusal is or is not in consequence of a labour dispute;

(27) "strike" means a total or partial cessation of work by the employee in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to work or to accept work, where such cessation or refusal is in consequence of a labour dispute;

(28) "trade union" means any combination, whether temporary or permanent, formed for the purpose of regulating the relations between employees and employers or between employees and employees;

(29) "week" means a period of seven days beginning at mid-night on Saturday night.

CHAPTER II

REGISTRATION OF ESTABLISHMENT

3. *Application for registration.*—

Every employer of an establishment shall have his establishment registered and for that purpose make an application in writing, to the Director of Labour (Administration) (hereinafter referred to in this chapter as the Director), containing the particulars specified in Schedule II-1 to the Code, and every such application shall be accompanied by such fee as may be prescribed.

4. *Certificate of registration.*—

On receipt of an application under section 3 the Director on being satisfied as to the correctness of the particulars stated therein and on making such inquiries as he deems fit shall grant a certificate of registration in Form 'A' set out in Schedule II-2 to the Code.

5. *No establishment to commence work without registration.*—

Save as otherwise provided in this Code no place or premises shall be used as a factory, no mining or quarrying operations shall be commenced or continued in such place or premises, no agricultural operations in respect of any plantation shall be commenced or continued in such place, and no other establishment shall be set up in such place, unless a certificate of registration has been obtained in respect of such place or premises, for setting up a factory, mine, plantation or any other establishment as the case may be.

6. *Register of establishments.*—

The Director shall maintain a register in which he shall enter the name and other particulars relating to every establishment which has been granted a certificate of registration.

7. *Display of certificate of registration.*—

A certificate of registration granted under this chapter shall be displayed in a prominent place in the premises of the establishment.

8. *Manager or occupier.*—

Every employer shall appoint one person as the manager or occupier of the establishment:

Provided that in specified class of establishments the manager shall have the prescribed qualifications and shall be responsible for the supervision of the establishment and shall have the ultimate control over the affairs of the establishment.

9. *Change in the particulars of establishment.*—

(i) Where subsequent to the registration of an establishment there is a change in any of the particulars furnished in the application under section 3 the employer concerned shall within a period of a fortnight after the change has occurred inform the Director in writing of the change.

(ii) On receipt of the communication the Director shall verify the correctness of the change and after hearing the parties likely to be affected, incorporate the change with or without modifications in the relevant portion of the register and the certificate of registration will be amended accordingly.

(iii) Where an establishment is closed the employer concerned shall within 15 days of the closure inform the Director in writing of the fact of such closure and the Director shall on being satisfied about the closure, remove the name of the establishment from the register and cancel the certificate of registration.

10. *Validity of the certificate.*—

(i) The certificate of registration granted under this chapter shall be valid until revoked.

(ii) The Director may, if he is satisfied that the employer or the manager or the occupier, as the case may be, has not complied with the provisions of this Code or the schemes or the rules made hereunder, apply to the Labour Court for the cancellation of the certificate of registration.

CHAPTER III

STANDING ORDERS

11. *Application of statutory standing orders.*—

The standing orders prescribed in Schedule III—1 to this Code shall apply to all establishments and the employers shall prominently display them on the notice board of the establishment with a translation thereof in the regional language.

12. *Variation of standing orders.*—

(i) An employer or a recognised trade union may apply to the Labour Court for variation of any of the provisions in the standing orders.

(ii) No variation of the standing orders shall be allowed unless by reason of the special characteristics of the work done in the establishment such a variation is found necessary.

(iii) The Labour Court shall make such order, as it deems fit, indicating any alteration, variation, addition, deletion, substitution or modification in or to the standing orders.

13. *Display of standing orders.*—

The standing orders as finally settled by the Labour Court or the Industrial Tribunal in appeal will be substituted for the statutory standing orders and all standing orders as applicable to the establishment will be displayed prominently on the notice board of the establishment with a translation thereof in the regional language.

CHAPTER IV

TERMS OF EMPLOYMENT

14. *Fixation of wages.*—

(a) Every employee shall be entitled to an adequate wage for the work he does, as hereinafter explained in this chapter.

(b) Different minimum rates of wages may be fixed for the different classes of work in the same industry or employment.

(c) Wages may be fixed by collective bargaining failing which by judicial determination, provided that such wages shall not be less than the wages fixed under section 15.

(d) Wherever feasible wages may be linked to productivity.

15. *Fixation of minimum wages.*—

(a) Where the appropriate Government is of the opinion that it is necessary to fix a minimum wage it shall take steps to constitute a committee consisting of an equal number of representatives of employers and employees presided over by a chairman nominated by the appropriate Government to recommend a minimum wage for the whole State or for part of the State or for any class or classes of employees in any employment, and on a consideration of such report the appropriate Government shall by notification in the official gazette fix such minimum wage as it deems appropriate in the circumstances of the case and such wage shall apply to all such establishments.

(b) The minimum wage so fixed may be on the basis of a minimum time rate, or on the basis of a piece rate or on the basis of a piece rate with a guaranteed minimum time rate, the last in order to secure such employees a minimum rate of wages irrespective of the amount of work put in by them.

(c) Such minimum wage whether based on a time rate or a piece rate or a combination of both may be so fixed as to provide for adjustment in the variations of the cost of living.

(d) The minimum wage so fixed shall be subject to review by the appropriate Government at intervals of not less than two years and not exceeding five years.

16. *Fixation of wages above the minimum.*—

An appropriate judicial authority, on a dispute being referred to it, shall have the power to fix a wage at a level higher than the minimum wage after taking into consideration all the relevant factors.

Explanation—The expression “wage” may include scale of wages.

17. *Wage Boards.*—

(a) Where the Central Government is of the opinion that it is just and necessary to fix a wage for an entire industry or a region, or to revise such a wage where it exists, it may by order in writing duly notified in the official gazette, constitute a wage board consisting of equal number of representatives of employees and employers presided over by a member of the labour judicial service to fix a wage after taking into consideration all relevant factors.

(b) Where the decision of the wage board is not unanimous the award of the chairman of the wage board shall prevail.

18. *Incentive payment.*—

(1) To increase the economic effectiveness of the wage system, the wages based on time or piece rate as aforesaid may be supplemented by the grant of a bonus for the fulfilment of targets to be determined.

(2) The economic effectiveness of the wages at the level of the work place shall be guaranteed, *inter alia*, by the application of modern labour in-put standards.

(3) Labour in-put standards shall be fixed jointly by the duly constituted representatives of the employer and the employee in the Shops Committee. The Committee shall be required to ensure that the necessary conditions for the application of modern standards are afforded before the work begins.

(4) Whenever there is a change in the technical or organisational conditions in which the work is done, there shall also be a change in labour in-put standards. A change in standards must also be made whenever a demonstrable mistake or injustice has occurred in the way such standards have been fixed.

(5) Where it is found that there is a wide discrepancy between in-put standards and the effective technical and organisational level, such discrepancy shall be reviewed and adjusted.

(6) No change in standards may be made in any other circumstances.

(7) Failing agreement between the parties the appropriate judicial authority shall have power to resolve the differences, if any, in the fixation of labour in-put standards or to determine the extent of change, review or adjustment.

(8) The labour in-put standards and all changes in such standards shall be communicated to the employees before the work begins and shall not be retroactive.

19. *Annual Bonus.*—

(a) An annual bonus shall be paid to every employee, who has been in service for more than 30 days in the year, over and above his wages and incentive payment, if any, in accordance with the formula set out in Schedule IV-1 to this Code subject to a minimum of 4 per cent. of the wages or rupees forty whichever is higher and a maximum of 20 per cent. of such amount;

Provided that where such employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employees as if for the words "forty rupees" the words "twenty-five rupees" were substituted.

(b) Bonus shall be paid in respect of all establishments except those which are exempted under Schedule IV-2 to this Code.

20. *Set on and set off of allocable surplus.*—

(1) Where for any accounting year the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under Schedule IV-1 then, the excess shall, subject to a limit of twenty per cent. of the total wages of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in Schedule IV-3.

(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year.

falls short of the amount of minimum bonus payable to the employees in the establishment under section 19 and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in the manner illustrated in Schedule IV-3.

(3) The principle of set on and set off as illustrated in Schedule IV-3 shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Code.

(4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.

Explanation.— For the purpose of payment of annual bonus, wages shall include basic wages, dearness allowance, commission on sales and incentive payment.

21. *Payment of remuneration.*—

(a) Every person responsible for the payment of remuneration under this Code shall fix wage periods not exceeding one month in respect of which such remuneration shall be payable.

(b) The dates on which the wages and incentive payment will be paid in respect of each group of employees shall be duly notified so that wages of all employees in the establishment are paid within the first seven days of each calendar month.

(c) All amounts payable to an employee by way of annual bonus shall be paid in cash by his employer within a period of eight months from the close of the accounting year provided, however, that in case there is dispute about the quantum of bonus payable, the undisputed amount shall be paid within the period afore-mentioned and the amount in dispute shall be paid within a period of one month after the dispute is resolved either by settlement or judicial determination.

(d) The employer shall also notify as soon as practicable the manner and period of payment of all other forms of remuneration.

(e) All payment of remuneration shall be made on a working day and such remuneration shall be paid without any deduction except those authorised under Schedule IV-4 to this Code.



CHAPTER V

CONDITIONS OF SERVICE

22. *Weekly hours.*—

Subject to Section 26, no employee shall be required to work in any establishment for more than 48 hours in any week.

23. *Daily hours.*—

Subject to Section 26, no employee shall be required to work in any establishment for more than 8 hours on any day excluding the interval of rest.

24. *Interval for rest.*—

No employee shall work for more than five hours before he has had an interval of rest of at least half an hour.

25. *Spread-over.*—

The periods of work of an employee in any establishment shall be so arranged that inclusive of his intervals for rest they shall not be spread over for more than 10½ hours in a day; provided the appropriate Government or the Chief Inspector may by an order in writing fix spread-over of not exceeding 12 hours for any particular establishment or class of establishments.

26. *Extra wages for overtime.*—

(1) An employee may be required or allowed to work in an establishment for any period in excess of the limit fixed under sections 22 and 23 if such period does not exceed six hours in any week or two hours on any day.

(2) Where an employee in any establishment is required to work in excess of the hours of work prescribed under sections 22 and 23, he shall be entitled in respect of the overtime work to wages at the rate of double his ordinary rate of wages.

27. *Opening and closing hours.*—

The opening hours and closing hours of an establishment (other than the establishments mentioned in Schedule V-1) where customers attend for being served, shall not be earlier than 5 a.m. and later than 12 midnight respectively:

Provided that the appropriate Government or Chief Inspector by an order in writing may fix earlier opening hours and later closing hours for different establishments or classes of establishments such as given in Schedule V-2:

Provided that a customer who was being served or waiting to be served at the closing hour may be served during the quarter of an hour immediately following such hour.

28. *Shift working.*—

(1) More than one shift may be worked in any department or departments or any section of a department or any establishment according to the procedure laid down in Schedule V-3.

(2) If more than one shift is worked, employees shall be liable to be transferred from one shift to another. There will be periodical change-over of employees in a shift but such change-over shall be made after a weekly holiday or any other holiday.

(3) Subject to the procedure laid down in Schedule V-3, if as a result of re-starting of a shift, department, section of a department or an establishment, which has been closed, the total number of employees to be employed is less than the number employed before such discontinuance or closure, a notice of change shall be given by the employer to the employees or the recognised trade union, as the case may be, as per section 167 before the shift, the department or section of a department or the establishment starts working again.

29. *Prohibition of overlapping shifts.*—

Work shall not be carried out in any establishment by means of a system of shifts so arranged that more than one relay of employees is engaged in work of the same kind at the same time.

30. *Notice of periods of work for adults.*—

There shall be prominently displayed in every establishment a notice showing the periods of work, periods of rest, total spread-over.

31. *Weekly closing of establishment.*—

All establishments, other than the continuous process factories, shall remain closed for one day in a week provided that the appropriate Government may by a notification

exempt other types of establishments from the application of this provision.

32. *Restriction on employment of women.*—

No woman shall be employed in a mine, factory or a plantation after 7 p.m. and before 6 a.m.; provided, however, that in a mine, factory or plantation a woman may be employed between 7 p.m. and 10 p.m. with the previous approval of the Chief Inspector.

33. *Hours of work for a child.*—

(1) No child shall be allowed to work in any establishment for more than $4\frac{1}{2}$ hours in a day and 27 hours in a week and no child shall be allowed to work after 10 p.m. and before 6 a.m.

(2) No child shall be employed to work in any occupation, (a) connected with the transport of passengers, goods or mails by railway, or (b) connected with a port authority within the limits of any port, and (c) in any workshop wherein any of the processes set forth in Schedule V-4 is carried on.

(3) The appropriate Government may add any manufacturing process to the list of processes mentioned in Schedule V-4.

34. *Adolescent to work as adult.*—

(1) No adolescent shall be permitted to do the work ordinarily of an adult unless he has been examined by a certifying surgeon, a panel doctor or such other authorised medical practitioner and has been granted a certificate of fitness to do the work of an adult.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult shall, notwithstanding his age, be deemed to be a child for the purposes of this Code.

35. *Weekly off.*—

(1) Every employee shall be entitled to a paid weekly off after he has worked consecutively for a period of six days.

(2) Sunday shall be treated as a day of weekly off:

Provided, however, that if for any reason it is not possible to treat Sunday as a weekly off, any other day during the week may be treated in consultation with the recognised union as a weekly off for all employees or some of the employees employed in the establishment.

Explanation:— Where on any day an employee has been prevented from working in any plantation by reason of tempest, fire, rain or other natural causes, that day may, if he so desires, be treated as his weekly off, during that week.

36. *Compensatory weekly off.—*

If an employee is required to work on a weekly off day he shall be given a substituted weekly off for a whole day on one of the three days immediately before or after the said day.

37. *Paid National and Festival holidays.—*

Paid holidays of every employee shall be standardised. Every employee shall be allowed in a calendar year three paid National holidays, viz., 26th January (Republic Day), 15th August (Independence Day) and 2nd October (Mahatma Gandhi's Birth Day) and five paid Festival holidays, as may be fixed by the appropriate Government in consultation with the representatives of employers and employees in any establishment.

38. *Compensatory holiday.—*

If any employee is required to work on any national or festival holiday agreed upon as per section 37 above, he shall be given another paid substituted holiday, within two months from the date on which he has been deprived of the national or festival holiday.

39. *Compensation for loss of weekly off, holidays, etc.—*

When an employee is required to work on his normal weekly off day or on any of the national or festival holiday, he shall be paid for that day at twice his daily rate. In the case of an employee paid on monthly basis the daily rate will be calculated by dividing the monthly basis by 30.

40. *Leave.—*

The leave entitlement of every employee shall be standardised as under:—

(1) Every employee shall be allowed paid privilege-cum-casual leave of 30 days in a period of 12 months.

(2) Casual leave will be allowed for unforeseen circumstances such as personal sickness for not more than three days, sickness in the family for not more than three days or for attending religious or social functions not exceeding three days at a time.

(3) Leave beyond three days may be treated as extraordinary leave without pay provided it is sanctioned by the employer.

(4) No privilege leave will be granted unless an application for leave has been made in writing to the principal officer nominated by the employer for such purpose.

(5) A temporary/casual/badli employee will be entitled to such privilege-cum-casual leave at the rate of one day for any thirteen days of work.

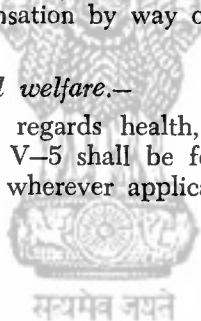
(6) An employee shall be entitled to accumulate his leave up to a period of 90 days and shall also be entitled to encash 1/3rd of his earned leave at the time of his actually taking the balance of such accumulated leave.

41. *Compensation for standardisation of leave and holidays.—*

If as a result of standardisation of leave and holidays any employee is prejudicially affected he shall be paid adequate monetary compensation by way of permanent increase in wages.

42. *Health, safety and welfare.—*

The provisions as regards health, safety and welfare prescribed in Schedule V-5 shall be followed by employer of every establishment wherever applicable.



CHAPTER VI

REGULATION OF EMPLOYMENT

43. *Employment Exchanges — Notification of vacancies.—*

(1) An employer shall before filling in any vacancy in any employment in that establishment notify that vacancy in the prescribed Form No. VI-1 to the local employment exchange.

(2) Nothing in sub-section (1) above shall be deemed to impose any obligation upon any employer to recruit any person through the employment exchange to fill in any vacancy merely because that vacancy has been notified under that sub-section.

(3) The provisions in this section shall not apply in relation to:—

- (a) vacancies in any employment the total duration of which is less than three months;
- (b) vacancies in any employment where the categories of employees listed in Schedule VI-2 do unskilled work;
- (c) vacancies which are proposed to be filled through promotion or absorption of surplus staff of any branch or department of the same establishment or on the result of any examination conducted or interview held by or on the recommendation of any independent agency such as the Union or the State Public Service Commission;
- (d) vacancies in any employment which carry remuneration of less than Rs. 60.00 a mnth;
- (e) vacancies in any employment in such of the establishments which in the opinion of the appropriate Government need not be notified.

44. *Regulation of employment of dock labour.—*

(1) Provision shall be made by a scheme to be framed by the Central Government for the registration of the dock employees and employers with a view to ensuring greater regularity of employment and for regulating the employment of dock employees, whether registered or not, in any port.

- (2) In particular, a scheme may provide:—
- (a) for the application of the scheme to such classes of dock employees and employers as may be specified therein;
 - (b) for defining the obligations of dock employees and employers subject to the fulfilment of which the scheme may apply to them and the circumstances in which the scheme shall cease to apply to any dock employees or employers;
 - (c) for regulating the recruitment and entry into the scheme of dock employees, and the registration of dock employees and employers including the maintenance of registers, the removal, either temporarily or permanently, of names from the registers and the imposing of fees for registration;
 - (d) for regulating the employment of dock employees, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and remuneration in respect thereof;
 - (e) for securing that, in respect of periods during which employment, or full employment, is not available for dock employees to whom the scheme applies and who are available for work, such employees will, subject to the conditions of the scheme, receive a minimum remuneration;
 - (f) for prohibiting, restricting or otherwise controlling the employment of dock employees to whom the scheme does not apply and the employment of dock employees by employers to whom the scheme does not apply;
 - (g) for the training and welfare of dock employees, in so far as satisfactory provision therefor does not exist apart from the scheme;
 - (h) for health and safety measures in places where dock employees are employed, in so far as satisfactory provisions therefor do not exist apart from the scheme;
 - (i) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed;
 - (j) for constituting the authority to be responsible for the administration of the scheme;

- (k) for such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

45. *Establishment of Dock Labour Board.*—

(1) The Central Government may, by notification in the Official Gazette, establish a Dock Labour Board for a port or group of ports as may be specified in the notification.

(2) Every such Board shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and may by that name sue and be sued.

(3) Every Board shall consist of a Chairman and such number of other members as may be appointed by the Central Government;

Provided that every such Board shall include an equal number of members representing:—

- (i) the Government,
- (ii) the dock workers, and
- (iii) the employers of dock workers, and shipping companies.

(4) The Chairman of the Board shall represent the Government and be nominated in this behalf by the Government.

(5) The Board shall be responsible for administering the Dock Workers (Regulation of Employment) Scheme for the port or group of ports for which it is established and shall exercise such powers and perform such functions as may be conferred on it by the scheme.

(6) Every Board shall maintain proper accounts which shall be audited annually by a qualified auditor.

46. *Amendment or revocation of scheme.*—

The Central Government may, by notification in the official gazette and subject to the condition of previous publication, make one or more schemes for a port or group of ports, and may in the like manner and subject to the like condition add to, amend, vary or revoke any scheme prescribed under the Code.

47. *Decasualisation scheme for other industries.*—

The appropriate Government may recognise existing decasualisation schemes in any other industries and also may make due provision by notification for introduction of

appropriate scheme of decasualisation in any industry where it considers such introduction necessary or desirable.

48. *Contract Labour.*—

The regular work of the establishment which is ordinarily part of the work of the principal employer should as far as possible be done by the principal employer with labour directly engaged by him. No contract labour shall be employed for work which is:—

- (a) perennial and must go on from day to day; or
- (b) incidental and necessary for the work of the establishment; or
- (c) sufficient to employ a considerable number of whole-time employees; or
- (d) being done generally through regular employees.

49. *Employment of apprentice trainees.*—

(1) The appropriate Government may, if it considers desirable, require any employer to give training to an apprentice trainee in a designated trade, under a separate contract of apprenticeship under the Apprentices Act, 1961, or in an undesignated trade.

(2) Save in respect of any action to be taken against the apprentice trainee in respect of any misconduct committed by him within the establishment, under the standing orders in operation, he shall not be governed by any of the provisions of this Code.

(3) In instituting any proceedings against an apprentice trainee for misconduct the provisions of the standing orders as prescribed under Chapter III will apply in so far as they relate to disciplinary action for misconduct.

50. *Training and employment of physically and mentally handicapped persons.*—

(1) The appropriate Government shall make adequate provision for the training and employment of physically and mentally handicapped persons.

(2) For this purpose the appropriate Government may require any employer to give training to such persons as apprentice training, and after adequate training has been given to such person or persons having passed the test prescribed in this behalf may require the employers to employ such persons in certain suitable occupations and such trainees may be absorbed in not less than 2 per cent. of the occupations of the entire labour force of the particular establishment.

CHAPTER VII

TERMINAL AND UNEMPLOYMENT BENEFITS

51. *Compulsory Gratuity Scheme.*—

Every employee shall be entitled to receive from his employer gratuity as hereinafter explained:—

- (i) On death of the employee while in the service of the employer — half a month's basic wages and dearness allowance for each completed year of service, subject to a minimum of six months' basic pay and dearness allowance and a maximum of 20 months' basic wages and dearness allowance, to be paid to his heirs, executors, assignees or nominees.
- (ii) On an employee becoming at any time physically or mentally disabled to continue further in service or on reaching the age of superannuation — half a month's basic wages and dearness allowance for each completed year of service subject to a maximum of 20 months basic wages and dearness allowance to be paid to the employee.
- (iii) On termination of his services by the employer for any reason whatsoever or on his resignation from the service, after completion of 10 years' service — half a month's basic wages and dearness allowance for each completed year of service, subject to a maximum of 20 months basic wages and dearness allowance to be paid to the employee.

Provided that any working journalist who has been in continuous service for not less than three years and not more than 10 years in any newspaper establishment and his services are so terminated or he retires from the service of the establishment, he shall be entitled to be paid half a month's wages and dearness allowance as gratuity for each of such completed year of service.

Provided further that if any working journalist who has been in continuous service for not less than three years and not more than 10 years in any newspaper establishment, voluntarily resigns, on or after the commencement of this Code from service in that establishment on the ground of

conscience, he shall be entitled to receive gratuity at the rate of half a month's wages and dearness allowance for each completed year of service.

52. *Age of superannuation.*—

The age of retirement or superannuation of an employee shall be 60 years or such other age—

- (i) as may be agreed upon between the employer and the recognised union by any agreement;
- (ii) as may be settled under a settlement under this Code;

(iii) as may be fixed under an award under this Code; which may be binding on the employer and the employees under this Code.

53. *Compulsory Provident Fund scheme.* —

A compulsory contributory provident fund scheme shall be established for the benefit of the employees as set out in Section 79 of this Code.

54. *Conditions precedent to retrenchment of employees.*—

No permanent or temporary employee whose name is borne on the muster roll of any establishment for more than twelve months immediately prior to or an employee who has put in more than 240 days of actual work (inclusive of paid or permitted absences) during the said period shall be retrenched by the employer until—

- (a) the employee has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the employee has been paid in lieu of such notices, wages for the period of the notice:

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

- (b) the employee has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay (of the last three months of service) for every completed year of service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate inspector and conciliation officer.

55. *Compensation to employees in case of transfer of establishments.—*

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 employee in that establishment immediately before such transfer shall be entitled to notice and compensation in accordance with and subject to the provisions of Section 54 as if the employee had been retrenched:

Provided that nothing in the section shall apply to an employee in any case where there has been a change of employers by reason of the transfer, if—

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

56. *Compensation to employees in case of closing down of establishments.—*

(1) Where an establishment is closed down for any reason whatsoever, every employee in that establishment immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with and subject to the provisions of section 54, as if the employee had been retrenched:

Provided that where the establishment is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the employee under clause (b) of section 54 shall not exceed his average pay for three months.

Explanation:— An establishment which is closed down by reason merely of financial difficulties (including financial losses) or accumulation of undisposed of stocks or the expiry of the period of the lease or the licence granted to it where the period of the

lease or the licence expires on or after the first day of April 1967, shall not be deemed to have been closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this subsection.

(2) Where any establishment 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 establishment had been set up, no employee employed therein shall be entitled to any compensation under clause (b) of section 54, 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.

57. *Retrenchment compensation in case of discharge.*

Notwithstanding any other remedy that an employee may have in this behalf, in case of discharge from service other than as punishment inflicted by way of disciplinary action, he shall be entitled to retrenchment compensation as if he were retrenched.

58. *Procedure for retrenchment.*—

(1) Where any employee in an establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of employees in that establishment, in the absence of any agreement between the employer and the employee in this behalf, the employer shall ordinarily retrench the employee who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other employee.

(2) The employer shall prepare a list of all employees in the particular category from which retrenchment is contemplated, arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the establishment at least seven days before the actual date of retrenchment.

59. *Re-employment of retrenched employees.*—

(1) Where any employees are retrenched, and the employer proposes to take into his employ any person, he shall,

give an opportunity to the retrenched employees who are citizens of India to offer themselves for re-employment, and such retrenched employees who offer themselves for re-employment shall have preference as a new employee.

(2) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched employees eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter—

Provided that where the number of such vacancies is less than the number of retrenched employees, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched employees in the list referred to in Section 58 (2) the number of such senior-most employees being double the number of such vacancies—

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched employee:

Provided also that if a retrenched employee, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-section, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.

(3) Immediately after complying with the provisions of sub-section (1), the employer shall also inform the trade unions connected with the establishment, of the number of vacancies to be filled and names of the retrenched employees to whom intimation has been sent under that sub-section:

Provided that the provisions of this sub-section need not be complied with by the employer in any case where intimation is sent to every one of the employee mentioned in the list prepared under Section 58.

60. *Right of employees laid-off for compensation.—*

Whenever any permanent employee whose name is borne on the muster roll of the establishment for more than twelve months immediately prior to or an employee who has put in 240 days of actual work (inclusive of paid or permit-

ted absences) during the said period in the establishment is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, 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 it shall be lawful for the employer to retrench the employee in accordance with the provisions contained in section 54 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 employee for having been laid-off during the preceding twelve months may be set-off against the compensation payable for retrenchment.

61. *Employees not entitled to compensation in certain cases.—*

No compensation shall be paid to an employee who has been laid-off—

- (i) if he refused 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 five miles 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 employee, provided that the wages which would normally have been paid to the employee are offered for the alternative employment also;
- (ii) if such laying-off is due to a strike or slowing down of production on the part of employees in another part of the establishment.

62. *Nomination by an employee.—*

(1) Notwithstanding anything contained in any law for the time being in force, or in any disposition, testamentary or otherwise in respect of any amounts payable to an employee under this chapter, where a nomination made in the prescribed manner purports to confer on any person the right to receive payment of the said amounts for the time being due to the employee, the nominee shall, on the death of the employee, become entitled to the said amounts and to be paid the sum due in respect thereof to the exclusion of all

other persons, unless the nomination is varied or cancelled in the prescribed manner.

(2) Any nomination referred to in sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees, all the nominees predecease, the employee making the nomination.

(3) Where the nominee is a minor, it shall be lawful for the employee making the nomination to appoint any person in the prescribed manner to receive the amounts due in the event of his death during the minority of the nominee on behalf of the said minor.

(4) A nomination made under sub-section (1), may at any time be modified by the employee after giving a written notice of his intention to do so. If the nominee predeceases the employee, the latter may make a fresh nomination in accordance with these rules.

(5) A nomination or its modification shall take effect, to the extent it is valid, on the date on which it is received by the establishment.

63. *Payment of amounts.*—

The amounts due under this chapter shall be paid to an employee or, in the case of his death, to his nominee or nominees or, if there is no nomination in force at the time of the death of the employee, to his family, as soon as possible after it becomes due and in any case not later than three months.

Explanation.— For the purpose of this section ‘family’ means the widow, children, whether married or unmarried of an employee and his dependent parents and the widow and children of his deceased son:

Provided that a widow shall not be deemed to be a member of the family of the employee if at the time of his death she was not legally entitled to be maintained by him.

64. *Deductions.*—

The amounts due under this chapter other than lay-off compensation will be subject to deductions on account of over-payments made to an employee by the establishment liable to pay such amounts and moneys borrowed by the employee from such establishment.

CHAPTER VIII

SOCIAL SECURITY

65. *Establishment of Social Security Corporation. —*

(1) A Corporation to be known as the "Social Security Corporation" is hereby established and it shall start functioning on the date to be appointed in this behalf by a notification by the Central Government in the official gazette.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal and shall sue and be sued in its name.

(3) It shall administer all social security benefits under this Code and shall in addition function as an insurer or such social security benefits as hereinafter specified.

66. *Constitution of the Corporation.—*

The Corporation shall consist of the following members, namely—

- (a) a chairman to be nominated by the Central Government;
- (b) a vice-chairman to be nominated by the Central Government;
- (c) not more than five persons to be nominated as members by the Central Government;
- (d) one person each representing each of the States to be nominated by the State Government concerned;
- (e) one person to be nominated by the Central Government to represent the Union Territories;
- (f) five persons representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;
- (g) five persons representing employees to be nominated 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 nominated by the Central Government in consul-

tation 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.

Explanation:— The Chairman and members of the Corporation shall be deemed to be the Trustees within the meaning of the Indian Trust Act, 1882.

67. *Vesting of the property in the Corporation.—*

All property belonging to the Employees State Insurance Corporation and the Central Board of Trustees constituted under Employees Provident Funds Act, 1952, and all property acquired and belonging to similar institutions shall vest in the Corporation to be known as the Social Security Corporation and all income derived and expenditure incurred in this behalf shall be brought into the books of the Corporation.

68. *Appointment of Committees by the Corporation.—*

For proper functioning of the Corporation, the Corporation shall have power to constitute from time to time committee or committees to deal with certain specified subjects, benefits and/or certain specified areas with the prior approval of the Central Government.

69. *Establishment of Social Security Fund.—*

(1) All contributions paid under this Chapter and all other moneys received on behalf of the Social Security Corporation shall be paid into a fund called the "Social Security Fund" which shall be administered by the Corporation for the purposes of this Code.

(2) The Social Security Fund shall be earmarked separately for each of the following:

- (a) health, employment and injury benefits;
- (b) provident fund;
- (c) voluntary insurance for terminal and unemployment benefits;

(d) labour welfare fund.

(3) Every branch of social security specified under sub-section (2) shall constitute an independent division within the Corporation having its separate finances and no division shall be liable for the obligation of another.

(4) All accumulations and funds at present vested in the authorities constituted under the Coal Mines Provident Fund and Bonus Schemes Act, 1948, Employees' Provident Funds Act, 1952, Employees' State Insurance Act, 1948, Coal Mines Labour Welfare Fund Act, 1947, Mica Mines Labour Welfare Fund Act, 1948, Bombay Labour Welfare Fund Act, 1953, Uttar Pradesh Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950, Uttar Pradesh Labour Welfare Fund Act, 1956, Assam Tea Plantations Employees Welfare Fund Act, 1959, Mysore Labour Welfare Fund Act, 1965, Punjab Labour Welfare Fund Act, 1965, and such enactments, both Central and State, dealing with employment insurance labour welfare shall be paid into the appropriate sections of the Social Security Fund and thereafter shall become part of the Fund.

(5) The Corporation may accept grants, donations 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 Code.

(6) Subject to the other provisions contained in this Code and to any regulations made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be approved by the Central Government and credited to the account of the Social Security Fund.

(7) Such account shall be operated on by such officers as may be authorised by the Corporation.

70. *The purposes for which the funds may be expended.—*

(a) The funds of the Corporation shall be expended for the purposes indicated in this chapter.

(b) Notwithstanding anything contained herein, if immediately before the commencement of this Code, any employer or employee was required by law to contribute to any statutory Labour Welfare Fund or is required to pay any cess for any labour welfare benefit, it shall be continued to be paid as hithertofores but the payment shall be made to the Labour Welfare Fund.

(c) The benefits of the Labour Welfare Fund shall be confined, till otherwise provided, exclusively to the class of employees who have been enjoying such benefits till the commencement of this Code.

(d) Wherever the Labour Welfare Fund is required to be expended on industrial housing, such expenditure shall be incurred by the Corporation in consultation with the Housing Corporation.

71. *Investment of funds.*—

The Corporation shall invest its funds in securities recognised under section 20 of the Indian Trust Act, 1882 or in the debentures issued by the Industrial Housing Corporation.

72. *Benefits to employees and dependents.*—

(1) All employees insured with the Corporation shall subject to the provisions of this Code be entitled to the following payments and benefits, namely:

(i) *Sickness (cash) benefit*, i.e. a periodical payment in case of sickness of the employee certified by a duly appointed medical practitioner at the rates prescribed in Table I of Schedule VIII-1.

(ii) *Maternity benefit*, i.e. a periodical payment in case of confinement, sickness arising out of pregnancy, premature birth or miscarriage of a woman employee certified to be eligible for such payment by a duly appointed medical practitioner at the rates prescribed in Table I of Schedule VIII-1.

(iii) *Disablement benefit*, i.e. a monetary compensation of periodical payment or lump sum payment, to an employee suffering from temporary disablement, permanent total disablement, or permanent partial disablement, as a result of employment injury or accident or occupational disease arising out of and in the course of employment, according to the rates prescribed in Table I and Table II of Schedule VIII-1 as the case may be and whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India at the rates prescribed in Table I of Schedule VIII-1.

Explanation.—

(a) "*Temporary Disablement*" means a condition resulting from an employment injury, accident or

occupational disease 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 injury, accident or contracting of occupational disease.

(b) "*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 injury, accident or contracting of occupational disease:

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of Table III of Schedule VIII-1 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. or more.

(c) "*Permanent partial disablement*" means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the injury, accident or contracting of occupational disease:

Provided that every injury specified in Part II of Table III of Schedule VIII-1 shall be deemed to result in permanent partial disablement.

(d) "*Employment Injury*" means a personal injury to an employee caused by accident or occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India.

(iv) "*Dependent's benefit*, i.e. a periodical payment or lump sum payment to the dependents of an employee who dies as a result of employment injury or accident or occupational disease, at the rates prescribed in Table II of Schedule VIII-1.

(v) "*Funeral benefit*, i.e. payment to the eldest surviving member of the family of an insured person who has died, as a result of natural death, accident or employment injury, towards the expenditure on 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:

Provided that the amount of such payment shall not exceed one hundred rupees 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.

(vi) *Medical benefit*, i.e. medical treatment for and attendance on an insured employee and the hospitalisation of such employee or his dependents.

(vii) *Authorised absence*. The insured person will be entitled to such period of authorised absence not exceeding 56 days in a year as may be recommended by the authorised medical practitioner.

(2) The benefits shall be disbursed from the Social Security Fund.

(3) The Corporation may, subject to such conditions as are laid down in the regulations, extend the medical benefits to the dependents of an insured employee.

(4) The details relating to and the manner in which the aforesaid benefits are to be accorded will be prescribed by the Corporation in the Regulations.

(5) Every accident or employment injury, arising out of or in the course of employment, which results in the death of the employee either on the premises or at the place of employment shall be reported by the employer to (1) The Chief Inspector and (2) The Regional Director of the Corporation, within 48 hours of death on the premises and in any other case within 7 days from the receipt of intimation by the employer of the death of the employee.

73. *Benefits not to be combined.*—

(1) 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.

(2) Where a person is entitled to more than one of the benefits mentioned in sub-section (1), he shall be entitled to choose which benefit he shall receive.

74. *Employer not to reduce wages, etc.—*

No employer by reason only of his liability for any contribution payable under this Code shall, directly or indirectly reduce the wages of any employee, or except as provided by the regulations, discontinue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Code.

75. *Employer not to dismiss or punish, etc.—*

(1) No employer shall dismiss, discharge or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall he, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

(2) No notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

76. *Health and Employment Injury Insurance.—*

(1) All employees in every establishment shall be covered by health and employment injury insurance under this Code.

(2) The cost of health and employment injury insurance shall be borne by employers and employees through the payment of contribution in pursuance to this section.

(3) Contribution payable under this Code in respect of an employee shall comprise of 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.

(4) Contribution shall be made at the rate specified in Table I of Schedule VIII—1 and a week shall be the unit in

respect of which all contributions shall be payable under this Code. The contribution shall be payable in each week and shall ordinarily fall due on the last day of the week and where an employee is employed for a part of the week or is employed under two or more employers during the same week, the contribution shall fall due on such days as may be specified in the regulation.

77. Principal employers to pay contribution in the first instance.—

(1) The principal employer shall pay in respect of every employee whether directly employed by him or through any other employer, both the employer's contribution and the employee's contribution.

(2) Subject to the provisions of this Code and the regulation, if any, made thereunder, the principal employer shall, in the case of an employee directly employed by him be entitled to recover from the employee the employee's contribution by deduction from his wages and not otherwise:

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

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover from him.

(4) Any sum deducted by the principal employer from wages under this Code 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 principal employer shall bear the expenses of remitting the contribution to the Corporation.

78. Recovery of contribution from immediate employer:—

(1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employee's contribution as well as employer's contribution, if any), from the immediate employer, either by deduction from any amount pay-

able to him by the principal employer under any contract or as a debt due by the immediate employer.

(2) In the case referred to in sub-section (1), the immediate employer 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 the conditions specified in the provision to sub-section (2) of section 77.

79. *Employees' provident fund scheme.*—

The Corporation shall within one year of the commencement of the Code by notification in the official gazette frame a scheme to be called the employees' provident fund scheme for employees (contributions to which shall be compulsory) and till such scheme is framed all the existing schemes relating to provident fund whether statutory or otherwise shall continue to be in operation.

80. *Contributions and matters which may be provided for in the Scheme.*—

The contribution which shall be paid by the employer to the provident fund branch of the Corporation shall be 6¼% of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable to each of the employees who are employed by him directly or through a contractor and the employees' contribution shall be equal to the contribution payable by the employer:

Provided that the Central Government, after making such inquiry as it deems fit, may by notification in the official gazette specify that this section in its application to any establishment or classes of establishment shall be subject to the modification that for the words "6¼%" the words "8%" shall be substituted:

Provided however where any establishment is at present paying a higher contribution than that mentioned above such establishment shall continue to pay the same.

81. *Modification of Scheme.*—

The Corporation may, by notification in the official gazette, add to, amend or vary the scheme framed under this Code.

82. *Voluntary Insurance.*—

(1) The Central Government shall formulate and provide for a scheme of voluntary insurance, insuring the

liability of the employer in respect of any matter or matters specified below:

- (i) compulsory gratuity;
- (ii) retrenchment compensation;
- (iii) compensation in case of the transfer of an establishment;
- (iv) compensation for closure;
- (v) lay-off compensation.

(2) All employers who desire to avail themselves of such a scheme on payment of the prescribed premium or premia, may insure for such voluntary insurance scheme with the Corporation:

Provided however that such an insurance shall not in any way prejudice the right of an employee to recover from the employer in the first instance any gratuity or compensation due to him.

(3) The employer after payment of gratuity or compensation, as the case may be, may recover the amount from the Corporation after satisfying the Corporation with such evidence as is required that he has paid the amount in due satisfaction of his legal obligation.

(4) A payment made under conciliation agreement or an award shall be presumed to be a payment made in satisfaction of a legal obligation. *सत्यमेव जयते*

83. *Principal Officers.*—

(1) The Corporation may appoint the following officers (hereinafter referred to as Principal Officers) of the Corporation, namely:

- (a) A Director-General of Social Security;
- (b) An Insurance Commissioner;
- (c) A Provident Fund Commissioner;
- (d) A Medical Commissioner;
- (e) A Chief Accounts Officer; and
- (f) An Actuary.

(2) The Director-General shall be the Chief Executive Officer of the Corporation.

(3) The Principal Officers shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office.

(4) A Principal Officer shall hold office for such period as may be specified in the order appointing him. An outgoing Principal Officer shall be eligible for re-employment.

(5) A Principal Officer shall receive such salary and allowances as may be prescribed by the Corporation subject to the prior approval of the Central Government.

84. *Staff.*—

(1) The Corporation may employ regional commissioners and such other staff or officers and servants as may be necessary for the efficient transaction of its business.

(2) The method of recruitment, salary and allowances and other conditions of service shall be such as may be specified in the regulations made by the Corporation.

85. *Powers of the Corporation.*—

(1) The Corporation may exercise all such powers that may be necessary or expedient for the purpose of carrying out its functions under this Code, provided that in discharging its functions in relation to the scheme of voluntary insurance it shall act on business principles.

(2) In the discharge of its functions, the Corporation shall be bound by such directions as the Central Government may, for reasons to be stated in writing, give to it from time to time.

86. *Authentication of orders, decisions, etc.*—

All orders and decisions of the Corporation shall be authenticated by the signature of the Director-General of the Corporation and all other instruments issued by the Corporation shall be authenticated by the signature of the Director-General or such other officer of the Corporation as may be authorised by the Corporation.

87. *Restriction of powers of members to vote in certain cases.*—

No member of the Corporation or any other body (by whatever name called) constituted or established by or under this Code shall vote or take part in the discussion of any matter coming up for consideration at a meeting of the Corporation or that body or of any of its committees if the matter is one in which he is in direct or indirect pecuniary interest by himself or his partner, or in which he is interested professionally on behalf of a client or as agent for any person other than the Government or a local authority or trade union registered under this Code.

88. *Defects in appointments or election under invalid acts, etc.—*

No act or proceeding of Corporation or any statutory body (by whatever name called) constituted or established under this Code, or of any of its committees shall be invalid merely by reason of—

- (a) any vacancy therein or any defect in the constitution thereof, or
- (b) any defect in the election or appointment of a person as a member thereof, or
- (c) any member having acted or taken part in any proceedings in contravention of section 87, or
- (d) any irregularity in its procedure not affecting the merits of the case.

89. *Maintenance of Reserve Fund.—*

(1) The Corporation shall allocate and maintain a reserve fund for each branch of social security as follows :—

- (a) in respect of sickness and health insurance branch, a reserve fund equal to the average of six months' expenditure for that branch during the last three years;
- (b) for the provident fund branch a reserve fund equal to the expenditure of that branch during the last three years;
- (c) for the voluntary insurance branch a reserve fund equal to the average annual expenditure for that branch during the last three years.

(2) When any reserve fund falls below the prescribed minimum, the Corporation shall examine the situation and make recommendations to the Central Government for increasing the rate of contributions or the Government grant to the Corporation in order to restore the reserve fund to the prescribed minimum.

(3) Pending the accumulation of the various benefit payments to the extent necessary to determine the expenditures and average expenditures referred to in sub-section (1), the Central Government shall, as a temporary measure, prescribe an amount by way of security reserve to be allocated to insure the Corporation's solvency.

90. *Accounts and Audit.*—

(1) The Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet, in accordance with such general directions as may be issued, and in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Corporation 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 Corporation 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 Corporation, 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 and to inspect books, accounts, connected vouchers and other documents and papers maintained by the Corporation.

(4) The accounts of the Corporation 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 only to the Central Government and that Government shall pass the same to be laid before each House of Parliament.

91. *Mode of Application.*—

An applicant for benefits under this Chapter shall:

- (a) submit a claim or application as specified by the Corporation for each separate case;
- (b) produce such certificate, documents and give such information as the Corporation may require;
- (c) consent to undergo such medical examination or re-examination as the Corporation may require.

92. *Time-limit for claiming benefits etc.*—

The right to any benefits under the health and employment injury insurance branch shall lapse if no claim thereto is made within one year from the date such benefits become payable:

Provided that any such claim may be entertained after the expiry of the said period if the appropriate authority is satisfied that the applicant had sufficient cause for not making the claim within the said period.

93. *Benefits not transferable.*—

(1) Benefits payable under this Code shall not be assigned, transferred or sold. Any such alienation shall be null and void.

(2) Benefits payable under this Chapter shall not be attached in satisfaction of any debt due by an insured person.

94. *Actuarial review of the implementation of the social security measures.*—

(1) The Corporation shall carry out once in every three years an actuarial review of the operation and application of the provisions of this Chapter and submit a report to the Central Government on the financial situation of each social security branch and the adequacy or otherwise of the contributions payable under this Code to support the benefits payable thereunder.

(2) The Central Government may, at any time, reduce the period to be covered by the review and report.

95. *Review of the real value of the benefits.*—

Following any fundamental changes in the general level of wages resulting from substantial changes in the cost of living, the Corporation shall investigate the situation and make recommendations to the Central Government for adjusting the social security measures in order to maintain the real value of cash benefits. Recommendations of the Corporation shall be accompanied by an actuarial report and shall include, in particular, the following:—

(a) proposals for a new scale of wage classes and contributions;

(b) proposals for modifications in the rate of cash benefits.

96. *Exemption from stamp duty.*—

Applications, claims and all documents relating to any of the benefits payable under this Code shall be exempt from stamp duty.

97. *Power of Government to supersede the Corporation.*—

(1) If at any time the Central Government is of opinion:—

- (a) that on account of a grave emergency the Corporation established under this Code is unable to perform the duties imposed on it under the provisions of this Code or of any other law, or
- (b) that the Corporation has persistently made default in the performance of the duties imposed upon it under the provisions of this Code and as a result of such default the financial position or the administration of the Corporation has greatly deteriorated;

The Central Government may, by notification in the Official Gazette, supersede the Corporation for such period, not exceeding six months at a time, as may be specified in the notification;

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable time of not less than 3 months to the Corporation to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation.

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

- (a) all the members of the Corporation shall, as from the date of supersession vacate their offices as members;
- (b) all the powers and duties which may, by or under the provisions of this Code, be exercised or performed by or on behalf of the Corporation, shall until the Corporation is re-constituted under clause (b) or clause (c) of sub-section (3) vest in the Central Government and be exercised and performed by such person or persons as the Central Government may direct;
- (c) all property vested, if any, in the Corporation shall, until the Corporation is reconstituted under clause (b) or clause (c) of sub-section (3), vest in the Central Government.

(3) On the expiration of 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 Corporation by fresh appointment and in such case any persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for appointment, or
- (c) re-constitute the Corporation by appointment only for such period as it may consider necessary and in such a case the persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for such appointment merely because they were members when the Corporation was superseded:

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) or clause (c) of this sub-section.

98. Right of appeal to the judicial authority.—

(1) Any employer or employee aggrieved by any order passed by the Corporation shall have a right of appeal to the appropriate judicial authorities.

(2) No suit or prosecution shall lie against any officer of the Corporation for any act done in the discharge of his duties.

99. Regulations.—

The Corporation shall make regulations for the purpose of giving effect to the provisions of this Chapter after prior approval of the Central Government and publication in the official gazette.

100. Speedy payment of benefits.—

The Social Security Corporation shall ensure speedy payment of benefits to employees, and for this purpose shall organise its business and procedures in efficacious and effective manner and if necessary, shall utilise aid of mechanical and electrical appliances and devices.

101. Identification Cards.—

The Corporation shall provide each employee with identification card with a special code number. This card shall identify the employee and will be evidence of entitlement of benefits due to him under this Chapter.

CHAPTER IX

INDUSTRIAL HOUSING CORPORATION

102. *Establishment of Industrial Housing Corporation.—*

(1) A corporation to be known as the Industrial Housing Corporation is hereby established and it shall start functioning on the date to be appointed in this behalf by a notification by the Central Government in the Official Gazette.

(2) The Housing Corporation shall be a body corporate having perpetual succession and a common seal and shall sue and be sued in its name.

103. *Constitution of the Corporation.—*

(1) The Corporation shall consist of the following members namely :—

(a) a chairman to be nominated by the Central Government;

(b) a vice-chairman to be nominated by the Central Government;

(c) not more than 5 persons to be nominated as members by the Central Government who, in the opinion of the Government, have special knowledge or practical experience in matters relating to housing as enacted in this Chapter;

(d) five persons representing employers to be nominated by the Central Government in consultation with such organisations of the employers as may be recognised for the purpose by the Central Government;

(e) five persons representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government.

(2) The Central Government shall appoint a Director-General of Housing who shall be the chief executive officer of the Housing Corporation on such terms and conditions of service as may be prescribed by the Central Government.

(3) The Housing Corporation may appoint such other officers for efficiently carrying out the functions of the Hous-

ing Corporation and on such terms and conditions of service to be determined by the Housing Corporation.

104. *Assistance to other housing societies.*—

It shall be the function of the Housing Corporation by itself or by affording financial and other assistance to similar bodies, societies and institutions to accelerate the progress of housing for industrial employees.

105. *Funds of the Corporation.*—

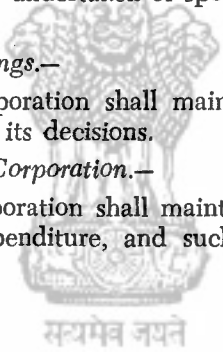
The Housing Corporation shall with the prior approval of the Reserve Bank of India raise funds for its purposes by the issue of housing debentures on such terms and conditions and at such rate/rates of interest as the Housing Corporation shall determine from time to time, and these funds shall be utilised for the projects undertaken or sponsored by the Housing Corporation.

106. *Minutes of meetings.*—

The Housing Corporation shall maintain proper records of all its meetings and its decisions.

107. *Accounts of the Corporation.*—

The Housing Corporation shall maintain proper accounts of its income and expenditure, and such accounts shall be audited once a year.



CHAPTER X

FREEDOM OF ASSOCIATION

108. *Right of Association.*—

(1) Employees shall have the right to form and join unions of their own choice and to participate in the activities and management thereof.

(2) Employers shall have the right to form and join associations of their own choice and to participate in the activities and management thereof.

(3) Employees' and Employers' organisations shall have the right to draw their constitution and rules, to elect their representatives, to organise their administration and activities and to formulate their programme.

(4) Employees' and Employers' organisations shall have the right to join federations and any such organisation or federation shall have the right to affiliate with national or international organisations of employees and employers, as the case may be.

Explanation:— (a) "Trade Union" includes any federation of two or more trade unions;

(b) "Employers' Association" means any combination of employers in an industry, whether incorporated or not, one of whose objects is the regulation of conditions of employment in the industry.

109. *Right to strike.*—

Subject to the provisions of this Code, employees shall have the right to strike work.

110. *Right to lockout.*—

Subject to the provisions of this Code, every employer shall have the right to declare a lockout.

111. *Prohibition of strikes and lockouts.*—

(1) No employee shall take part in a strike and no employer shall declare a lockout.

- (i) unless a notice in writing of the decision to call a strike or to declare a lockout within a period of six weeks from the date of the issue of notice has been given, so however, no such strike or lockout shall actually be commenced until after a period of fifteen days has elapsed from the aforesaid date; or
- (ii) during the pendency of any conciliation proceedings in respect of any matters constituting the labour dispute to settle which the conciliation proceedings have been initiated;
- (iii) during the pendency of proceedings before any judicial authority and two months after the conclusion of such proceedings; or
- (iv) during any period in which a settlement or award is in operation in respect of any matters covered by the settlement or the award.

(2) Where a labour dispute has been referred to a judicial authority for adjudication and determination, any strike or lockout in connection with such dispute in existence at the time of such reference, if continued thereafter, shall be illegal.

(3) A lockout declared in consequence of an illegal strike or a strike declared in consequence of an illegal lockout shall not be illegal.

112. *Prohibition of financial aid to illegal strikes and lockouts.*

No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or illegal lockout

113. *Registration of trade union.—*

(1) Any fifteen 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) Every application for registration of a trade union shall be made to the Registrar and shall be accompanied by—

(a) a statement showing—

- (i) the name of the trade union and the address of its head office;

- (ii) the names, ages, addresses, designations and occupations of the officers of the trade union; and
- (iii) in case of a federation of trade unions, the names, addresses and registration numbers of member unions;
- (b) three copies 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 by the members of the trade union authorising its president and the secretary to apply for its registration; and
- (d) in case of a federation of trade unions, a copy of the resolution passed by two or more unions constituting the federation.

114. *Power to call for further particulars.—*

(1) The Registrar may call for further information for the purpose of satisfying himself that any application for registration complies with the provisions of section 113 and may refuse to register the trade union until such information is supplied.

(2) If the name under which a trade union is proposed to be registered is identical with that by which any existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as is likely to deceive the public or the members of either trade union, the Registrar shall require the persons applying for registration to alter the name of the trade union stated in the application and shall refuse to register the trade union until such alteration has been made.

115. *Registration of union and certificate of registration.—*

The Registrar on being satisfied that the trade union has complied with requirements in regard to registration and that its rules provide for matters specified in Schedule X-1 shall register the trade union by entering it in the register to be maintained for that purpose and issue a certificate of registration which shall be conclusive evidence that the trade union has been duly registered under this Code.

116. *Change in the name of a registered trade union.—*

In the case of change of the name of a registered trade union, the change of its address, amalgamation of trade uni-

ons and dissolution of a trade union the provisions of Schedule X-2 will apply.

117. *Incorporation of registered trade unions.*—

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, take loan, hold both moveable and immoveable property and to contract, and may in the same name sue and be sued.

118. *Right of minors to membership of trade unions.*—

Any person who has attained the age of fifteen years may be a member of a registered trade union subject to any rules of the trade union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member.

119. *Disqualifications of office-bearers of trade union.*—

A person shall be disqualified for being chosen as and for being a member of executive or any other office-bearer of a registered trade union if he has not attained the age of 18 years.

120. *Proportion of officers to be connected with the industry.*—

Not less than one-half of the total number of the officers of every registered trade union shall be persons actually engaged or employed in an industry with which the trade union is connected.

121. *Objects on which general funds may be spent.*—

The general funds of a trade union shall not be spent on any other objects except for those specified in Schedule X-3.

122. *Constitution of a separate fund for political purposes.*—

(1) A registered trade union may constitute a separate fund from contribution 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 and generally in furtherance of any of the objects specified in Schedule X-4.

(2) All questions relating to the rate of contribution to the political fund, the investment of moneys and the objects for which the moneys shall be expended, shall be decided by resolutions passed by majority of the votes of the mem-

bers present and voting in the general body meeting; the office-bearer presiding over the general body meeting shall have and exercise a casting vote in case of an equality of votes.

123. *Recognition of union.*—

(1) Where a registered trade union claims that it has a membership of not less than 25% of the employees employed in a unit or an industry, it may make an application to the Registrar for being declared as a recognised union for such unit or the industry.

(2) On receipt of an application from a union, the Registrar shall, if, after holding such inquiry as he deems fit, comes to the conclusion that the conditions requisite for recognition specified in this Code are complied with, enter the name of the union in the appropriate register maintained for the purpose and issue a certificate of recognition:

Provided that in any local area there shall not be at any time more than one recognised union in respect of the same unit or industry unless such union is a craft union and the craft is defined with sufficient clarity as not to give rise to any inter-union rivalry.

124. *Substitution of existing recognised union by another union.*—

(1) A registered trade union (hereinafter referred to as the applicant union), which claims that it has a membership which is more than the membership of any recognised trade union (hereinafter referred to as the existing union) in any unit or industry in a local area may apply to the Registrar for recognising it in place of the existing union.

(2) On receipt of such application the Registrar shall hold such inquiry as he deems fit for ascertaining the membership of both the unions and if the applicant union has the larger membership than the existing union, but in any case not less than 25% of the employees in any unit or industry concerned, he may recognise the applicant union for a unit or industry in the local area concerned in place of the existing union and withdraw the recognition of the existing union.

125. *Rights of recognised union.*—

The office-bearers of the recognised union and such other employees in any unit or industry who have been authorised in this behalf by the recognised union shall, in

such manner and subject to such conditions as may be prescribed, have a right:—

- (a) to collect sums payable by members to the union on the premises where wages are paid to them;
- (b) to put up or cause to be put up a notice board on the premises of the establishment in which its members are employed and affix or cause to be affixed notices thereon; and
- (c) for the purpose of the prevention or settlement of a labour dispute—
 - (i) to hold discussions on the premises of the establishment with the employees concerned who are members of the union;
 - (ii) to meet and discuss with an employer or any person appointed by him for the purpose of the grievances of its members employed in his establishment; and
 - (iii) to inspect, if necessary, in any establishment, any place where any member of the union is employed.

126. *Disputes regarding election and disqualifications of office-bearers of trade union.*—

(1) Where there is a dispute as respects whether or not any person is an office-bearer or member of a registered trade union (including any dispute relating to wrongful expulsion of any such office-bearer or member), or where there is any dispute relating to the property (including the account books) of any registered trade union, any member of such registered trade union for a period of not less than six months may, with the consent of the Registrar, and in such manner as may be prescribed, refer the dispute to the Industrial Tribunal constituted under this Code.

(2) The Industrial Tribunal shall have the power to issue such interim directions or pass such orders pending the disposal of the application, as it deems fit.

(3) The Industrial Tribunal shall, after hearing the parties to the dispute, decide the dispute, and may require an office-bearer or member of the registered trade union, to be appointed whether by election or otherwise under the supervision of such person as the Industrial Tribunal may

appoint in this behalf or remove, in accordance with the rules of the trade union.

(4) The decision of the Industrial Tribunal shall be final and binding on the parties, and shall not be called in question in any civil court.

(5) No civil court shall entertain any suit or other proceedings in relation to the dispute referred to the Industrial Tribunal as aforesaid, and if any suit or proceeding is pending in any such court, the civil court shall, on receipt of an intimation from the Industrial Tribunal that it is seized of the question, cease to exercise jurisdiction in respect thereof.

(6) Save as aforesaid, the Industrial Tribunal may, in deciding disputes under this section, exercise the same powers and follow the same procedure as it exercises or follows for the purpose of deciding labour disputes under this Code.

127. *Cancellation of registration of a union.*—

(1) The Registrar shall cancel the registration of a union.—

- (a) if it is discovered that the union was registered under mistake, misrepresentation or fraud;
- (b) that the union has contravened any of the provisions of this Code; and
- (c) that the Industrial Tribunal directs that its registration should be cancelled.

(2) Before cancelling the registration of a union on the grounds mentioned in sub-clauses (a) and (b) of sub-section (1) above, the Registrar shall hold such inquiry as he deems fit, after giving notice to such union to show cause why its registration should not be cancelled.

128. *Application for fresh recognition.*—

On the expiry of not less than six months from the date of withdrawal of the recognition under section 124 the trade union if it continues to be registered trade union may again apply for recognition and the procedure laid down in this Code shall apply in respect of such application as if it were an original application for recognition.

129. *Criminal conspiracy in labour dispute.*—

No office-bearers or members 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 an agreement made between the members for the purpose of furthering any such objects of the trade union as are specified in

section 121 unless the agreement is an agreement to commit an offence.

130. *Immunity from civil suit in certain cases.*—

(1) No suit or other legal proceedings shall be maintainable in any civil court or before any other forum against any registered trade union or any office-bearer or member thereof in respect of any act done in contemplation or furtherance of a labour dispute to which a member of a 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 proceedings in any civil court in respect of any tortuous act done in contemplation or furtherance of a trade 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.

131. *Enforceability of agreement.*—

The civil courts shall not have power to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for breach of any of the following agreements, namely:

- (a) any agreement between members of a trade union as such, concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ or be employed; or
- (b) any agreement for the payment by any person of any subscription or penalty to a trade union; or
- (c) any agreement for the application of the funds of a trade union—
 - (i) to provide benefits to members; or
 - (ii) to furnish contributions to any employer or employee not a member of such trade union, in consideration of such employer or employee acting in conformity with the rules or resolutions of such trade union; or

- (iii) to discharge any fine imposed upon any person by sentence of a court of law; or
- (d) any agreement made between one trade union and another; or
- (e) any collective agreement between a trade union and an employer or group of employers; or
- (f) any bond to secure the performance of any of the abovementioned agreements:

Provided that nothing in this section shall be deemed to constitute any of the abovementioned agreements unlawful.

132. *Withdrawal of recognition of trade union.*—

(1) The Registrar may, withdraw recognition to a trade union on any of the following grounds:—

- (a) that the trade union has within two months prior to the date of the application or thereafter committed any unfair labour practice as set out in Section 134 (2);
- (b) that the union was recognised under mistake, misrepresentation or fraud;
- (c) that the membership of the recognised union has for a period of three consecutive calendar months fallen below 25 per cent of membership of the employees employed in the unit or the industry as the case may be;
- (d) that the trade union has failed to submit any return or information required to be furnished under this Code; and
- (e) that the registration of the trade union has been cancelled.

(2) The Registrar shall serve notice in the prescribed manner on the trade union to show cause why its recognition should not be withdrawn.

(3) If after giving a reasonable opportunity to a trade union to show cause the Registrar is satisfied that the trade union is no longer fit to be recognised he shall make an order that recognition accorded to such a trade union shall cease to be effective from the date of the order.

(4) For the removal of doubt it is hereby declared that pending such proceedings before the Registrar no settlement

entered into by the recognised trade union with the employer or employers concerned shall be valid and binding on its members unless the same is approved by the Registrar as fair and reasonable.

133. *Trade unions to submit prescribed returns.—*

Every registered trade union and recognised union shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, as may be prescribed.

134. *Unfair Labour Practice.—*

(1) For the purpose of this Code it shall be an unfair labour practice on the part of an employer—

- (a) to interfere with or restrain or coerce his employees in exercise of their rights to organise, form, join or assist a trade union of their choice;
- (b) to interfere with the formation or administration of any trade union;
- (c) to dismiss (except for misconduct under standing orders), discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee:
 - (i) is an officer or member of a registered or recognised trade union or a union which has applied for being registered or recognised under this Code;
 - (ii) is a member of a shops committee or represents the employees on the joint management council or is a "protected employee";
 - (iii) is entitled to the benefits of a registered agreement or award; and
 - (iv) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Code or any other law for the time being in force or takes part in any capacity in or in connection with a proceeding under this Code or has gone on or joined or instigated a strike which has not been held by the judicial authority to be illegal under the provisions of this Code.

Explanation:— (1) The expression "protected employee" in relation to any unit in an industry

means any employee who being an office-bearer of a union is recognised as such by the employer in accordance with the rules made under this Code.

- (2) In every unit of an industry the number of employees to be recognised as "protected employees" shall be one per cent of the total number of employees employed in every unit subject to a minimum of five and maximum number of 100 employees in that unit.

(2) For the purpose of this Code it shall be an unfair labour practice on the part of a registered trade union or a recognised union :—

- (a) to organise, instigate or cause employees employed in any unit in the industry to take part in an illegal strike or to instigate the employees to "go-slow"; and
- (b) to submit any false statement or return to the Registrar of trade unions.

Explanation:— "Go-slow" means an organised, deliberate and purposeful slowing down of normal output of work by a body of employees in a concerted manner and which is not due to mechanical defect, break down of machinery, failure or defect in power supply or in the supply of normal materials and spare parts of machinery.

135. *Special provision for protected employee.—*

Notwithstanding anything contained in this Code no employer shall dismiss, discharge or remove from service any protected employee save with the express permission in writing of the Labour Court.

136. *Reference to judicial authority regarding unfair labour practice.—*

(1) It shall be open to the employer, in respect of an unfair labour practice committed by a registered trade union or a recognised union, and similarly it shall be open to a registered trade union or a recognised union, in respect of an unfair labour practice committed by the employer, to raise a labour dispute and refer it to the judicial authority for redress.

(2) The judicial authority may either grant an injunction preventing the employer or the registered trade union or

the recognised union, as the case may be, from committing an unfair labour practice and make such interim or final order as it deems fit.

(3) The judicial authority may also award costs or compensation to the aggrieved applicant party.

137. *Registration of employers' associations.—*

(1) The provisions of this Chapter relating to registration of trade unions, in so far as they are applicable, shall also apply to the registration of employers' associations.

(2) The Registrar on being satisfied that the employers' association has complied with the requirements regarding its registration, shall register the employers' association by entering it in the register maintained for that purpose and issue a certificate of registration which shall be conclusive evidence that the employers' association has been duly registered under this Code.



CHAPTER XI

AUTHORITIES

138. *All-India Services.*—

(1) The Central Government shall create two All-India Services, common to the Union and the States. These services shall be known as (i) All-India Labour Judicial Service, and (ii) All-India Labour Administrative Service.

(2) Subject to the provisions of this Code the Central Government shall in consultation with the Union Public Service Commission regulate the recruitment by prescribing qualifications, the terms and conditions of service of persons appointed to services referred to in sub-section (1):

(3) All persons holding the office as presiding officers or members of the National Tribunals, Industrial Tribunals, State Industrial Court and the Labour Courts, full time and permanent members of the statutory Wage Boards, Conciliation Officers appointed under the Industrial Disputes Act, 1947, and the corresponding State laws, shall be deemed to be the members of the Labour Judicial Service with effect from the day the service is created, till they are absorbed or allocated to the various services under the Code or till their services are terminated.

(4) All members of the Central and State Services who are holding substantive executive gazetted posts under the control of the Department of Labour shall be deemed to be the members of the All-India Labour Administrative Service with effect from the day the service is created, till they are absorbed in the service or till their services are terminated.

139. *Persons not transferable between two services.*—

The two All-India Services, namely, (i) All-India Labour Judicial Service, and (ii) All-India Labour Administrative Service shall be two distinct services and the members of one service shall not be transferable to the other service.

140. *Authorities under the All-India Labour Judicial Service.*—

The All-India Labour Judicial Service shall consist of the following authorities:

- (a) President and members of the National Tribunal;

- (b) President and members of the State Industrial Tribunal;
- (c) Presiding Officers of the Labour Courts;
- (d) Full time and permanent members of the Wage Boards;
- (e) Director of Labour Prosecution;
- (f) Conciliator, including Chief Conciliator; and
- (g) Registrar of Trade Unions.

141. *The National Tribunal.*—

(1) The Central Government shall constitute a National Tribunal consisting of three or more members, one of whom shall be its President.

(2) A person shall be qualified for appointment as a member of the National Tribunal only if—

- (i) he has been a member of the All-India Labour Judicial Service for not less than eight years and has also held office as a presiding officer or member of an Industrial Tribunal for a period of not less than three years; or
- (ii) he is qualified to be appointed as a Judge of a High Court.

(3) The President of National Tribunal may assign work to each member of the Tribunal.

(4) The member shall have his office at such place as the President may direct and the member shall hold the sittings at any place to suit the convenience of the parties to the dispute.

142. *Appointment of State Industrial Tribunal.*—

(1) The State Government shall constitute a State Industrial Tribunal consisting of one or more members, one of whom shall be the President.

(2) A person shall be qualified for appointment as member of the State Industrial Tribunal only if—

- (i) he has been a member of the All-India Labour Judicial Service for not less than five years; or
- (ii) he has held the office of the Presiding Officer of the Labour Court for not less than three years.

143. *Appointment of Presiding Officer of Labour Court.*—

(1) The State Government shall constitute Labour Court or Courts and describe its territorial jurisdiction.

(2) A person shall be qualified for appointment as Presiding Officer of the Labour Court only if he has been a member of the All-India Labour Judicial Service for not less than three years.

144. *Appointment of Director of Labour Prosecution.*—

A person shall be qualified for appointment as Director of Labour Prosecution, only if he has been a member of the Labour Judicial Service for not less than three years and is a legal practitioner of not less than seven years standing.

145. *Appointment of Conciliator.*—

A person shall be qualified for appointment as Conciliator or Chief Conciliator only if he is a member of the Labour Judicial Service.

146. *Authorities under the All-India Labour Administrative Service.*—

(1) The All-India Labour Administrative Service shall consist of the following authorities:

- (a) Director-General of Labour Administration;
- (b) Deputy Directors of Labour Administration;
- (c) Regional Directors of Labour Administration;
- (d) Assistant Directors of Labour Administration;
- (e) Chief Inspector and Inspectors of Establishments;
- (f) Director of Central Statistics;
- (g) Regional Directors of State Statistics;
- (h) Director of Employment Exchanges and
- (i) Principal Officer and other officers of the Social Security Corporation and Housing Corporation.

(2) A person shall be qualified for appointment to any of the above posts only if he is a member of the All-India Labour Administrative Service.

CHAPTER XII

STATISTICS

147. *Collection of Statistics.*—

(1) The Director of Central Statistics may, by notification in the Official Gazette, direct that statistics shall be collected relating to any of the following matters so far as they relate to welfare of employees and their conditions of work in any establishment or any class of establishment, namely,

- (i) nature of manufacturing process of services rendered;
- (ii) nature and quantity of power used;
- (iii) drawings, specifications and other particulars of buildings, ways, machinery or plant (including boilers and economisers);
- (iv) particulars of employees and ex-employees;
- (v) hours of work, intervals, spreadover, shifts, relays, days of rest, leave periods, compensatory days of rest, wage periods, benefits and amenities provided, including sickness and maternity benefits;
- (vi) provident and other funds provided for employees;
- (vii) medical facilities and other facilities including facilities for recreation and education;
- (viii) living and working conditions including housing, water supply, sanitation, canteens, rest rooms and creches;
- (ix) remuneration, deductions and advances;
- (x) attendance;
- (xi) vacancy in any employment;
- (xii) undisbursed amounts due to employees;
- (xiii) employment and unemployment, retrenchment, re-employment and lay-offs;
- (xiv) agreements and settlements;
- (xv) labour disputes;
- (xvi) strikes and stoppages;
- (xvii) lockouts and closures;
- (xviii) trade unions;

- (xix) accidents, diseases and bodily injuries;
- (xx) labour turnover;
- (xxi) rents of dwelling houses of employees;
- (xxii) indebtedness of employees;
- (xxiii) compilation of consumers price index;
- (xxiv) collection of family budgets;
- (xxv) such other data as may be required from time to time for the purpose of the Code; and
- (xxvi) socio-economic inquiries.

(2) The collected statistics shall be published in the Gazette of India:

Provided that:

- (a) Where the Central Government has issued any direction under this section for the collection of statistics relating to any matter, no State Government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the collection of statistics by the Central Government remains to be completed; or
- (b) where a State Government has issued a direction under this section for the collection of statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of statistics by the State Government remains to be completed, except in cases where statistics have to be collected with reference to two or more States.

(3) The Director of Central Statistics may with the approval of the appropriate Government conduct socio-economic inquiries in connection with any of the items listed in subsection (1) and the results thereof after tabulation shall be published in the Official Gazette.

(4) The Director of Central Statistics shall also maintain statistics on the region-cum-industry basis.

148. *Statistical Advisory Committee.*—

(1) The Central Government may constitute a statistical advisory committee to advise the Director of Central Statistics in collection and compilation of statistics.

(2) The committee shall consist of the following persons:

- (i) Director of Central Statistics—chairman;
- (ii) Three persons to represent employers' organisations; and
- (iii) Three persons to represent employees' organisations.

149. *Power to call for information.*—

(1) Where a notification has been issued under Section 147 the Director of Central Statistics or any other officer authorised by him in writing in this behalf may serve or cause to be served on the establishment or any other person in charge of such establishment a notice requiring him to furnish such information or returns as may be prescribed relating to any matter specified in the notification.

(2) The form in which, and the person to whom, or the authorities to which, such information or returns should be furnished, the particulars which they should contain and the intervals at which such information or returns should be furnished shall be such as may be prescribed.

(3) The notice referred to in sub-section (1) shall be served by registered post.

150. *Right of access to records and documents.*—

The Director of Central Statistics or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Chapter, have access to any relevant record or documents in the possession of any person required to furnish any information or return under this Chapter and may enter at any reasonable time any premises where he believes such record or document to be and may inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Chapter.

151. *Supply of copies of statistics.*—

The Director of Central Statistics shall on requisition by any employer, employee, an association of employers or a registered trade union supply authenticated copies of statistics compiled by his office for production before judicial authority on payment of such fee as may be prescribed in this behalf.

152. *Publication of Labour Statistics.*—

The Director of Central Statistics shall collect and publish labour statistics with utmost expedition and may for this purpose utilise mechanical and electrical appliances.

153. *Code number of identification card.*—

The Code number of the individual employee for the purpose of collection of statistics shall be the same as given to such employee in the identification card by the Social Security Corporation.



CHAPTER XIII

LABOUR—MANAGEMENT PARTICIPATION

154. *Shops Committee for grievances in the establishment.*—

(1) In every establishment employing more than 100 employees there shall be appointed a shops committee consisting of not more than 20 persons of whom half the number of persons will be nominated by the management and the remaining number of persons representing the employees shall be nominated by the recognised union. In case there is no recognised union, the representatives of employees will be elected from among the employees. At each meeting the committee shall elect its own chairman alternately from the representatives of employers and employees.

(2) At such meeting, any officer of the personnel department will also remain present as an adviser.

(3) The committee may meet from time to time to consider any of the following matters, namely—

- (i) all questions relating to discipline within the establishment;
- (ii) any suggestions by employees for improving the physical conditions of work or measures relating to health, safety and welfare within the establishment;
- (iii) suggestions as regards fixation of norms, work-load, in-put standards, job evaluation, incentive and production schemes where schemes are confined to unit level, quality and adequacy of raw material and equipment supplied by employer or utilised in the establishment; and
- (iv) grievances of employees with regard to wage payments, over-time, leave, transfer, promotion, matters relating to training of employees or employees' education in the establishment, matters relating to rationalisation and efficiency systems, rest intervals, uniforms.

155. *Grievance Procedure.*—

(1) Any question pertaining to the matters set out in Section 154 above may be first brought by an employee

before the jobber, the charge-hand or mistry, the foreman, the steward, the supervisor or the departmental head or the immediate superior.

(2) If the grievance is not redressed within 4 days, the matter will be referred to the shops committee.

(3) The committee may deliberate and communicate its decision to the employee within four days.

(4) If the decision of the committee is not acceptable to the employee, he may refer the matter to the manager.

(5) The manager may communicate his decision within four days.

(6) If the decision of the manager is not acceptable to the employee, the recognised trade union may raise a dispute in the matter.

156. *Voluntary joint labour/management council.*—

(1) In every establishment employing less than 1000 employees a joint labour/management council may be constituted voluntarily by the employer consisting of the following persons:

(a) five representatives on behalf of the management; and

(b) five representatives on behalf of the employees to be nominated by the recognised union. In case there is no recognised union, the representatives may be elected from among the employees.

(2) The representatives of the management will include departmental heads or the works manager, production manager, sales manager, financial manager and the personnel manager.

(3) The representatives of the employees will also represent each department:

Provided that in any establishment employing less than 100 employees the labour/management council may consist of less than 10 persons but the representatives of the employers and employees shall be equal in number.

157. *Compulsory joint labour/management council.*—

(1) In establishments employing 1000 or more employees the appropriate Government may require the management to constitute a labour/management council consisting of the following persons:

- (a) seven representatives on behalf of the management; and
- (b) seven representatives on behalf of the employees to be nominated by the recognised union. In case there is no recognised union, the representatives may be elected from among the employees.

(2) The representatives of the management will include departmental heads or the works manager, production manager, sales manager, financial manager and the personnel manager.

(3) The representatives of the employees will also represent each department.

158. *Duration of the council.*—

(1) The Chief Executive Head of the management shall be the chairman of the council. There shall be a vice-chairman who will be nominated by the recognised union.

(2) The council shall meet at least once in every two months.

(3) The council once formed, shall function for a minimum period of three years.

159. *Subjects for discussion by the council.*—

(1) any of the following subjects may be brought for discussion before the labour/management council—

- (a) acceleration or change in production programme;
- (b) introduction of new methods of production and manufacture;
- (c) economic use of materials including improvement in the quality of raw materials;
- (d) effective deployment of machinery;
- (e) better use of working time and reduction of absenteeism ;
- (f) operation of vocational training and apprenticeship schemes;
- (g) preparation of schedules of working hours and breaks;
- (h) preparation of holiday schedules and rosters;
- (i) fixation of job and piece-rates for different processes;
- (j) measures relating to health, safety and welfare;

(k) payment of rewards for valuable suggestions resulting in improvement of the quality of the goods produced;

(l) avoidance of waste and elimination of fatigue;

(m) economy and improvement in the use of tools;

(n) revision of wage-schedules; and

(o) suggestions as regards marketing of products.

(2) Any suggestion pertaining to the above may be discussed by the joint labour/management council.

(3) The decision of the majority of the members of the council will be forwarded as a recommendation to the board of directors or persons vested with ultimate ownership of the establishment as the case may be, for implementation.

(4) If the recommendation of the council is not acceptable to the board of directors or persons vested with ultimate ownership of the establishment as the case may be, it would be open to the recognised union to raise a labour dispute in so far as it affects the terms of employment and conditions of work and the provisions of this Code shall apply with regard to the settlement of disputes either by collective bargaining, conciliation or adjudication, as the case may be.

160. *Shops Committee to follow the provisions of the Code.—*

In taking decisions the shops committee or the labour/management council shall not contravene any provisions of the Code or Schedules or the rules or regulations prescribed herein and the representatives of employers and employees shall not contract out of any such provisions.

161. *Prohibition on divulging information.—*

The representatives of employees in the labour/management council shall not divulge any information pertaining to business, sales, manufacturing process or any other trade practice or trade deal which comes to their knowledge in the course of meetings of the council or on papers circulated to them.

CHAPTER XIV

REMEDIES

162. *Settlement of labour disputes.*—

The labour disputes shall be resolved by resorting to following methods in order of preference:

- (a) By negotiations between the management and the union in the process of collective bargaining;
- (b) By intervention of the Conciliator at the instance of either or both the parties to the dispute;
- (c) By reference to voluntary arbitration; and
- (d) By reference of the dispute by either or both the parties to the appropriate judicial authority.

163. *Notice of change on behalf of employees.*—

(1) If a recognised union in any industry or a unit in a local area or region desires a change in any term of employment or condition of service of the employees in relation to the matters referred to in the Schedule XIV—1 it shall give a notice in Form XIV—2 seeking a change in any term or condition accompanied by a charter of demands giving reasons for demanding such a change.

(2) A copy of the notice of change referred to in subsection (1) shall be endorsed simultaneously to the Chief Conciliator, the Conciliator concerned, and the Labour Officer of the appropriate Government.

164. *Collective bargaining.*—

(1) Upon receipt of the notice of change under subsection (1) the employer shall carry on negotiations with the recognised union and hold discussions from time to time with a view to exploring possibilities of the settlement of the labour dispute.

(2) If the labour dispute or a part of the labour dispute is settled, the employer and the recognised union shall draw up a memorandum of settlement in the prescribed Form XIV—3 and send a copy thereof to the Chief Conciliator and Director of Central Statistics and State Statistics. The

Chief Conciliator shall register the same in a register kept separately for the purpose and intimate the fact of registration to the parties by a certificate issued under his signature and seal.

165. *Conciliation proceedings.*—

(1) If the labour dispute as aforesaid is not settled within a period of six weeks from the time of service of the demand or demands on the employer, the employer and the recognised union shall intimate the Chief Conciliator of their inability to settle the labour dispute.

(2) On receipt of the intimation the Chief Conciliator shall initiate conciliation proceedings in the labour dispute within a week of receipt of such notice.

(3) If the Chief Conciliator is not in a position to intervene in the labour dispute he may pass on the labour dispute to the Conciliator who shall initiate the conciliation proceedings within a week.

(4) The Chief Conciliator or the Conciliator, as the case may be, shall carry on negotiation with the parties either jointly or severally and try to bring about a settlement of the labour dispute and where necessary shall call a compulsory conference which the parties are bound to attend.

(5) If the labour dispute or part thereof is settled, a memorandum of the settlement shall be drawn in the Form XIV-3 and the settlement shall be registered with the Chief Conciliator, and copy thereof shall be sent to the Director of Central and State Statistics.

(6) If no settlement is possible he shall make a report to the appropriate authority and intimate the parties accordingly and a copy thereof shall be sent to the Director of Central and State Statistics.

166. *Adjudication by Judicial Authority.*—

On the failure of the conciliation proceedings, either of the parties, i.e., the employer or the recognised union, may refer the labour dispute for adjudication to the appropriate judicial authority, who has jurisdiction to adjudicate the dispute in terms of Schedule XIV-6.

167. *Notice of change by the employer.*—

- (1) (i) When an employer desires to effect any change in the terms of employment or conditions of ser-

vice, the employer shall give a notice of change to the recognised union or the registered trade union, as the case may be, in Form XIV-4 and invite its office-bearers for negotiations and discussion with a view to exploring possibility of settlement of the desired change;

- (ii) If the labour dispute or a part of the labour dispute is settled, a memorandum of settlement shall be drawn up in Form XIV-3; and
- (iii) If the labour dispute as aforesaid is not settled, the provisions of Sections 165 and 166 shall apply in respect of the conciliation proceedings or adjudication by the Industrial Tribunal or the Labour Court, as the case may be.

(2) In respect of matters not covered by Schedule XIV-1 where the change is not likely to prejudicially affect the existing terms of employment and conditions of service of an employee, an employer shall make such a change only after giving three weeks notice of the proposed change to the employees concerned and their recognised union, provided however that such notice of change will not in any way prejudicially affect the right of the employees concerned to initiate a dispute through their recognised union after placing a charter of demands on the employer.

168. *Individual disputes or claims to Labour Court.*—

(1) An employee or a registered trade union on his behalf may send an approach letter to the employer in Form XIV-5 claiming any of the reliefs or benefits in respect of items mentioned in Schedule XIV-6-Part-A. or redressal of grievances relating thereto.

(2) Upon receipt of the letter, the employer shall make effort to settle the grievance with the employee or the trade union concerned in respect of the reliefs or benefits claimed by him.

(3) If the grievance in respect of the claim or the benefit of the employee is not settled within three weeks from the date of receipt of the approach letter the labour dispute pertaining thereto may be referred by the employee or the trade union on his behalf to the Labour Court.

169. *Compulsory reference by Government.*—

- (1) Where the appropriate Government is of the opinion

that any labour dispute existing or apprehended is not likely to be settled between the parties or through conciliation or the parties are unwilling to refer the labour dispute to the Industrial Tribunal or the Labour Court, as the case may be, and the Government is satisfied that:—

(i) by reason of the continuance of the dispute—

- (a) an outbreak of disorder or a breach of the public peace is likely to occur; or
- (b) hardship to a large section of the community is likely to be caused; or
- (c) the industry concerned is likely to be seriously affected or the prospects and scope for employment therein curtailed; or

(ii) the labour dispute is not likely to be settled by other means; or

(iii) it is necessary in the public interest to do so;

the appropriate Government may refer the labour dispute to the adjudication of the Industrial Tribunal or the Labour Court, as the case may be.

(2) Where the Central Government is of the opinion that any labour dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to the dispute, whether such matter falls within the jurisdiction of the Labour Court or the Industrial Tribunal, to a National Tribunal for adjudication.

(3) Where any reference has been made under sub-Section (2) to a National Tribunal, then notwithstanding anything contained in this Code, no Labour Court or Industrial Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly—

- (a) if the matter under adjudication before the National Tribunal is pending in a proceeding before a Labour Court or Industrial Tribunal, the

proceeding before the Labour Court or the Industrial Tribunal, as the case may be, in so far as it relates to such matter, shall, be deemed to have been quashed on such reference to the National Tribunal; and

- (b) it shall not be lawful for the appropriate Government to refer the matter under adjudication before the National Tribunal to any Labour Court or Industrial Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.

170. *Reference to a Bench of the Tribunals.—*

When a Judge of the Labour Court or a member of the Industrial Tribunal in any proceeding before him finds that the issues in the labour dispute before him are complicated which are likely to affect employees in the other units of the same industry or other employees in other industries, he may make a reference to the President of the Industrial Tribunal and on such reference the President may constitute a Bench of two or three members of the Tribunal to hear such a reference. The Bench so constituted shall make its award and dispose of the reference accordingly.

171. *Official Statistics and Affidavits.—*

(1) In any proceedings before a National Tribunal, Industrial Tribunal or the Labour Court, as the case may be, official statistics submitted by any party shall be admitted in evidence without proof.

(2) A judicial authority shall have the power to direct evidence to be given on affidavits on any particular matter in preference to oral evidence. In cases where evidence is given on affidavits before any judicial authority, such authority may, if in its opinion no prejudice will be caused by such a course, refuse permission for cross-examination of the deponents in the interest of speedy termination of the enquiry.

172. *Powers of the National Tribunal, Industrial Tribunal and the Labour Court.—*

The National Tribunal, Industrial Tribunal or the Labour Court when deciding any labour dispute shall have the powers:

- (a) to enforce the attendance of any person and require him to depose or be examined on oath;
- (b) to compel the production of documents;
- (c) to issue commissions for the examination of witnesses;
- (d) to authorise any officer to conduct inquiry and collect such material or statistics and to report to the National Tribunal, Industrial Tribunal or the Labour Court, as the case may be;
- (e) to appoint assessor or assessors for making such inquiry as the National Tribunal, Industrial Tribunal or the Labour Court may direct and require such assessor or assessors to advise it in the proceedings before it;
- (f) to issue temporary injunctions; and
- (g) to grant appropriate relief in connection with unfair labour practice.

173. *Decision on merits and jurisdiction of the Judicial Authority.*—

(1) It shall be the duty of the National Tribunal, Industrial Tribunal or the Labour Court, as the case may be, to decide all matters brought before it in a reference by the parties or the Government on merits and to make an interim, final or supplementary award in respect of such matters.

(2) Where however any party challenges the jurisdiction of the judicial authority to entertain any matter referred to it, the judicial authority may refer the question for the opinion of the High Court within whose jurisdiction it functions and answer the question accordingly.

174. *Award.*—

(1) Subject to the provisions of Section 173 where a labour dispute has been referred to the National Tribunal, Industrial Tribunal, or the Labour Court, as the case may be, it shall hold its proceedings expeditiously and make its award as soon as possible.

(2) The award of the National Tribunal, Industrial Tribunal or the Labour Court shall be in writing and shall be signed by the Presiding Officer and shall be published in the official gazette.

175. *Operation and termination of award.—*

(1) An award or a settlement shall become enforceable from the date mentioned therein and where no date is mentioned it shall become enforceable on the expiry of 30 days from the date of the award or the settlement.

(2) The award or the settlement shall remain in force for such period as may be indicated in the award or the settlement. If no period is mentioned therein the award or the settlement shall remain in operation for a period of two years.

(3) After a period of two years the award or settlement can be terminated by either party giving a notice in writing of two months, to the other party.

(4) Although the award or settlement shall stand terminated at the end of two months after giving the notice as aforesaid, under sub-Section (3), the benefits granted or obligations created under the award or the settlement shall continue until the said benefits or obligations are altered or modified by subsequent award or settlement.

176. *Implementation of the award or order.—*

(1) If there is no implementation of the award or order of National Tribunal, an Industrial Tribunal or a Labour Court, for a period of three months after the award or order becomes enforceable, the aggrieved party or the Director of Labour Prosecution may move the National Tribunal, the Industrial Tribunal or the Labour Court, which made the award or order, for its implementation.

(2) The National Tribunal, the Industrial Tribunal or the Labour Court shall issue notice to the other side and after hearing the parties shall make further order and give directions as regards implementation of the award or order.

177. *Binding effect of the award or order.—*

The award or order of the National Tribunal, Industrial Tribunal or the Labour Court shall be binding on the employer/s or employee/s who were parties to the award or order and their successor/s in business or employment, and employees employed in the establishment subsequently, as the case may be.

178. *Regulations for National Tribunal, Industrial Tribunal and Labour Court.—*

The Central Government may frame regulations prescribing the practice and procedure of the National Tribunal,

Industrial Tribunal and the Labour Court. Such regulations shall be placed before both the Houses of Parliament.

179. *Voluntary reference of the dispute to arbitration.*—

(1) Nothing in this Chapter shall prevent the employer, the recognised union or any registered trade union to refer any matter to any person for arbitration by entering into a written agreement.

(2) The written agreement shall provide for the appointment of an umpire in the event the dispute is referred to even number of arbitrators.

(3) If the arbitrators are equally divided in their opinion, the award of the umpire shall prevail and shall be deemed to be the arbitrators' award for the purpose of this Code.

(4) The award of the arbitrator or the umpire, as the case may be, shall be final and binding on the parties as if it is an award under Section 174.

(5) Nothing contained in the Arbitration Act, 1940, shall apply to the arbitration under this Code.

180. *Declaration of a strike or stoppage as illegal.*—

(1) The employer shall have the right to make an application to the Labour Court for declaring a strike or stoppage as illegal.

(2) The Labour Court after hearing the recognised union or any other registered trade union or the employees concerned, may pass such interim or final order declaring the strike or stoppage as illegal calling upon the employees or the trade union concerned to call off the strike or stoppage within a stated period.

181. *Declaration of a lockout as illegal.*—

(1) The registered trade union or the recognised union shall have the right to make an application to the Labour Court for declaring a lockout as illegal.

(2) The Labour Court after hearing the employer concerned may pass such interim or final order declaring the lockout as illegal calling upon the employer concerned to lift the lockout within a stated period.

182. *Prohibition of continuance of a strike, stoppage, or lockout.*

When any labour dispute is referred for adjudication to

the National Tribunal, Industrial Tribunal or the Labour Court, the continuance of any strike, stoppage or lockout would be illegal and the National Tribunal, Industrial Tribunal or the Labour Court shall have the power to issue injunction to the registered trade union, recognised union or the employees or the employer, as the case may be, prohibiting continuance of the strike, stoppage or lockout, as the case may be.

183. *Appearance before Judicial Authorities.*—

In every proceeding before the judicial authority the parties will be entitled to be represented either in person or (1) by a legal practitioner, or (2) by an officer of a registered union or the recognised union or the officer of employers' association, as the case may be, or (3) by a duly authorised representative of employer or employee, as the case may be.

184. *Appeal to the Industrial Tribunal.*—

An appeal shall lie to the Industrial Tribunal from the award or the order passed by the authorities hereinafter mentioned in respect of the following:

- (a) Order of the Labour Court indicating any alteration, variation, addition, deletion, substitution or modification in or to the standing orders under Section 12 (iii);
- (b) Order passed by or on behalf of the Social Security Corporation under Section 98 (1);
- (c) Any order passed by the Labour Court under Sections 168 and 173;
- (d) Any order passed by the Registrar under this Code;
- (e) Any order passed by the Director of Labour (Administration) under Section 9 of this Code; and
- (f) Any order passed by the Labour Court in discharge and dismissal cases.

CHAPTER XV

OFFENCES AND PENALTIES

185. *Penalty for illegal strikes and stoppages.*—

Any employee who commences, continues, takes part or otherwise acts in furtherance of a strike or stoppage which has been declared illegal by the judicial authority under this Code shall be punishable, on conviction, with imprisonment for a term which may extend to one month or with fine which may extend to Rs. 50 or both, and in the case of his continuing a strike or stoppage as the case may be, after lapse of 48 hours after it is held or declared to be illegal, with an additional fine of Re. 1 per day for every day during which such strike or stoppage continues, after such conviction, subject to a maximum of Rs. 80.

186. *Penalty for illegal lockout.*—

Any employer who commences, continues or otherwise acts in furtherance of a lockout which has been declared illegal by the judicial authority under this Code shall be punishable, on conviction, with imprisonment for one month or with fine which may extend to Rs. 1000/- or both, and in the case of his continuing a lockout after lapse of 48 hours after it is held or declared to be illegal with an additional fine of Rs. 50 per day for every day during which such lockout continues, after such conviction, subject to a maximum of Rs. 2000.

187. *Penalty for instigating illegal strikes, stoppages and lockouts.*—

Any person who instigates or incites another person to take part in or otherwise acts in furtherance of a lockout for which an employer is punishable under Section 186 or a strike or stoppage for which any employee is punishable under section 185 shall, on conviction, be punishable with imprisonment for a term which may extend to three months, or with fine of Rs. 2000 or with both:

Provided that no person shall be punished under this section where the court trying the offence is of the opinion that in the circumstances of the case a reasonable doubt

existed at the time of commission of the offence about the legality of the strike, lockout, or stoppage, as the case may be.

Explanation:—

- (i) For the purpose of this section, a person who contributes, collects or solicits funds for the purposes of any such strike, lockout, or stoppage shall be deemed to act in furtherance thereof; and
- (ii) A person shall be deemed to have committed an offence under this section if he has instigated or incited others to take part in or otherwise act in furtherance of any strike, lockout, or stoppage which is illegal under this Code.

188. *Penalty for breach of settlement or award.*—

Any employer who commits breach of any term of a agreement or an award which is binding on him under this Code shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 1000 or both and where the breach is a continuing one with a further fine which may extend to Rs. 50 for every day during which the breach continues, after conviction, subject to a maximum of Rs. 2000.

189. *Penalty for disclosing confidential information.*—

Any person who wilfully discloses any information which has come to his knowledge and which he has been asked to treat as confidential in the interest of business, trade or employment, shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 1000 or both.

190. *Penalty for wrongful withholding of information.*—

If an employer or other person:—

- (a) required to furnish information or return; and
 - (i) refuses or neglects to furnish such information or return, or
 - (ii) furnishes or causes to be furnished any information or return which is false or which he either knows or believes to be false or does not believe to be true, or
- (b) refuses or wilfully neglects to afford reasonable facilities for making inspection, examination or inquiry authorised by or under this Code,

shall, on conviction, be punishable with imprisonment which may extend to six months or with a fine which may extend to Rs. 1000 or both.

191. *Penalty for offences not provided for.—*

Whoever contravenes any of the provisions of this Code or the Schedules appended hereto or regulations or rules or bye-laws or any of the provisions of any schemes formulated under the provisions of this Code and if no other penalty is elsewhere provided by or under this Code, for such contravention shall, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 1000 or both.

192. *Complaints to the Labour Court.—*

(1) Complaint in respect of offences punishable under Sections 185, 186, 187, 188, 189, may be made directly to the Labour Court by the aggrieved party.

(2) Complaints in respect of offences punishable under Section 190 shall be either by the Director of Labour Prosecution or any other person so authorized by him.

193. *Powers of the Labour Courts.—*

(1) The Labour Court shall have the power to try offences under this Code.

(2) In respect of offences punishable under this Code the Labour Court shall have all the powers under the Code of Criminal Procedure, 1898, of a Presidency Magistrate or a Magistrate of First Class and in the trial of every such offence shall follow the procedure laid down in Chapter XXII of the said Code for a summary trial in which an appeal lies; and the rest of the provisions of the said Code shall, so far as may be, apply to such trial.

(3) The Labour Court may also direct payment of adequate compensation out of fine recovered to the aggrieved party.

194. *Appeal to the Industrial Tribunal.—*

An appeal shall lie to the Industrial Tribunal

- (a) against the conviction by the Labour Court by the person convicted;
- (b) against an acquittal by the Labour Court by the Director of Labour Prosecution; and

- (c) for enhancement of sentence awarded by the Labour Court by the Director of Labour Prosecution with the concurrence of the appropriate Government.

195. *Powers of the Industrial Tribunal.*—

(1) The Industrial Tribunal in appeal may confirm, modify, add to or rescind any decision or order appealed against and may pass such orders therein as it may deem fit.

(2) In respect of offences punishable under this Code, the Industrial Tribunal shall have all the powers of the High Court of Judicature under the Code of Criminal Procedure, 1898.

(3) A copy of the orders passed by the Industrial Tribunal shall be sent to the Labour Court.

196. *Contempt of National Tribunal, Industrial Tribunal or the Labour Court.*—

(1) If any person, when ordered or required by the National Tribunal, Industrial Tribunal, or a Labour Court:—

- (a) to produce or deliver any document, or to furnish any information, being legally bound, intentionally omits to do so; or
- (b) to bind himself by an oath or affirmation to state the truth, refuses to do so; or
- (c) refuses to answer any question relating or incidental to the matter in dispute; or
- (d) refuses to sign any statement prepared by him; or
- (e) intentionally offers any insult or causes any interruption in the proceedings in Court or chambers; or
- (f) commits any act or publishes any writing which is calculated to improperly influence the judicial authority hereinabove mentioned or brings such judicial authority in disrepute or contempt or to lower its prestige, or to interfere with the lawful process of such authority,

such person shall be deemed to be guilty of contempt of such National Tribunal, Industrial Tribunal, or Labour Court, as the case may be.

(2) In the case of contempt of itself the National Tribunal or the Industrial Tribunal shall record the facts constituting such contempt and make a report in that behalf to

CHAPTER XVI

MISCELLANEOUS

197. *Territorial jurisdiction.*—

The Central Government may by rules prescribe territorial jurisdiction of each Industrial Tribunal and the Labour Courts subordinate to it.

198. *Transfer of proceedings.*—

(1) The Industrial Tribunal in a region shall have the power to transfer proceedings from one Labour Court to another Labour Court for sufficient reasons on application by any party to the dispute.

(2) The President of the Industrial Tribunal shall have power to transfer proceedings from one Industrial Tribunal to another Industrial Tribunal for sufficient reasons on application by any party to the dispute.

199. *Employers to furnish returns and maintain registers in certain cases.*—

(1) Every employer shall submit to the Specified Authority or to such officer as it may direct, such returns in such form and containing such particulars relating to persons employed by him or to any establishment in respect of which he is the principal or immediate employer as may be specified in the rules made in this behalf by appropriate Government.

(2) Where in respect of any establishment the Specified Authority has reason to believe that a return required to be submitted under sub-section (1) has not been submitted, the Specified Authority may require any person in charge of the establishment to furnish such particulars as it may consider necessary for the purpose of enabling it to decide whether the establishment is one to which this Code or a part thereof applies.

(3) Every employer shall maintain such registers and records in respect of his establishment as may be prescribed.

200. *Officers and servants to be public servants.*—

All officers and servants appointed to administer the provisions of this Code shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

201. *Protection of action taken under the Code.*—

No suit, prosecution or other legal proceedings shall lie against any person for anything done or intended to be done in good faith in pursuance of this Code, Regulations, Rules, or any Scheme made thereunder.

202. *Delegation of powers.*—

The appropriate Government may, by notification in the official gazette, direct that any power exercisable by it under this Code or, Regulations, or any Scheme 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.

203. *Contracting out.*—

Any contract or agreement, whether made before or after the commencement of this Code, whereby an employee either relinquishes his right to any benefit or any part thereof, privilege or concession under this Code shall be null and void to that extent.

204. *Power of exemption.*—

If the appropriate Government, having regard to the financial position and other relevant circumstances of any establishment or class of establishment, is of the opinion that it will not be in the public interest to apply all or any of the provisions of this Code thereto, it may, by notification in the official gazette, exempt for such period as may be specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishment from all or any of the provisions of this Code.

205. *Schedules to form part of the Code.*—

The schedules appended to this Code shall form part of the Code and will be read as such.

206. *Display by notice of abstracts of the Code.*—

Every employer shall cause to be displayed in a conspicuous part of his establishment a notice containing such abstracts of this Code and of the Scheme, the Regulations and the Rules made thereunder and in such languages as may be prescribed.

207. *Repeal of Acts.*—

(1) The following enactments are hereby repealed:

1. Cotton Ginning and Pressing Factories Act, 1925.
2. Factories Act, 1948.
3. Mines Act, 1952.
4. Tea Districts Emigrant Labour Act, 1932.
5. Plantations Labour Act, 1951.
6. Dock Workers (Regulation of Employment) Act, 1948.
7. Motor Transport Workers' Act, 1961.
8. Children (Pledging of Labour) Act, 1933.
9. Employment of Children Act, 1938.
10. Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.
11. Beedi and Cigar Workers (Conditions of Employment) Act, 1966.
12. Trade Unions Act, 1926.
13. Industrial Employment (Standing Orders) Act, 1946.
14. Industrial Disputes Act, 1947.
15. Working Journalists (Conditions of Service and Miscellaneous Provisions) Act, 1955.
16. Workmen's Compensation Act, 1923.
17. Employers' Liability Act, 1938.
18. Employees' State Insurance Act, 1948.
19. Coal Mines Provident Fund and Bonus Schemes Act, 1948.
20. Employees' Provident Funds Act, 1952.
21. Maternity Benefit Act, 1961.
22. Payment of Wages Act, 1936.
23. Minimum Wages Act, 1948.

24. Working Journalists (Fixation of Rates of Wages) Act, 1958.
25. Payment of Bonus Act, 1965.
26. Coal Mines Labour Welfare Fund Act, 1947.
27. Indian Dock Labourers Act, 1934.
28. Coal Mines (Conservation and Safety) Act, 1952.
29. Iron Ore Mines Labour Welfare Cess Act, 1961.
30. Weekly Holidays Act, 1942.
31. Collection of the Statistics Act, 1953.
32. Jammu and Kashmir Factories Act, 1957.
33. Bengal Mining Settlement Act, 1912.
34. Jalpaigudi Labour Act, 1951.
35. Assam Shops & Establishments Act, 1948.
36. West Bengal Shops & Establishments Act, 1963.
37. Bihar Shops & Establishments Act, 1953.
38. Bombay Shops and Establishment Act, 1948.
39. Delhi Shops & Establishments Act, 1954.
40. Jammu and Kashmir Shops & Commercial Establishments Act, 1960.
41. Kerala Shops and Commercial Establishments Act, 1960.
42. Madhya Pradesh Shops and Commercial Establishments Act, 1958.
43. Madras Shops and Establishments Act, 1947.
44. Madras Catering Establishments Act, 1958.
45. Mysore Shops and Establishments Act, 1961.
46. Orissa Shops and Commercial Establishments Act, 1956.
47. Punjab Shops and Commercial Establishments Act, 1958.
48. Rajasthan Shops and Commercial Establishments Act, 1959.
49. Saurashtra Shops and Establishments Act, 1955.
50. Uttar Pradesh Shops and Commercial Establishments Act, 1947.
51. Pondichery Shops and Establishments Act, 1964.
52. Pondichery Catering Establishments Act, 1964.

53. Jammu and Kashmir Children (Pledging of Labour) Act, S. Y. 2002.
54. Madras Beedi Industrial Premises (Regulation and Conditions of Works) Act, 1958.
55. Mysore Beedi Industrial Premises (Regulation of Conditions of Work) Act, 1964.
56. Kerala Beedi and Cigar Industrial Premises (Regulation and Conditions of Work) Act, 1961.
57. Bombay Industrial Relations Act, 1946.
58. Jammu and Kashmir Industrial Disputes Act, 1950.
59. Jammu and Kashmir Industrial Employment (Standing Orders) Act, 1960.
60. Jammu and Kashmir Trade Unions Act, 1950.
61. Madhya Pradesh Industrial Relations Act, 1960.
62. Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961.
63. Mysore Essential Services (Maintenance) Act, 1943.
64. Mysore Labour (Administration) Act, 1952.
65. Uttar Pradesh Industrial Disputes Act, 1947.
66. Madhya Pradesh Essential Services (Maintenance) Act, 1959.
67. Assam Maternity Benefit Act, 1944.
68. Assam Tea Plantations Provident Fund Scheme Act, 1955.
69. Bengal Rural and Unemployment Relief Act, 1930.
70. West Bengal Maternity Benefit (Tea Estates) Act, 1948.
71. Jammu and Kashmir Employers' Liability Act, S. Y. 2000.
72. Jammu and Kashmir Workmen's Compensation Act, S. Y. 2000.
73. Mysore Maternity Benefit Act, 1959.
74. Orissa Maternity Benefit Act, 1953.
75. Punjab Maternity Benefit Act, 1943.
76. Rajasthan Maternity Benefit Act, 1953.
77. Uttar Pradesh Maternity Benefit Act, 1938.
78. Jammu and Kashmir Payment of Wages Act, 1956.
79. Bombay Labour Welfare Fund Act, 1953.

80. Uttar Pradesh Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950.
81. Uttar Pradesh Labour Welfare Fund Act, 1956.
82. Assam Tea Plantation Employees Welfare Fund Act, 1959.
83. Mysore Labour Welfare Fund Act, 1965.
84. Punjab Labour Welfare Fund Act, 1965.
85. Kerala Industrial Establishments (National and Festival Holidays) Act, 1958.
86. Madras Industrial Establishments (National and Festival Holidays) Act, 1958.
87. Pondichery Industrial Establishments (National and Festival Holidays) Act, 1964.
88. Uttar Pradesh Industrial Establishments (National and Festival Holidays) Act, 1961.
89. Mysore Industrial Establishments (National and Festival Holidays) Act, 1963.
90. Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1965.

(2) All other corresponding Central or State enactments, not enumerated above, and dealing with the subjects covered by the Code are also hereby repealed.

Provided that—

(a) every appointment, order, rule, regulation, scheme, notification or notice made, issued or given under the provisions of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Code, be deemed to have been made or issued under the provisions of this Code, unless and until superseded by any appointment, order, rule, regulation, scheme, notification or notice made, issued or given under this Code;

(b) any standing order settled, agreement registered, changes which have come into operation, settlements recorded or registered, submissions registered, awards made or orders passed by the National Tribunal, Industrial Tribunal, Industrial Court, Labour Court, or any other authority under the provisions of the Acts so repealed shall be deemed to have been settled, registered, to have come into operation, to have been recorded, made or passed by the appropriate authority under the corresponding provisions of this Code;

(c) any right, privilege, obligation or liability acquired, accrued or incurred under the Acts so repealed shall not be affected and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability shall, so far as it is not inconsistent with the provisions of this Code, be made, instituted and availed of as if the said Acts had not been repealed and continue in operation;

(d) any proceeding pending before the National Tribunal, Industrial Tribunal, Industrial Court, Labour Court, conciliation proceedings, or any proceedings relating to the trial of offences punishable under the provisions of the Acts so repealed shall be continued and completed as if the said Acts had not been repealed and continue in operation; and any penalty imposed in such proceedings shall be recorded under the Acts so repealed; and

(e) a registered union or a recognised union, a representative union or any other union or other representatives elected, entitled to appear or act as the representatives of employees under the Acts so repealed shall, notwithstanding the repeal of the said Acts, continue to act as the representative of employees in any proceedings under these Acts for a period of three months from the date on which this Code comes into force.

208. *Savings.*—

(1) The provisions relating to bonus scheme in the Coal Mines Provident Fund and Bonus Schemes Act, 1948, are hereby saved.

(2) The cesses levied or contributions, if any, made under:—

1. Coal Mines Labour Welfare Fund Act, 1947.
2. Mica Mines Labour Welfare Fund Act, 1946.
3. Iron Ore Mines Labour Welfare Cess Act, 1961.
4. Uttar Pradesh Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950.
5. Uttar Pradesh Labour Welfare Fund Act, 1956.
6. Assam Tea Plantation Employees Welfare Fund Act, 1959.
7. Mysore Labour Welfare Fund Act, 1965.
8. Punjab Labour Welfare Fund Act, 1965.

and other similar Central and State enactments shall be continued to be levied and paid over to the Social Security Cor-

poration as though the said enactments have not been repealed, to be deposited in the labour welfare fund and utilised by the Social Security Corporation for the benefit of such employees in the manner prescribed under the said enactments.

209. *Rules.*—

The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette make rules for carrying out the purposes of this Code.



SCHEDULE II-1

(Sec Section 3)

Particulars of application for registration of establishment

1. Name of the employer -----
2. Postal address of the employer-----
3. Name of the establishment-----
4. Postal address of the establishment-----
5. Classification of the establishment,
such as, factory, mine, plantation,
shop, theatre, restaurant, etc.-----
6. Number of employees actually employed
or proposed to be employed-----
7. Name of the Manager/Occupier-----
8. Postal address of the
Manager/Occupier-----
9. Description of the process of
manufacture, excavation, agri-
cultural operation, scale of goods
or rendering of service, etc.-----
10. Maximum amount of power (horse-
power) proposed to be used-----
11. Plan of the establishment showing
the lay-out of the building, plant
and open spaces surrounding it.-----
12. Amount of fee Rs.-----(Rupees-----)
Paid in-----Treasury on ----- or
by cheque No.-----dated -----
on the-----Bank (enclosed).

Place-----

Date-----

Signature of
the Applicant

SCHEDULE II-2

(See Section 4)

Form 'A'

Certificate of Registration

1. Registration No.
2. Name of the establishment.
3. Name of the employer.
4. Nature of business.
5. Postal address of the establishment.
6. Previous Registration Certificate No.

It is hereby certified that the-----has been registered as-----under the Labour Code, this-----day of-----19.

(Seal)

Signature of
Director of Labour (Administration)

Place-----

Date-----

SCHEDULE III-1

(See Section II)

Statutory Standing Orders

1. These standing orders shall apply to all employees employed in the establishment.

2. (a) Establishment means———(insert the name).

(b) A “permanent employee” means one who has completed 6 months satisfactory service having been appointed in a permanent vacancy or the probationer who has completed the period of his probation and whose services are not discharged or terminated on the completion of such period of probation.

Explanation:— In computing the period of six months the days on which employee was absent due to authorised leave, sickness, maternity leave, accident, lockout and strike (which are not illegal) or closure of the establishment shall be included.

(c) A “probationer” means an employee who is provisionally employed to fill a permanent vacancy and who has not completed the period of his probation.

(d) A “badli” means an employee who is appointed to the post of a permanent employee or probationer, who is temporarily absent and whose name is entered in the badli register.

(e) A “casual employee” means an employee who is employed for work which is essentially of an occasional or casual nature.

(f) A “temporary employee” means an employee who has been employed for a work which is essentially of a temporary character or who is temporarily employed as an additional employee in connection with temporary increase in the work of a permanent nature; provided in case that such employee is employed continuously for more than 6 months he shall be deemed to be a permanent employee.

(g) An “apprentice” means a learner, provided that no employee shall be classified as an apprentice if he had training for a period of 1 year: Provided further that a lower

period of apprenticeship shall be required if prescribed by a law or an award or by agreement with the representatives of the employees.

3. Each employee shall be given an identify ticket (or a card, pass or a token) which will give the following particulars :—

- (1) Name of the employee-----
and his address.
- (2) Number of the employee-----
- (3) Name of the department in
which he is working-----

4. Every employee shall when entering the establishment deliver up his ticket at the place provided and shall give his ticket whenever required (except when it is not in his possession by reason of having it so delivered to any person authorised by the manager in this behalf).

5. (i) Every badli shall be provided with a badli card on which shall be entered the days on which he has worked in the establishment and which shall be surrendered if he obtains a permanent employment.

(ii) Every casual employee shall be provided with a casual card on which shall be entered the days on which he has worked in the establishment and which shall be surrendered if he obtains a permanent employment.

(iii) Every apprentice shall be provided with an apprentice card on which shall be entered the days on which he has worked in the establishment and which shall be surrendered if he obtains a permanent employment.

6. Every employee shall be furnished within 15 days of his appointment a service card, being a contract of employment in writing, signed by the employer or by a person authorised by him in this behalf. The service card will contain the following particulars :—

- (a) Name of the employee-----
- (b) Status of the employee,
i.e. permanent, temporary,
probationer, badli, etc.-----
- (c) Designation-----
- (d) Date of appointment-----
- (e) Emoluments to which he will
be entitled to-----

- i) basic pay with scale of pay, if any-----
- ii) rate of dearness allowance-----
- iii) any other allowances or emoluments-----
- (f) Duration of employment in the
case of temporary, probationer
or an apprentice-----
- (g) Date of birth or his approximate
age as furnished by him-----

7. If after the date to which the service card relates there is a change in the terms of employment or conditions of employment the employer shall incorporate the change in the card within one month from the date of its commencement. Provided that where the change in the terms and conditions of service is of a general nature applicable to all the employees and relates to a matter falling within the scope of Chapter V, it shall be sufficient if a notice in that regard is fixed to the notice board and thereupon the terms of employment and conditions of service in the service card of every employee shall be deemed to have been amended accordingly.

8. The service of a temporary employee or a probationer or an apprentice shall not be dispensed with before expiry of the duration of employment stated in the service card except on the ground of major misconduct or where the employee concerned is found guilty of minor misconduct for more than six times in a period of six months.

9. (i) The service of any employee shall not be dispensed with unless he is found guilty of a major misconduct or minor misconduct for more than six times in a period of six months.

(ii) Nothing contained in the aforesaid provisions shall apply to a case where the service of any employee is terminated as a result of retrenchment or closure of an establishment, or where he is retired on attaining the age of superannuation or where he is discharged on the ground of sickness, ill health, physical disability or unfitness to discharge his duties. Provided, however, that before an employee is discharged on the ground of sickness, ill health or physical unfitness, it shall be done after obtaining a report from the medical officer appointed by the appropriate Government.

Major misconduct

10. The following acts or omissions on the part of an em-

ployee shall amount to major misconduct :—

(a) conviction by a court of law for an offence involving moral turpitude;

(b) theft, fraud or dishonesty in connection with the business or property of the establishment;

(c) taking or giving any illegal gratification;

(d) wilful disobedience of any lawful or reasonable order, connected with duties of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees;

(e) gambling within the premises of the establishment;

(f) drunkenness or riotous behaviour, during working hours at the establishment or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline;

(g) advancing or collecting of moneys within the premises of the establishment for purposes and by persons not authorised by this Code or if no such authority is required by law without the sanction of the manager;

(h) engaging in trade or business, within the premises of the establishment including collection of pay-tickets given to the employees or the sale or canvassing of tickets, coupons, or other tokens of any commodity or article, without the previous sanction of the manager;

(i) canvassing for trade union membership and collection of union's dues within the premises of the establishment except as permitted under the Code;

(j) striking work in contravention of the provisions of this Code;

(k) inciting, instigating other employees to take part or otherwise act in furtherance of a strike of the employees of the establishment in contravention of the provisions of this Code;

(l) organising or participating in acts resulting in wrongful confinement or restraint of any person within the premises of the establishment or outside;

(m) wilful slowing down in performance of work or abetment or instigation thereof;

(n) wilful damage or attempt to cause damage to work in process or to any other property of the establishment or of the customers of the establishment;

(o) disclosing to any unauthorised person of confidential information in regard to the process of the establishment which may come into his possession in the course of his work;

(p) unauthorised absence from duty for more than ten consecutive days without any justification;

(q) unauthorised disclosure of information connected with the affairs of the establishment or any of its customers or any other person connected with the business of the establishment which is confidential or the disclosure of which is likely to be prejudicial to the interests of the establishment;

(r) doing any act prejudicial to the interests of the establishment or gross negligence or negligence involving or likely to involve the establishment in serious loss;

(s) failure to observe safety instructions, or unauthorised removal in reference to machinery, guard, fencing or other safety device installed in the premises of the establishment or any act or behaviour which is likely to cause injury or harm to any person or endanger the life or safety of such person; and

(t) abetment or instigation of the acts or omissions abovementioned.

Minor misconduct

11. The following acts or omissions on the part of an employee shall amount to minor misconduct :—

(a) late or irregular attendance;

(b) absence from duty without leave or without sufficient grounds for a period less than 10 consecutive days;

(c) overstaying sanctioned leave without sufficient grounds for a period less than 10 consecutive days;

(d) neglect of work or negligence in performing duties;

(e) refusal to work on a job or assignment of a similar nature without giving adequate reasons for the same;

(f) sleeping during working hours;

(g) holding meetings inside the premises of the establishment without previous permission of the manager or except as permitted by law; and

(h) failure to show consideration or attention towards the officers, customers or other employees of the establishment, or unseemly behaviour while on duty.

Penalties for major misconduct

12. The following penalties may for good and sufficient reasons be imposed on an employee found guilty of a major misconduct :—

- (1) warning or censure;
- (2) making an adverse entry in his service record;
- (3) withholding of increment of pay for a period which may extend to one year;
- (4) demotion;
- (5) suspension from service without payment of wages for a period not exceeding one month;
- (6) discharge; and
- (7) dismissal.

Penalties for minor misconduct

13. The following penalties may for good and sufficient reasons be imposed on an employee found guilty of a minor misconduct :—

- (1) warning or censure;
- (2) making an adverse entry in his service record;
- (3) withholding of increment of pay for a period which may extend to six months; and
- (4) suspension from service without payment of wages for a period not exceeding eight days.

Inquiry

14. No punishment shall be imposed on an employee under these standing orders unless he is proved to be guilty of the major or minor misconduct alleged against him in an inquiry conducted in the following manner :—

(a) the employer or other officer authorised by him in this behalf shall give to the employee a charge-sheet in the form attached to this Schedule clearly setting forth the misconduct and the circumstances appearing against him and requiring his explanation;

(b) the employee shall be given for submitting his explanation time at least of 3 days if he is charged of minor misconduct or 6 days if he is charged of major misconduct; provided that such time shall be extended on an application made by an employee if sufficient grounds are shown for the same;

(c) after the receipt of the explanation a date for the

inquiry shall be fixed and a notice containing the date, time and the place of inquiry and name of the inquiry officer shall be sent to the employee; provided that in a case where the employee admits the charges made against him in writing and the employer is satisfied that such admission has been given voluntarily by the concerned employee, it shall be open to the employer to award the punishment without holding any inquiry;

(d) at the inquiry the evidence against the concerned employee shall be first let in and then he shall be called upon to let in his evidence;

(e) the inquiry officer shall not represent the employer for examining or cross-examining the witnesses or the concerned employee at such inquiry;

(f) the inquiry officer if a request is made by the concerned employee, shall make available such documents and information in the custody or in the possession of the employer which are relevant and necessary for the purpose of the inquiry unless for reasons to be recorded in writing that such document or information are found by him to be irrelevant for the purposes of the inquiry or where he is satisfied for reasons to be recorded in writing that such documents or information, if disclosed, would be prejudicial to the interests of the establishment;

(g) the concerned employee shall be furnished with the copies of the documents, statements and depositions brought on record before he is called upon to make his submissions to the inquiry officer at the close of the inquiry;

(h) the inquiry officer shall on the conclusion of the inquiry submit his report in writing giving his findings with reasons therefor, and a copy of the same should be furnished to the concerned employee;

(i) the concerned employee shall be permitted to produce his witnesses in defence and cross-examine the witnesses of the management on whose evidence the charge rests;

(j) the concerned employee shall have right to require the employer to permit any other employee to appear and give evidence at such inquiry except in a case where the inquiry officer finds, for reasons to be recorded in writing, that such evidence would be irrelevant;

(k) at such inquiry the concerned employee shall be

entitled to be represented or be defended by himself or any other representative of a trade union registered under this Code or a recognised trade union or a co-worker;

(1) such inquiry shall be conducted either by the employer or any officer or a person nominated or appointed by the employer for such purpose; and

(m) an order of punishment shall be in writing and shall be issued over the signature of the employer or any other person authorised by the employer in this behalf and a copy of such order duly signed shall be given to the concerned employee immediately. Where an employee is found guilty of more than one misconduct, there will be one punishment for all misconducts considered together.

15. Any notice, order, charge-sheet, communication or intimation under these standing orders which is meant for an individual employee shall be in a language understood by the employee concerned. In the case of an absent employee such notice shall be sent to him by registered post with acknowledgment due to his last known address furnished by the employee. Evidence may be explained to him in the language known to the employee.

16. Where the concerned employee refuses to accept any such communication under these standing orders or avoids to accept such communication without any justification, the service of such communication by registered post with a copy to the recognised or registered union shall be deemed to be sufficient service on him.

17. If the concerned employee refuses or avoids or neglects to receive the charge-sheet or to submit his explanation or to appear at the inquiry without any justification or good reasons, it shall be open to the employer to proceed with the inquiry in his absence.

Disciplinary proceedings during the pendency of criminal proceedings.

18. It shall be open to the employer to initiate disciplinary proceedings under these standing orders against an employee even during the period when the criminal case on more or less similar or same allegations is pending against him or even after the acquittal of the employee in such criminal proceedings.

Suspension order

19. When disciplinary proceedings against an employee are pending for a major misconduct or where criminal proceedings against him in respect of any offence are pending and the employer is satisfied that it is necessary or desirable to place the employee under suspension he may by an order in writing suspend him with effect from such date as may be specified in the order. A statement setting out in detail the reasons for such suspension shall be supplied to the employee within a week from the date of suspension or shall be forwarded to him at his address.

20. An employee who is placed under suspension under standing order 19 shall during the period of such suspension be paid a subsistence allowance at the following rates:—

(a) for the first 15 days at the rate of 50% of the basic wages, dearness allowance and other allowances;

(b) 16 to 30 days at the rate of 60% of the basic wages, dearness allowance and other allowances; and

(c) from 31st day and above at the rate of 75% of the basic wages, dearness allowance and other allowances.

21. Every employee shall retire on completing the age prescribed in accordance with the provisions of Section 52 of the Code.

22. Any irregularity in the issue of the charge-sheet or holding of the inquiry under this Chapter shall not vitiate the ultimate order passed or made by the employer unless it is shown that such irregularity has caused prejudice to the case of the concerned employee.

23. All employees shall be at work at the work-site at the times fixed and notified to them. The employee attending late shall be liable to be shut out and treated as absent, unless permitted to work by the manager. If an employee is not in a position to attend to his duties on account of circumstances beyond his control, he shall intimate his employer of his inability to attend work. Such intimation shall contain the probable period of absence, the reasons for his absence and his address during the period of absence.

FORM

(See standing order No. 14)

(Name of the employer)

Address:

Date:

To

Name of the operative:

Ticket No.

Department:

It is reported that you have committed/failed to commit the following act:

(State the particulars of the misconduct committed with reference to the action, persons concerned, time, the date and the place of commitment of the misconduct)

Your action/omission amounts to major/minor misconduct.

(Quote the wording of the misconduct from the standing orders) Clause——under standing order——.

You are, therefore, called upon to submit your explanation in writing on or before——the——to——Manager/Officer. The date, time and the place of inquiry and the name of the officer who will conduct the inquiry, if decided to hold such inquiry, will be communicated to you later.

Manager/Departmental Head.

SCHEDULE IV-1

(See Section 19(a))

BONUS FORMULA

Accounting Year ending—

The computation shall be made subject to the Rules of Computation given immediately after the Formula.

| Item No. | Particulars | Amount of sub items | | Amount of main items | | Remarks |
|-------------|-------------|---------------------------|---|----------------------------|---|---------|
| | | 3 | 4 | 5 | 6 | |
| 1 | 2 | Rs. | | Rs. | | 5 |

1. Net Profit as shown in the Profit and Loss Account (in the case of banking companies such net profit after making usual and necessary provisions including provision for taxes where profit subject to taxation is shown in the Profit and Loss Account)

2. Add back provision for:

- Bonus to employees
- Depreciation
- Direct taxes, including provision (if any) for previous accounting years (not applicable in the case of banking companies).

| 1 | 2 | 3 | 4 | 5 |
|----|--|-----|---|------------|
| | (d) Development rebate in the case of banking companies and in the case of other companies Development rebate/Development allowance reserve. | | | See Rule 1 |
| | (e) Any other reserves | | | See Rule 1 |
| | Total of Item No. 2 | Rs. | | |
| 3. | Add back also : | | | |
| | (a) Bonus paid to employees in respect of previous accounting years. | | | See Rule 1 |
| | (b) Donations in excess of the amount admissible for income-tax. | | | See Rule 1 |
| | (c) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax). | | | |
| | (d) In the case of banking companies, any amount certified by the Reserve Bank of India in terms of sub-Section(2) of Section 34-A of the Banking Companies Act, 1949. | | | |
| | (e) In the case of other companies, any annuity due, or commuted value of any annuity paid, under the provisions of Section 280-D of the Income-tax Act, 1961, during the accounting year. | | | |

(f) Losses of, or expenditure relating to, any business situated outside India.

Total of Item No. 3

Rs.

4. Add also income, profits or gains (if any) in the case of banking companies credited directly to public or disclosed reserves, and in the case of other companies credited directly to reserves other than—

(i) capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax);

(ii) profits of, and receipts relating to, any business situated outside India;

(iii) income of foreign banking companies from investments outside India.

Net total of Item No. 4

Rs.

5. Total of Item Nos. 1 to 4

Rs.

6. Deduct:

(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax).

See
Rule 2

(b) Profits of, and receipts relating to, any business situated outside India.

See
Rule 2

| 1 | 2 | 3 | 4 | 5 |
|---|--|-----|---|------------|
| | (c) Income of foreign banking companies and foreign concerns from investments outside India. | | | See Rule 2 |
| | (d) Expenditure or losses (if any) in the case of banking companies debited directly to public or disclosed reserves and in the case of other companies debited directly to reserves, other than— | | | |
| | (i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax); | | | |
| | (ii) losses of any business situated outside India. | | | |
| | (e) In the case of foreign banking companies proportionate administrative (overhead) expenses of Head Office allocable to Indian business. | | | See Rule 3 |
| | (f) Refund of any excess direct tax paid for previous accounting years and excess provision, if any, of previous accounting years, relating to bonus, depreciation, taxation or development rebate, or development allowance, if written back. | | | See Rule 2 |
| | (g) Subsidy, if any, received from Government or from any body corporate established by any law for the time being in force. | | | See Rule 2 |
| | Total of Item No. 6 | Rs. | | |
| | 7. Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6) | Rs. | | |

8. The following sums should be deducted from the gross profits:

- (a) Any amount by way of depreciation admissible in accordance with the provisions of sub-Section (1) of Section 32 of the Income-tax Act, 1961, or in accordance with the provisions of the agricultural income-tax law, as the case may be.
- (b) Any amount by way of development rebate or development allowance which the employer is entitled to deduct from his income under the Income-tax Act, 1961.

See
Rule 4

Total of Item No. 8

Rs.

9. Balance gross profits after deducting item 8 from item 7

Rs.

10. The following sums should be deducted from the balance gross profits as prior charges:

- (a) Direct taxes as specified in Rule 5 and calculated in the manner specified therein at the rates prescribed for the year treating the balance gross profits arrived at in item 9 as though the said gross profits was the assessable income for the year.
- (b) Dividends and returns on capital as specified below:

See
Rule 5

(i) Company, other than a banking company—

- (1) The dividends payable on its preference share capital for the accounting year calculated at the actual rate at which such dividends are payable;

- (2) 8.5 per cent. of its paid up equity share capital as at the commencement of the accounting year;
- (3) 6 per cent. of its reserves shown in its balance-sheet as at the commencement of the year, including any profits carried forward from the previous accounting year:
- Provided that where the employer is a foreign company within the meaning of S. 591 of the Companies Act, 1956, the total amount to be deducted under this Item shall be 8.5 per cent. on the aggregate of the value of the net fixed assets and the current assets of the Company in India after deducting the amount of its current liabilities (other than any amount shown as payable by the company to its Head Office whether towards any advance made by the Head Office or otherwise or any interest paid by the company to its Head Office) in India.

(ii) Banking company—

- (1) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable;
- (2) 7.5 per cent. of its paid up equity share capital as at the commencement of the accounting year;
- (3) 5 per cent. of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year;
- (4) Any sum which, in respect of the accounting year, is transferred by it—

- (a) to a reserve fund under sub-Section (1) of Section 17 of the Banking Companies Act, 1949; or
 - (b) to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India.
- whichever is higher :

Provided that where the banking company is a foreign company within the meaning of Section 591 of the Companies Act, 1956, the amount to be deducted under this Item shall be the aggregate of—

- (1) the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds;
- (2) 7.5 per cent. of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total world working funds;
- (3) 5 per cent. of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds;
- (4) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-Sec. (2) of Section 11 of the Banking Companies Act, 1949, not exceeding the amount required under the aforesaid provision to be so deposited.

(iii) Corporation—

- (1) 8.5 per cent. of its paid up capital as at the commencement of the accounting year;
- (2) 6 per cent. of its reserves, if any, shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year.

(iv) Co-operative society—

- (1) 8.5 per cent of the capital invested by such society in its establishment as evidenced from its books of accounts at the commencement of the accounting year;
- (2) Such sum as has been carried forward in respect of the accounting year to a reserve fund under any law relating to co-operative societies for the time being in force.

- (v) Any other employer not falling under any of the aforesaid categories—
8.5 per cent. of the capital invested by him in his establishment as evidenced from his books of accounts at the commencement of the accounting year: Provided that where such employer is a person to whom Chapter XXII-A of the Income-tax Act, 1961, applies, the annuity deposit payable by him under the provisions of that Chapter during the accounting year shall also be deducted: Provided further that where such employer is a firm, an amount equal to 25 per cent. of the gross profits derived by it from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of Item 8 by way of remuneration to all partners taking

part in the conduct of business of the establishment shall also be deducted, but where the partnership agreement, whether oral or written, provides for the payment of remuneration to any such partner, and—

- (1) the total remuneration payable to all such partners is less than the said 25 per cent. the amount payable subject to a maximum of forty-eight thousand rupees to each such partner; or
- (2) the total remuneration payable to all such partners is higher than the said 25 per cent., such percentage, or a sum calculated at the rate of forty-eight thousand rupees to each such partner, whichever is less,

shall be deducted under this proviso:

Provided also that where such employer is an individual or a Hindu undivided family,—

- (1) an amount equal to 25 per cent. of the gross profits derived by such employer from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of Item 8; or

- (2) forty-eight thousand rupees,

whichever is less, by way of remuneration to such employer, shall also be deducted.

- (vi) Any employer falling under Item No. (i) or Item No. (iii) or Item No. (iv) or Item No. (v) and being a licensee within the meaning of the Electricity Supply Act, 1948—

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
|---|---|---|---|---|

In addition to the sums deductible under any of the aforesaid Items, such sums as are required to be appropriated by the licensee in respect of the accounting year to a reserve under the Sixth Schedule to that Act shall also be deducted.

Total of Item No. 10

Rs.

11. Available surplus after the amount arrived at after deducting Item No. 10 from Item No. 9

Rs.

12. Allocable surplus for the purpose of payment of bonus shall be determined and bonus shall be distributed from such allocable surplus.

Rules of Computation

1. The amounts shall be added back, if, and to the extent, charged to Profit and Loss Account.

2. The amounts shall be deducted if, and to the extent, credited to Profit and Loss Account.

3. The Loss shall be deducted in the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per consolidated Profit and Loss Account, adjusted as in Item No. 2 above only).

4. Where an employer has been paying bonus to his employees under a settlement or an award or agreement made before the 29th May, 1965, and subsisting on that date after deducting from the gross profits notional normal depreciation, then, the amount of depreciation to be deducted under this clause shall, at the option of such employer (if such option has been continuously exercised within one year from that date) continue to be such notional normal depreciation.

5. "Direct tax" means—

(a) any tax chargeable under—

- (i) the Income-tax Act, 1961;
- (ii) the Super Profits Tax Act, 1963;
- (iii) the Companies (Profits) Surtax Act, 1964;
- (iv) the agricultural income-tax law; and
- (v) any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax for the purposes of this Code;

(b) in calculating such tax no account shall be taken of—

- (i) any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;
- (ii) any arrears of depreciation which the employer is entitled to add to the amount of the allowance for depreciation for any following accounting year or years under sub-Section (2) of Section 32 of the Income-tax Act, 1961; and

- (iii) any exemption conferred on the employer under Section 84 of the Income-tax Act or of any deduction to which he is entitled under sub-Section (1) of Section 101 of that Act, as in force immediately before the commencement of the Finance Act, 1965;
- (c) where the employer is a religious or a charitable institution to which the provisions of Schedule IV-2, do not apply and the whole or any part of its income is exempt from tax under the Income-tax Act, then, with respect to the income so exempted, such institution shall be treated as if it were a company in which the public are substantially interested within the meaning of that Act;
- (d) where the employer is an individual or a Hindu undivided family the tax payable by such employer under the Income-tax Act shall be calculated on the basis that the income derived by him from the establishment is his only income;
- (e) where the income of any employer includes any profits and gains derived from the export of any goods or merchandise out of India and any rebate on such income is allowed under any law for the time being in force relating to direct taxes, then, no account shall be taken of such rebate; and
- (f) no account shall be taken of any rebate (other than development rebate or development allowance) or credit or relief or deduction (not hereinbefore mentioned in this rule) in the payment of any direct tax allowed under any law for the time being in force relating to direct taxes or under the relevant annual Finance Act, for the development of any industry.

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

7. An employee shall be disqualified from receiving annual bonus if he is dismissed from service for—

- (a) fraud; or

- (b) riotous or violent behaviour while on the premises of the establishment; or
- (c) theft, misappropriation or sabotage of any property of the establishment; or
- (d) in case he is found guilty of misconduct causing financial loss to the employer, to the extent of the loss.

8. Where wages, commission on sale and incentive payment of an employee exceed Rs. 750 p.m., the bonus payable to such an employee shall be calculated as if his salary or wage was Rs. 750 p.m.

9. Where an employee has not worked for all the working days in any accounting year, the minimum bonus payable to the employee shall be proportionately reduced.

10. An employee shall be deemed to have worked in an establishment in any accounting year also on the days on which—

- (a) he has been laid off;
- (b) he has been on leave with salary or wage;
- (c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (d) the employee has been on maternity leave with salary or wage,

during the accounting year.

11. Where in any accounting year—

- (a) an employer has paid any puja bonus or other customary bonus to an employee; or
- (b) an employer has paid a part of the bonus payable under this Code to an employee before the date on which such bonus becomes payable,

then the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this Code in respect of that accounting year and the employee shall be entitled to receive only the balance.

12. Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by

him to the employee under this Code in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

13. All amounts payable to an employee by way of bonus under this Code shall be paid in cash by his employer—

(a) where there is a dispute regarding payment of bonus pending before any authority under this Code, within a month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute:

(b) in any other case, within a period of eight months from the close of the accounting year:

Provided that the competent authority upon an application made to it by the employer and for sufficient reasons, by order, extend the said period of eight months to such further period or periods as it thinks fit: so, however, that the total period so extended shall not in any case exceed two years.

14. (A) For the purpose of calculation of bonus, the audited accounts produced by any employer other than a Banking Company shall be presumed to be correct unless otherwise proved by any trade union or employees;

(B) The audited accounts of a Banking Company shall be presumed to be correct and the correctness of such an account shall not be permitted to be questioned by the trade union or the employees, but such trade union or employees may be permitted to obtain from the Banking Company such information as is necessary for verifying the amount of bonus due under the Code: Provided, however, nothing contained in this Code shall enable a trade union or the employees to obtain any information which the Banking Company is not compelled to furnish under the provisions of Section 34A of the Banking Companies Act, 1949.

15. Nothing contained in this Code shall be deemed to affect the provisions of the Coal Mines Provident Fund and Bonus Schemes saved under Section 208.

Definitions of the expressions used in this Schedule

1. "accounting year" means—

(i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced;

(ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not;

(iii) in any other case—

(a) the year commencing on the 1st day of April; or

(b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced;

Provided that an option once exercised by the employer under paragraph (b) of this sub-clause shall not again be exercised except with the previous permission in writing of the prescribed authority and upon such conditions as that authority may think fit;

2. "agricultural income" shall have the same meaning as in the Income-tax Act, 1961;

3. "agricultural income-tax law" means any law for the time being in force relating to the levy of tax on agricultural income;

4. "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949, and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, and any other banking institution which may be notified in this behalf by the Central Government;

5. "company" means any company as defined in Section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of Section 591 of that Act;

6. "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in any State relating to co-operative societies;

7. "corporation" means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co-operative society;

8. The expression "reserves" occurring in sub-items (i)(3), (ii)(3) and (iii)(2) under Item 10(b) shall not include any amount set apart for the purpose of—

- (i) payment of any direct tax which, according to the balance-sheet, would be payable;
 - (ii) meeting any depreciation admissible in accordance with the provisions of item 8(a);
 - (iii) payment of dividends which have been declared;
- but shall include—
- (a) any amount, over and above the amount referred to in clause (i) of this definition, set apart as specific reserve for the purpose of payment of any direct tax; and
 - (b) any amount set apart for meeting any depreciation in excess of the amount admissible in accordance with the provisions of item 8(a).



SCHEDULE IV-2

(See Section 19)

List of establishments in which the employees will not be entitled to receive bonus.

1. Seamen as defined in clause (42) of Section 3 of the Merchant Shipping Act, 1958 (44 of 1958).

2. Employees employed by—

- (a) the Indian Red Cross Society or any other institution of a like nature (including its branches);
- (b) universities and other educational institutions;
- (c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit.

3. Employees employed by the Reserve Bank of India.

4. Employees employed by—

- (a) the Industrial Finance Corporation of India;
- (b) any Financial Corporation established under Section 3, or any Joint Financial Corporation established under Section 3-A, of the State Financial Corporation Act, 1951 (63 of 1951);
- (c) the Deposit Insurance Corporation;
- (d) the Agricultural Refinance Corporation;
- (e) the Unit Trust of India;
- (f) the Industrial Development Bank of India;
- (g) any other financial institution (other than a banking company) being an establishment in public sector, which the Central Government may, by notification in the Official Gazette, specify, having regard to—
 - (i) its capital structure;
 - (ii) its objectives and the nature of its activities;
 - (iii) the nature and extent of financial assistance or any concession given to it by the Government; and
 - (iv) any other relevant factor.

5. Employees employed by inland water transport establishments operating on routes passing through any other country.

6. Employees of establishments newly set up the financial working of which has not resulted in profits from their inception till the end of sixth accounting year or an earlier year in which the establishment makes a profit.

7. Employees working in offices where the income is earned by employer solely or mainly by his professional skill.



SCHEDULE IV-3

(See Section 20)

In this Schedule, the total amount of bonus equal to four per cent. of the annual salary or wage payable to all the employees is assumed to be Rs. 50,000. Accordingly, the maximum bonus to which all the employees are entitled to be paid (twenty per cent. of the annual salary or wage of all the employees) would be Rs. 2,50,000.

| Year | Amount equal to sixty per cent. or sixty-seven per cent., as the case may be, of available surplus allocable as bonus | Amount payable as bonus | Set on or set off of the year carried forward | Total set on or set off carried forward | |
|------|---|---|---|---|-------------------|
| | Rs. | Rs. | Rs. | Rs. | of (year) |
| 1 | 70,000 | 70,000 | Nil | Nil | |
| 2 | 6,35,000 | 2,50,000* | Set on 2,50,000* | Set on 2,50,000 | (2) |
| 3 | 2,20,000 | 2,50,000* (inclusive of 30,000 from year-2) | Nil | Set on 2,20,000 | (2) |
| 4 | 3,75,000 | 2,50,000* | Set on 1,25,000 | Set on 2,20,000 1,25,000 | (2) (4) |
| 5 | 1,40,000 | 2,50,000* (inclusive of 1,10,000 from year-2) | Nil | Set on 1,10,000 1,25,000 | (2) (4) |
| 6 | 3,10,000 | 2,50,000* | Set on 60,000 | Set on Nil+ 1,25,000 60,000 | (2) (4) (6) |

| 1 | 2 | 3 | 4 | 5 |
|----|-------------------------|---|-------------------|-------------------------------------|
| | Rs. | Rs. | Rs. | Rs. of (year) |
| 7 | 1,00,000 | 2,50,000* (inclusive of 1,25,000 from year-4 and 25,000 from year-6) | Nil | Set on 35,000 (6) |
| 8 | Nil (due to loss) | 50,000** (inclusive of 35,000 from year-6) | Set off 15,000 | Set off 15,000 (8) |
| 9 | 10,000 | 50,000** | Set off 40,000 | Set off 15,000 (8) 40,000 (9) |
| 10 | 2,15,000 | 1,60,000 (after setting off 15,000 from year-8 and 40,000 from year-9) | Nil | Nil |

Notes—

* Maximum

+ The balance of Rs. 1,10,000 set on from year-2 lapses.

** Minimum.

SCHEDULE IV-4

(See Section 21)

1. Deductions from the remunerations of an employee may be made in the following circumstances and no other:—
 - (a) deductions for absence from duty;
 - (b) deductions for damage to or loss of goods expressly entrusted to the employed person for custody; or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
 - (c) deductions for house-accommodation supplied by the employer or by Government or any housing board set up under any law for the time being in force (whether the Government or the Board is the employer or not) or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette;
 - (d) deductions for such amenities and services supplied by the employer as the State Government (or any officer specified by it in this behalf) may, by general or special order, authorise;

Explanation.— The word “services” in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

- (e) deduction for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payments of wages;
- (f) deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by the State Government and the interest due in respect thereof;
- (g) deductions for recovery of loans granted for house building or other purposes approved by the State

Government and the interest due in respect thereof;

- (h) deductions of income-tax payable by the employed person;
- (i) deductions required to be made by order of a Court or other authority competent to make such order;
- (j) deductions for payment to co-operative societies from any recognised provident fund as defined in Section 58-A of the Indian Income-tax Act, 1922 (11 of 1922), or any provident fund approved in this behalf by the State Government, during the continuance of such approval;
- (k) deductions for payments to co-operative societies approved by the State Government (or any officer specified by it in this behalf) or to a scheme of insurance maintained by the Indian Post Office;
- (l) deductions made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such Government;
- (m) deductions for payment of insurance premia on Fidelity Guarantee Bonds;
- (n) deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counter-feit or base coins or mutilated or forged currency notes;
- (o) deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration whether in respect of fares, freight, demurrage, wharfage and cranage or in respect of sale of food in catering establishments or in respect of sale of commodities in grainshops or otherwise;

- (p) deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default.
2. The total amount of deductions which may be made under clause 1 in any wage period shall not exceed 50% of such wages.

Note

- (1) The procedure to be followed to arrive at the quantum of deduction under items (b), (n), (o) and (p) should be after due inquiry as laid down in the standing orders.



SCHEDULE V-1

(See Section 27)

1. Factories.
2. Mines.
3. Plantations.
4. Hospitals and nursing homes.
5. Residential hotels.
6. Film producing units.
7. Railway establishments.
8. Road transport establishments.
9. Airline establishments.
10. Such other establishments as may be included by the appropriate Government.



SCHEDULE V-2

(See Section 27)

Classes of establishments where opening and closing hours can be varied.

1. Tobacco, Bidi, Cigar and Pan shops.
2. Restaurants and Eating Houses.
3. Milk and snack bars.
4. Vegetable, fruit, flower and fish stalls.
5. Grocers' shops.
6. Laundry.
7. Hair Cutting Saloons & Barber's shops.
8. Shops for perfumes and scents.
9. Cloth shops.
10. Tailoring Establishments.
11. Foot Wear shops.
12. Hosiery shops.
13. Jewellery and ornaments shops.
14. Book Depots, Book magazine stalls.
15. Shops for articles of stationery, drawing instruments, scientific instruments.
16. Cinema theatres and places of public amusement and entertainment.
17. Commercial Establishments.
18. Solicitors' Offices.
19. Lawyers' Chambers.
20. Doctors, Dispensaries and Consultants' Rooms.
21. Chartered Accountants' Offices.
22. Offices of Income-tax Experts and Consultants.
23. Offices of Labour Law Practitioners.
24. Airlines, Railway and other transport undertakings.
25. Essential services like post & telegraph and electricity undertakings.

SCHEDULE V-3

(See Section 28)

Procedure For working additional shift.

Addition or alteration of shift

(1) Whenever an additional shift is started or shifts are altered, a seven days' notice shall be given to the employees.

Discontinuance of shift

(2) In the case of discontinuance of the shifts, seven days' notice shall be given to the employees but if any permanent employee is likely to be retrenched a notice of one month shall be given.

(3) If as a result of discontinuance of shift working any permanent employees are likely to be retrenched, they shall be retrenched having regard to the length of their service in the establishment, the department or the occupation concerned, as the case may be, those with the shortest term of service being retrenched first.

(4) No notice of discontinuance of the shift shall be given if the discontinuance is under an agreement with the employees or the trade union concerned.

Re-starting of shift

(5) Before re-starting a shift, seven days' notice thereof shall be given either in a newspaper having wide local circulation or by letters to individual employees concerned, and the employees retrenched as a result of the discontinuance of the shift shall, if they present themselves within seven days of the publication of the notice or the posting of the letters be given preference for employment according to the length of their service in the establishment, the department or the occupation concerned, as the case may be.

Closure of Department or Section of Department or Establishment

(6) (i) The Manager may close down any department or section of a department or an establishment after giving one month's notice to the employees.

(ii) If as a result of such closure any permanent employees are likely to be retrenched, they shall be retrenched having regard to the length of their service in the establishment, the department or the occupation concerned, as the case may be, those with the shortest term of service being retrenched first.

Re-opening of Department or Section of Department or Establishment

(7) Before re-opening of a department or section of a department or establishment, as the case may be, seven days' notice thereof shall be given either in a newspaper having wide local circulation or by letters to individual employees concerned and the employees retrenched as a result of closure shall, if they present themselves within seven days of the publication of notice or the posting of the letters, be given preference for employment according to the length of service in the establishment, department or the occupation concerned, as the case may be.

Displaying of notices

(8) Notices of—

(i) starting, re-starting, alteration and discontinuance of shift working,

(ii) the closure, and re-opening of a department or section of a department, and

(iii) the closure, and re-opening of the establishment shall be displayed in the time-keeper's office or at the main entrance to the establishment and at the gate or gates through which the employees pass, and in the case of a department or section, also in the department concerned.

SCHEDULE V-4

(See Section 33)

LIST OF PROCESSES

1. Bidi-making.
2. Carpet weaving.
3. Cement manufacture, including bagging of cement.
4. Cloth-printing, dyeing and weaving.
5. Manufacture of matches, explosives and fire-works.
6. Mica-cutting and splitting.
7. Shellac manufacture.
8. Soap manufacture.
9. Tanning.
10. Wool cleaning.



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SCHEDULE V-5

(See Section 42)

Conditions of Service

Health

1. *Cleanliness* (1) Every establishment shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular—

- (a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms, and from staircases and passages, and disposed of in a suitable manner;
- (b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;
- (c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;
- (d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—
 - (i) where they are painted or varnished, be repainted or re-varnished at least once in every period of five years;
 - (ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such methods as may be prescribed; and
 - (iii) in any other case, be kept whitewashed, or colourwashed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months;
- (e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in an establishment, it is not possible for the occupier to comply with all or any of the provisions of sub-clause (1), the appropriate Government may by order exempt such establishment or class or description of establishments from any of the provisions of that sub-clause and specify alternative methods for keeping the establishment in a clean state.

2. Disposal of wastes and effluents. (1) Effective arrangements shall be made in every establishment for the disposal of wastes and effluents.

(2) The appropriate Government may make rules prescribing the arrangements to be made under sub-clause (1) or requiring that the arrangements made in accordance with sub-clause (1) shall be approved by such authority as may be prescribed.

3. Ventilation and temperature. (1) Effective and suitable provision shall be made in every establishment for securing and maintaining in every workroom—

(a) adequate ventilation by the circulation of fresh air, and for rendering harmless all fumes, dust and other impurities, injurious to health, generated in the course of any process or work carried on in the workroom, and

(b) such a temperature as will secure to employees therein reasonable conditions of comfort and prevent injury to health, and in particular—

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(ii) where the nature of the work carried on in the establishment involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the employees therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The appropriate Government may prescribe a standard of adequate ventilation and reasonable temperature for any establishment or class or description of establishments or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the appropriate Government that in any establishment or class or description of establishments excessively high temperatures can be reduced by such methods as white-washing, spraying or insulating and screening outside walls or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air-space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of these or other methods as shall be adopted in the establishment.

4. *Dust and fume.* (1) In every establishment in which, by reason of the manufacturing process carried on or in any establishment by reason of the nature of work, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the employees employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed as far as possible.

(2) In any factory or establishment no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to employees employed in the room.

5. *Artificial humidification.* (1) In respect of all establishments in which the humidity of the air is artificially increased, the appropriate Government may make rules—

- (a) prescribing standards of humidification;
- (b) regulating the methods used for artificially increasing the humidity of the air;
- (c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded; and
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the work-rooms.

(2) In any establishment in which the humidity of the

air is artificially increased the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in an establishment for increasing humidity which is required to be effectively purified under sub-clause (2) is not effectively purified he may serve on the manager of the establishment an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before specified date.

6. *Overcrowding.* (1) No room in any establishment shall be overcrowded to an extent injurious to the health of the employees employed therein.

(2) For every employee employed therein there shall be not less than 350 cubic feet of space; Provided the Chief Inspector by order in writing require that the allotment of space may be more than 350 and upto 500 cubic feet.

(3) The Chief Inspector may require an employer to paste a notice in every room specifying the maximum number of employees who may be employed at any one time in the room.

(4) The Chief Inspector may by order in writing exempt any establishment from the provisions of this clause.

7. *Lighting.* (1) In every part of an establishment where employees are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every establishment all glazed windows and skylights used for the lighting of the workroom shall be kept clean on both the inner and outer surfaces, free from obstruction.

(3) In every establishment effective provision shall, so far as is practicable, be made for the prevention of—

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any employee.

(4) The appropriate Government may prescribe standards of sufficient and suitable lighting for establishment or for

any class of establishments or for any manufacturing process.

8. *Drinking Water.* (1) In every establishment effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all employees employed therein a sufficient supply of wholesome drinking water.

Provided that in the case of employees employed below grounds in mines, the Chief Inspector may, in lieu of drinking water being provided and maintained at suitable points, permit any other effective arrangements to be made for such supply.

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the employees employed in the establishment, and no such point shall be situated within twenty feet of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every establishment provisions shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all establishments or any class or description of establishments the appropriate Government may make rules for securing compliance with the provisions of sub-clauses (1), (2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in establishments.

9. *Conservancy.* (1) There shall be provided, separately for males and females in every establishment, a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to employees employed in the establishment at all times.

(2) All latrines and urinals provided under sub-clause (1) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(3) In every establishment wherein more than two hundred and fifty employees are ordinarily employed—

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, up to a height of three feet, of the latrines and urinals and sanitary blocks

shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;

(c) the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrine and urinals shall be thoroughly washed and cleaned every day with suitable detergents or disinfectants or with both.

(4) The appropriate Government may specify the number of latrines and urinals to be provided in any establishment, in proportion to the number of males and females employed in the establishment and provide for such other matters in respect of sanitation in establishments (including the obligations in this regard of persons employed in the establishment) as it may consider necessary in the interests of the health of the employees so employed.

10. *Spittoons.* (1) In every establishment there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The appropriate Government may make rules prescribing the type and the number of spittoons to be provided and their location in any establishment and provide for such further matters relating to their maintenance in a clean and hygienic condition.

(3) No employee shall spit within the premises of an establishment except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-clause (3) shall be punishable with fine not exceeding five rupees.

Safety

11. *Dangerous operations.* Where the appropriate Government is of opinion that any operation carried on in an establishment exposes any employee employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any establishment or class or description of establishments in which operation is carried on—

(a) specifying the work and declaring it to be dangerous;

(b) prohibiting or restricting the employment of women, adolescents or children in the work;

(c) providing for the periodical medical examination of employees employed, or seeking to be employed, in the work, and prohibiting the employment of persons not certified as fit for such employment;

(d) providing for the protection of all employees employed in the work or in the vicinity of the places where it is carried on;

(e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the work.

12. *Employment of children on dangerous machines.* (1) No child shall work at any machine to which this Clause applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) sub-clause (1) shall apply to such machines as may be prescribed by the appropriate Government, being machines which in its opinion are of such dangerous character that children ought not work at them unless the forgoing requirements are complied with.

13. *Fencing of machinery.* (1) In every establishment the following, namely—

(i) every moving part of a prime mover and every fly-wheel connected to a prime mover, whether the prime mover or fly-wheel is in the engine house or not;

(ii) the headrace and tailrace of every water-wheel and water turbine;

(iii) any part of a stock-bar which projects beyond the headstock of a lathe; and

(iv) unless they are in such position or of such construction as to be safe to every employee employed in the establishment as they would be if there were security fenced, the following namely—

- (a) every part of an electric generator, a motor or rotary convertor;
- (b) every part of transmission machinery; and
- (c) every dangerous part of any other machinery shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery they are fencing are in motion or in use;

Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when, it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or slipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of clause 14.

(2) The appropriate Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the employees, any particular machinery or part thereof from the provisions of this Clause.

14. *Work on or near machinery in motion.* (1) Where in any establishment it becomes necessary to examine any part of machinery referred to in Clause 13 while the machinery is in motion, or as a result of such examination, to carry out any mounting or slipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male employee wearing tight-fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged—

- (a) such employee shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flushed with the belt;

- (b) without prejudice to any other provisions of this Code relating to the fencing of machinery, every set screw, belt and key on any revolving shaft, spindle wheel or pinion, and all spur, worm and other toothed or fric-

tion gearing in motion with which such employee would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or child shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or child to risk of injury from any moving part either of that machine or of any adjacent machinery.

(3) The appropriate Government may, by notification in the Official Gazette, prohibit, in any specified establishment or class or description of establishments, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

15. *Striking gear and devices for cutting off power.*—

(1) In every establishment—

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every establishment suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every workroom:

Provided that in respect of establishments in operation before the commencement of this code, the provisions of this sub-clause shall apply only to workrooms in which electricity is used as power.

16. *Self-acting machines.*—No traversing part of a self-acting machine in any establishment and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine:

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Code which does not comply with the requirements of this clause on such conditions for ensuring safety as he may think fit to impose.

17. *Casing of new machinery.* (1) In all machinery driven by power and installed in any establishment after the commencement of this Code—

(a) every set screw, belt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire for use in an establishment any machinery driven by power which does not comply with the provisions of sub-clause (1) or any rules under sub-clause (3) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) The appropriate Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

18. *Prohibition of employment of women and children near cotton-openers.*—

No woman or child shall be employed in any part of an establishment for pressing cotton in which a cotton-opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

19. *Hoists and lifts.* (1) In every establishment—

(a) every hoist and lift shall be—

- (i) of good mechanical construction, sound material and adequate strength; and
- (ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing; and

(e) every gate referred to in clause (b) or clause (d) shall be fitted with inter-locking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoist and lifts used for carrying persons and installed or reconstructed in establishment after the commencement of this Code, namely—

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments; and

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use

of a hoist or lift installed in an establishment before the commencement of this code which does not fully comply with the provisions of sub-clause (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The appropriate Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-clauses (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

20. *Lifting machines, chains, ropes and lifting tackles.*

(1) In any establishment the following provisions shall be complied with in respect of every lifting machine (other than a hoist or lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:

(a) all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be—

(i) of good construction, sound material and adequate strength and free from defects;

(ii) properly maintained; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing, and a register shall be kept containing the prescribed particulars of every such examination;

(b) no lifting machine and no chain, rope or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register, and where this is not practicable, a table showing the safe working loads of every kind and size of lifting machine or chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises; and

(c) while any employee is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The appropriate Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in establishments—

(a) prescribing further requirements to be complied with in addition to those set out in this Clause;

(b) providing for exemption from compliance with all or any of the requirements of this Clause, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this Clause a lifting machine or a chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusions as to the safety of the parts examined.

*Explanation:—*In this Clause—

(a) “lifting machine” means a crane, crab winch, teagle, pulley block, gin wheel, transporter or runway;

(b) “lifting tackle” means chain slings, rope slings, rings, hooks, shackles and swivels.

21. *Revolving machinery.* (1) In every room in an establishment in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speed indicated in notices under sub-clause (1) shall not be exceeded.

(3) Effective measures shall be taken in every establishment to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, fly-wheel, pulley, disc or similar appliance driven by power is not exceeded.

22. *Pressure plant.* (1) If in any establishment any part of the plant or machinery is operated at a pressure above atmospheric pressure effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The appropriate Government may make rules provid-

ing for the examination and testing of any plant or machinery such as is referred to in sub-clause (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any establishment or class or description of establishments.

23. *Floors, stairs and means of access.*—In every establishment—

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained, and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails; and

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any employee is at any time required to work.

24. *Pits, sumps, openings in floors, etc.* (1) in every establishment every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction, or contents is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The appropriate Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any establishment or class or description of establishments in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this Clause.

25. *Excessive weights.* (1) No person shall be employed in any establishment to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The appropriate Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in establishments or in any class or description of establishments or in carrying on any specified process.

26. *Protection of eyes.* In respect of any process carried on in any establishment as may be prescribed, being a process which involves—

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive heat or light,

the appropriate Government may by rules require that effective screens of suitable goggles shall be provided for the protection of employees employed on, or in the immediate vicinity of, the process.

27. *Precautions against dangerous fumes.* (1) In any establishment no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any establishment for use inside any confined space such as referred to in sub-clause (1), and where the fumes present are likely to be inflammable, no lamp or light other than of flame-proof construction shall be permitted to be used in such confined space.

(3) No person in any establishment shall enter or be permitted to enter any confined space such as is referred to in sub-clause (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or

(b) the employee is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall in every establishment be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of employees employed in every establishment shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any establishment, any boiler furnace, boiler flue, chamber tank, vat, pipe or other confined space for the purpose of working or mak-

ing any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The appropriate Government may make rules prescribing the minimum dimensions of the manholes referred to in sub-clause (1), and may by order in writing exempt, subject to such conditions as it may think fit to impose, any establishment or class or description of establishments from compliance with any of the provisions of this clause.

28. *Explosive or inflammable dust, gas, etc.* (1) where in any establishment any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

(a) effective enclosure of the plant or machinery used in the process;

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour.

(c) exclusion of effective enclosure of all possible sources of ignition.

(2) Where in any establishment the plant or machinery used in a process such as is referred to in sub-clause (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effect of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in an establishment contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part of any such pipe shall be effectively stopped by a stop-valve or other means;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure; and

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced;

Provided that the provisions of this sub-clause shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any establishment to any welding, brazing, soldering or cutting operation which involves the application of heat unless, adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The appropriate Government may by rules exempt, subject to such conditions as may be prescribed, any establishment or class or description of establishments from compliance with all or any of the provisions of this Clause.

29. *Precautions in case of fires.* (1) Every establishment shall be provided with such means of escape in case of fire as may be prescribed, and if it appears to the Inspector that any establishment is not so provided, he may serve on the manager, occupier and owner of the establishment an order in writing specifying the measures which, in his opinion, should be adopted to bring the establishment into conformity with the provisions of this Clause and any rules made thereunder, and requiring them to be carried out before a date specified in the order.

(2) In every establishment the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from the inside while any employee is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards.

(3) In every establishment, every window, door or other exit affording a means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the employees

and in red letters of adequate size or by some other effective and clearly understood sign.

(4) There shall be provided in every establishment effective and clearly audible means of giving warning in case of fire to every person employed in the establishment.

(5) A free passage way giving access to each means of escape in case of fire shall be maintained for the use of all employees in every room of an establishment.

(6) Effective measures shall be taken to ensure that in every establishment—

(a) wherein more than twenty employees are ordinarily employed in any place above the ground floor, or

(b) wherein explosive or highly inflammable materials are used or stored,

all the employees are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(7) The appropriate Government may make rules prescribing, in respect of any establishment or class or description of establishments, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

30. *Power to require specifications of defective parts or tests of stability.*

If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in an establishment is in such condition that it may be dangerous to human life or safety, he may serve on the manager, occupier and owner of the establishment an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

31. *Safety of buildings and machinery* (1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in an establishment is in such a condition that it is dangerous to human

life or safety, he may serve on the manager, occupier and owner of the establishment an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in an establishment involves imminent danger to human life or safety, he may serve on the manager, occupier and owner of the establishment an order in writing prohibiting its use until it has been properly repaired or altered.

32. *Notice to be given of accidents.* (1) Where in any establishment an accident occurs—

(a) an accident causing death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of 48 hours or more immediately following the accident, or

(b) an explosion, ignition, spontaneous heating, outbreak of fire or irruption or inrush of water or other liquid matter, or

(c) an influx of inflammable or noxious gases, or

(d) a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or

(e) an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised, or

(f) a premature collapse of any part of the working, or

(g) an accident occurs to a boiler or steam pipe, or

(h) any other accident which may be prescribed, the owner, agent, occupier or manager of the establishment shall send notice of the accident or occurrence to the Chief Inspector or such authority in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials and employees of the establishment, and shall ensure that the notice is kept on the board for not less than fourteen days from the date of such posting.

(2) Where a notice given under sub-clause (1) relates to an accident causing loss of life, the Chief Inspector or authority shall make an inquiry into the occurrence within two months of the receipt of the notice.

(3) Every person shall be bound to answer truly to the best of his knowledge and ability every question put to him in writing by the Inspector as to the cause, nature or extent of the accident.

(4) The appropriate Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-clause (1), which cause bodily injury resulting in the enforced absence from work of the employee injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to provisions of sub-clause (1).

(5) A copy of the entries in the register referred to in sub-clause (3) shall be sent by the owner, agent, or manager of the establishment (on or before the 20th day of January in the year following that to which the entries relate) to the Chief Inspector.

33. *Notice of certain diseases.* (1) Where any employee in an establishment contracts any disease specified in this behalf by the appropriate Government in the Official Gazette, the owner, agent, occupier or manager of the establishment shall send notice thereof to such authorities, in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on an employee employed in an establishment and who is, or is believed by the medical practitioner to be suffering from any disease mentioned in sub-clause (1), the medical practitioner, shall, without delay, send a report in writing to the appropriate authority stating:

(a) the name and address of the patient;

(b) the disease from which the patient is or is believed to be suffering; and

(c) the name and address of the establishment in which the patient is or was last employed.

34. *Power to direct enquiry into cases of accident or disease.*

(1) The appropriate Government may appoint a person or persons as a Court of Inquiry to enquire into the causes of any accident occurring in an establishment or any case

where a disease referred to in clause 33 has been or is suspected to have been contracted in an establishment and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such enquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a Labour Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects.

(3) Any person holding an inquiry under this clause may exercise such of the powers of an Inspector under this Code as he may think it necessary or expedient to exercise for the purpose of the enquiry.

(4) The person holding an inquiry under this clause shall make a report to the appropriate Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

(5) The appropriate Government may, if it thinks fit, cause to be published any report made under this clause or any extracts therefrom.

(6) The appropriate Government may make rules for regulating the procedure at inquiries under this clause.

Welfare

35. *Washing facilities.* (1) In every factory and mine—

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the employees therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female employees;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The appropriate Government may, in respect of any factory or mine or class or description of factories or mines or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

36. *Facilities for storing and drying clothing.* The appropriate Government may, in respect of any factory and mine or class or classes or description of factories or mines, make rules requiring the provision therein of suitable places for

keeping clothing not worn during working hours and for the drying of wet clothing.

37. *Facilities for sitting.* (1) In every establishment suitable arrangements for sitting shall be provided and maintained for all employees obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief Inspector or appropriate authority, the employees in any establishment engaged in a particular process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the manager, occupier or owner of the establishment to provide before a specified date such sitting arrangements as may be practicable for all employees so engaged or working.

(3) The appropriate Government may, by notification in the Official Gazette, declare that the provisions of sub-clause (1) shall not apply to any specified establishment or class or description of establishments or to any specified process.

38. *Medical facilities.* (1) In every factory, mine or plantation there shall be provided and maintained so as to be readily available such medical facilities for the employees and their families as may be prescribed by the appropriate Government.

(2) If in any factory, mine or plantation medical facilities are not provided and maintained as required by sub-clause (1) the appropriate authorities may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

39. *First-aid appliances.* (1) In every factory, mine or transport vehicle there shall be provided and maintained so as to be readily accessible during all working hours such number of first-aid boxes or cupboards equipped with such contents as may be prescribed.

(2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard or room.

(3) Every first-aid box or cupboard in a factory or mine shall be kept in the charge of a responsible officer who is trained in such first-aid treatment as may be prescribed and who shall always be readily available during the working

hours—and in transport vehicle in the charge of the driver or the conductor who shall be provided facilities for training in the use thereof.

(4) In every establishment there shall be made so as to be readily available such arrangements as may be prescribed for the conveyance to hospitals or dispensaries of employees who, while employed in the establishment, suffer bodily injury or become ill.

(5) In every establishment wherein more than one hundred and fifty employees are employed, there shall be provided and maintained a first-aid room of such size with such equipment and in the charge of such medical and nursing staff as may be prescribed.

40. *Canteens.* (1) The appropriate Government may make rules requiring that in every establishment wherein one hundred employees are ordinarily employed, one or more canteens shall be provided and maintained by the employer for the use of the employees.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which the canteen shall be provided;
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
- (c) the foodstuff which may be served therein and the charges which may be made therefor;
- (d) the constitution of a managing committee for the canteen and the representation of the employees in the management of the canteen; and
- (e) the delegation to the Chief Inspector or appropriate authority, subject to such conditions as may be prescribed, of the powers to make rules under sub-clause (2)(c).

41. *Shelters, rest-rooms and lunch-rooms* (1) In every establishment wherein more than one hundred employees are ordinarily employed adequate and suitable shelter or rest-rooms and a suitable lunchroom, with provision for drinking water, where employees can eat meals brought by them, shall be provided and maintained for the use of the employees:

Provided that for the use of motor transport employees any other suitable alternative accommodation, as may

be prescribed may be provided where such employees are required to halt at night.

Provided that any canteen maintained in accordance with the provisions of clause 40 shall be regarded as part of the requirements of this sub-clause.

Provided further that where a lunch-room exists no employee shall eat any food in the work-room.

(2) The shelters or rest-rooms or lunch-rooms to be provided under sub-clause (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The appropriate Government may—

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest-rooms and lunch-rooms to be provided under this clause; and

(b) by notification in the official gazette exempt any establishment or class or description of establishments from the requirements of this clause.

42. *Creches.* (1) In every factory, mine or plantation wherein fifty or more women employees are employed or were employed on any day of the preceding 12 months, there shall be provided and maintained by the employer suitable rooms for the use of children of such women who are below the age of six years.

(2) Such room shall—

(a) be provided with adequate accommodation;

(b) be adequately lighted and ventilated;

(c) be maintained in a clean and sanitary condition; and

(d) be under the charge of a woman trained in the care of children and infants.

(3) The appropriate Government may make rules prescribing the location and the standards of such rooms in respect of their construction and accommodation, furniture, equipment and amenities to be provided therein.

43. *Recreational and welfare facilities.* (1) The appropriate Government may make rules requiring every employer to make provision in his factory, mine or plantation for such recreational facilities for the employees and children employed therein as may be prescribed.

(2) The appropriate Government may, by rules, provide for welfare schemes for the benefits of the employees in respect of the following :

- (a) community and social education;
- (b) centres including reading rooms, libraries community health centres;
- (c) games and sports;
- (d) excursion tours and holiday camps;
- (e) entertainment and other forms of recreation;
- (f) home industries and subsidiary occupations for women and unemployed persons;
- (g) corporate activities of social nature.

44. *Housing facilities.* It shall be the duty of every employer to provide and maintain for every employee, residing in the plantation, necessary housing accommodation.

45. *Power to make rules relating to housing.* The appropriate Government may make rules for the purpose of giving effect to the provisions of clause 44 and, in particular, providing for—

- (a) the standard and specification of the accommodation to be provided;
- (b) the selection and preparation of sites for the construction of houses and the size of such plot;
- (c) the constitution of advisory boards consisting of representatives of the appropriate Government; the employer and the employees for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified;
- (d) the fixing of rent, if any, for the housing accommodation provided for employees;
- (e) the allotment to employees and their families of housing accommodation and of suitable strips of vacant and adjoining such accommodation for the purpose of maintaining kitchen gardens, and for the eviction of employees and their families from such accommodation;
- (f) access to the public to those parts of the plantations wherein the employees are housed.

46. *Educational facilities.* Where the children between the age of six and twelve of employees employed in any plantation exceed twentyfive in number, the appropriate Government may make rules requiring every employer to provide educational facilities for the children in such manner and such standard as may be prescribed.

47. *Other facilities.* The appropriate Government may make rules requiring that in every plantation the employer shall provide the employees with such number and type of umbrellas, blankets, rain-coats or other like amenities for the protection of employees from rain or cold as may be prescribed.

48. *Uniforms.* (1) The appropriate Government may, by notification in the Official Gazette, make rules requiring an employer of motor-transport undertaking to provide for the drivers, conductors and line checking staff employed in that undertaking such number and type of uniforms, rain-coats or other like amenities for their protection from rain or cold as may be specified in the rules.

(2) There shall be paid to the drivers, conductors and line staff by the employer an allowance for washing of uniforms provided under sub-clause (1) at such rates as may be prescribed;

Provided that no such allowance shall be payable by an employer who has made at his own cost adequate arrangement for the washing of uniforms.

49. *Welfare Officers.* (1) In every establishment wherein five hundred or more employees are ordinarily employed the occupier shall employ in the establishment such number of welfare officers as may be prescribed;

Provided in every plantation wherein three hundred or more employees are ordinarily employed the employer shall employ such number of welfare officers as may be prescribed.

(2) The appropriate Government may prescribe the duties, qualifications, and conditions of service of officers employed under sub-clause (1).

SCHEDULE VI-1

FORM

(See Section 43)

To

The Manager,
Employment Exchange,

-----.

Dear Sir,

I have to inform you that certain vacancies have occurred/are likely to occur in this establishment. The following particulars are, therefore, furnished for your information :—

1. Name and address of the employer.
2. Telephone No. of the employer, if any.
3. Nature of vacancy—
 - (a) Type of employee required (Designation)
 - (b) Description of duties.
 - (c) Qualifications required—
 - (i) Essential
 - (ii) Desirable
 - (d) Age-limits, if any.
 - (e) Whether women are eligible?
4. Number of vacancies—
 - (a) Regular
 - (b) Temporary
5. Pay and allowances.
6. Place of work (name of town/village and district in which it is situated).
7. Probable date by which the vacancy will be filled.

8. Particulars regarding interview/test of applicants—
- (a) Date of interview/test
 - (b) Time of interview/test
 - (c) Place of interview/test
 - (d) Designation and address of the person to whom applicants should report.

Yours faithfully,

Occupier/Manager



SCHEDULE VI-2

(See Section 43)

1. Daftary.
2. Jamadar, orderly or peon.
3. Dusting man or farash.
4. Bundle or record lifter.
5. Process server.
6. Watchman.
7. Sweeper.
8. Any other employee doing routine or unskilled work which the appropriate Government or the Inspector may by notification in the official gazette declare to be unskilled work.



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SCHEDULE VIII-1

TABLE 1

(See Section 72)

Rates of payment in respect of sickness, maternity, disablement and dependents' benefits.

| Sl. No. | Group of employees whose average daily wages are | Employees' weekly contribution (recoverable from employees) | Employer's weekly contribution | Total weekly contribution (Employee's & Employer's contribution) | Corresponding daily standard benefit rate | | Corresponding daily rate of disablement and dependents' benefit (full rate) | | Corresponding daily rate of maternity benefit (double the standard benefit rate) | |
|---------|--|---|--------------------------------|--|---|-----|---|------|--|------|
| | | | | | P | P | P | P | P | P |
| 1. | Below Re. 1 | Nil | 45 | 45 | 45 | 45 | 60 | 60 | 90 | 90 |
| 2. | Re. 1 and above but below Rs. 1.50 | Nil | 45 | 45 | 45 | 65 | 85 | 85 | 130 | 130 |
| 3. | Rs. 1.50 and above but below Rs. 2 | 25 | 50 | 75 | 75 | 90 | 115 | 115 | 180 | 180 |
| 4. | Rs. 2 and above but below Rs. 3 | 40 | 80 | 120 | 120 | 130 | 165 | 165 | 200 | 200 |
| 5. | Rs. 3 and above but below Rs. 4 | 50 | 100 | 150 | 150 | 175 | 220 | 220 | 350 | 350 |
| 6. | Rs. 4 and above but below Rs. 6 | 70 | 140 | 210 | 210 | 250 | 315 | 315 | 500 | 500 |
| 7. | Rs. 6 and above but below Rs. 8 | 95 | 190 | 285 | 285 | 350 | 440 | 440 | 700 | 700 |
| 8. | Rs. 8 and above but below Rs. 15 | 125 | 250 | 375 | 375 | 500 | 625 | 625 | 1000 | 1000 |
| 9. | Rs. 15 and above | 175 | 350 | 525 | 525 | 850 | 1065 | 1065 | 1700 | 1700 |

SCHEDULE VIII-1

TABLE II

(See Section 72)

Compensation Payable in certain cases.

| Monthly wages of the employee injured | | Amount of compensation for | | Half--monthly payment as compensation for temporary disablement |
|---------------------------------------|-----------------------|----------------------------|-----------------------------|---|
| | | Death | Permanent Total Disablement | |
| 1 | 2 | 3 | 4 | |
| More than Rs. | But not more than Rs. | Rs. | Rs. | Rs. P |
| 0 | 10 | 1,000 | 1,400 | Half his monthly wages |
| 10 | 13 | 1,100 | 1,540 | -do- |
| 13 | 18 | 1,200 | 1,680 | 6 50 |
| 18 | 21 | 1,260 | 1,764 | 7 00 |
| 21 | 24 | 1,440 | 2,016 | 8 00 |
| 24 | 27 | 1,620 | 2,268 | 8 50 |
| 27 | 30 | 1,800 | 2,520 | 9 50 |
| 30 | 35 | 2,100 | 2,940 | 9 50 |
| 35 | 40 | 2,400 | 3,360 | 10 00 |
| 40 | 45 | 2,700 | 3,780 | 13 00 |
| 45 | 50 | 3,000 | 4,200 | 13 00 |
| 50 | 60 | 3,600 | 5,040 | 18 50 |
| 60 | 70 | 4,200 | 5,880 | 18 50 |
| 70 | 80 | 4,800 | 6,720 | 20 00 |
| 80 | 100 | 6,000 | 8,400 | 26 00 |
| 100 | 150 | 7,000 | 9,800 | 37 50 |
| 150 | 200 | 7,000 | 9,800 | 52 50 |
| 200 | 300 | 8,000 | 11,200 | 60 00 |
| 300 | 400 | 9,000 | 12,600 | 75 00 |
| 400 | — | 10,000 | 14,000 | 87 50 |

SCHEDULE VIII-1

TABLE III
(See Section 72)

Description of Injuries and percentage of loss of earning capacity.

| Serial No. | Description of injury | Percentage of loss of earning capacity |
|------------|-----------------------|--|
| 1 | 2 | 3 |

Part I

List of injuries deemed to result in permanent total disablement

| | |
|---|-----|
| 1. Loss of both hands or amputation at higher sites | 100 |
| 2. Loss of 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 II

List of injuries deemed to result in permanent partial disablement

Amputation Cases—upper limbs (either arm)

| | |
|---|----|
| 7. Amputation through shoulder joint. | 90 |
| 8. Amputation below shoulder with stump less than 20.32 c.m. from tip of acromion. | 80 |
| 9. Amputation from 20.32 c.m. from tip of acromion to less than 11.43 c.m. below tip of olecranon. | 70 |
| 10. Loss of a hand or of the thumb and four fingers of one hand or amputation from 11.43 c.m. below tip of olecranon. | 60 |

| 1 | 2 | 3 |
|-----|--|----|
| 11. | Loss of thumb. | 30 |
| 12. | Loss of thumb and its metacarpal bone. | 40 |
| 13. | Loss of four fingers of one hand. | 50 |
| 14. | Loss of three fingers of one hand. | 30 |
| 15. | Loss of two fingers of one hand. | 20 |
| 16. | Loss of terminal phalanx of thumb. | 20 |

Amputation Cases—lower limbs

| | | |
|-----|---|----|
| 17. | Amputation of both feet resulting in end-bearing stumps. | 90 |
| 18. | Amputation through both feet proximal to the metatarso-phalangeal joint. | 80 |
| 19. | Loss of all toes of both feet through the metatarso-phalangeal joint. | 40 |
| 20. | Loss of all toes of both feet proximal to the inter-phalangeal joint. | 30 |
| 21. | Loss of all toes of both feet distal to the proximal inter-phalangeal joint. | 20 |
| 22. | Amputation at hip. | 90 |
| 23. | Amputation below hip with stump not exceeding 12.70 c.m. in length measured from tip of great trochanter. | 80 |
| 24. | Amputation below hip with stump exceeding 12.70 c.m. in length measured from tip of great trochanter but not beyond middle thigh. | 70 |
| 25. | Amputation below middle thigh to 8.60 c.m. below knee. | 60 |
| 26. | Amputation below knee with stump exceeding 8.60 c.m. but not exceeding 12.70 c.m. | 50 |
| 27. | Amputation below knee with stump exceeding 12.70 c.m. | 40 |
| 28. | Amputation of one foot resulting in end-bearing | 30 |
| 29. | Amputation through one foot proximal to the metatarso-phalangeal joint. | 30 |
| 30. | Loss of all toes of one foot through the metatarso-phalangeal joint. | 20 |

| 1 | 2 | 3 |
|---|---|---|
|---|---|---|

Other injuries

- | | |
|---|----|
| 31. Loss of one eye, without complications, the other being normal. | 40 |
| 32. Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal. | 30 |

Loss of—

A. Fingers of right or left hand

Index finger

- | | |
|--|----|
| 33. Whole. | 14 |
| 34. Two phalanges. | 11 |
| 35. One phalanx. | 9 |
| 36. Guillotine amputation of tip without loss of bone. | 5 |

Middle finger

- | | |
|--|----|
| 37. Whole. | 12 |
| 38. Two phalanges. | 9 |
| 39. One phalanx. | 7 |
| 40. Guillotine amputation of tip without loss of bone. | 4 |

Ring or little finger

- | | |
|--|---|
| 41. Whole. | 7 |
| 42. Two phalanges. | 6 |
| 43. One phalanx. | 5 |
| 44. Guillotine amputation of tip without loss of bone. | 2 |

B. Toes of right or left foot

Great toe

- | | |
|---|----|
| 45. Through metatarso-phalangeal joint. | 14 |
| 46. Part, with some loss of bone. | 3 |

Any other toe

- | | |
|---|---|
| 47. Through metatarso-phalangeal joint. | 3 |
| 48. Part, with some loss of bone. | 1 |

| 1 | 2 | 3 |
|---|---|---|
|---|---|---|

Two toes of one foot, excluding great toe

| | |
|---|---|
| 49. Through metatarso-phalangeal joint. | 5 |
| 50. Part, with some loss of bone. | 2 |

Three toes of one foot, excluding great toe

| | |
|---|---|
| 51. Through metatarso-phalangeal joint. | 6 |
| 52. Part with some loss of bone. | 3 |

Four toes of one foot, excluding great toe

| | |
|---|---|
| 53. Through metatarso-phalangeal joint. | 9 |
| 54. Part, with some loss of bone. | 3 |

Note: Complete and permanent loss of the use of any limb or member referred to in this Table shall be deemed to be the equivalent of the loss of that limb or member.

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SCHEDULE VIII-2

(See Section 72)

List of occupational diseases

Occupational disease

Employment

PART A

Anthrax

Any employment—

- (a) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs and horns; or
- (b) in connection with animals infected with anthrax; or
- (c) involving the loading, unloading or transport of any merchandise.

Compressed air illness or its sequelae or Any process carried on in compressed air.

Poisoning by lead tetra-ethyl Any process involving the use of lead tetra-ethyl.

Poisoning by nitrous fumes Any process involving exposure to nitrous fumes.

Poisoning by organic phosphorous insecticides Any process involving the use of handling or exposure to the fumes, dust or vapour containing any of the organic phosphorous insecticides.

PART B

Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra-ethyl Any process involving the handling or use of lead ore or lead or any of its preparations or compounds except lead tetra-ethyl.

Poisoning by phosphorous or its compounds or its sequelae Any process involving the liberation of phosphorous or use or handling of phosphorous or its preparations or compound.

Poisoning by mercury, its amalgams and compounds, or its sequelae Any process involving the use of mercury or its preparations or compounds.

Poisoning by benzene, or its homologues, their amido and nitroderivatives or its sequelae Any process involving the use of chronic acid or bichromate of ammonium potassium or sodium or their preparations or the manufacture of bichromate.

Poisoning by arsenic or its compounds, or its sequelae Any process involving the production, liberation or utilisation of arsenic or its compounds.

Pathological manifestations due to—

(a) radium and other radio-active substances; Any process involving exposure to the action of radium, radio-active substances or X-rays.

(b) X-rays

Primary epitheliomatous cancer of the skin Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin or the compounds, products or residues of these substances.

Poisoning by halogenated hydrocarbons of the aliphatic series and their halogen derivatives Any process involving the manufacture, liberation and use of the aliphatic series and their halogen derivatives.

Poisoning by carbon disulphide or its sequelae Any employment in—

- (a) the manufacture of carbon disulphide; or
- (b) the manufacture of artificial silk by viscose process; or
- (c) rubber industry; or
- (d) any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.

| | |
|--|---|
| Occupational cataract due to infra-red radiations | Any manufacturing process involving exposure to glare from molten material or to any other sources of infra-red radiations. |
| Telegraphist's Cramp | Any employment involving the use of telegraphic instruments. |
| Poisoning by manganese or a compound of manganese, or its sequelae | Any process involving the use of, or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese. |

PART C

| | |
|-----------------------------|---|
| Silicosis | Any employment involving exposure to the inhalation of dust containing silicas. |
| Coal Miner's Pneumococcosis | Any employment in coal mining. |
| Asbestosis | Any employment in— (a) the production of (i) fibre cement materials; or (ii) asbestos mill board; or (b) the processing of ores containing asbestos. |
| Bagassosis | Any employment in the production of bagasse mill board or other articles from bagasse. |

SCHEDULE X-I

(See Section 115)

Matters to be included in the rules of the trade union for the purposes of registration.

1. The name of the trade union and the address of its registered office.
2. The objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such trade union.
3. The manner of making, altering, amending and rescinding rules.
4. The appointment and removal of a general committee of management, of a trustee or trustees, treasurer and other officers.
5. The investment of the funds.
6. The inspection of the books and names of members of the trade union by all depositors in the funds of the trade union.
7. The manner of dissolving the trade union.
8. The right of every member to a reasonable opportunity to vote.
9. The amount of subscriptions and levy payable by members and the disqualifications of a member from voting on any matter concerning the union and from receiving benefits of his subscription is in arrear or payment of levies and expulsion of a member from the union for default.
10. The classes or categories of employees which it is proposed that the trade union should represent.
11. The subscription for membership of the union shall not be less than rupee one per month.
12. The executive committee of the union shall meet at intervals of not more than three months.

13. All resolutions passed whether by the executive committee or the general body of the union shall be recorded in a minute book kept for the purpose.
14. The accounts of the union shall be audited at least once in a financial year by a qualified auditor.



SCHEDULE X-2

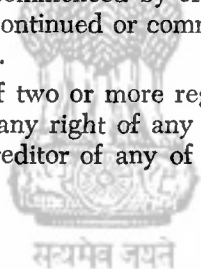
(Section 116)

Rules for the change of the name of the trade union, amalgamation and dissolution of the trade union.

1. All communications and notices to a registered trade union may be addressed to its registered office.
2. Notice of any change in the address of the head office shall be given within 14 days of such change to the Registrar in writing and the changed address shall be recorded in the register kept for the purpose.
3. Any registered trade union may, with the consent of not less than two-thirds of the total number of its members and subject to the provision of clause 2, change its name.
4. Any two or more registered trade unions may become amalgamated together as one trade union with or without dissolution or division of the funds of such trade unions or either or any of them provided that the votes of at least one-half of the members of each or every such trade union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.
5. Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary of the trade union changing its name, and in the case of an amalgamation, by the Secretary of every trade union which has been amalgamated, 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.
6. 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.
7. Save as provided in clause 6, 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 kept for that purpose and the change of name shall have effect from the date of such registration.

8. 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, register the trade union in the manner provided and the amalgamation shall have effect from the date of such registration.
9. 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 proceedings by or against the trade union and any legal proceedings 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.
10. An amalgamation of two or more registered trade unions shall not prejudice any right of any of such trade unions or any right of a creditor of any of them.



SCHEDULE X-3

(See Section 121)

Objects for which the general funds of the trade union may be spent.

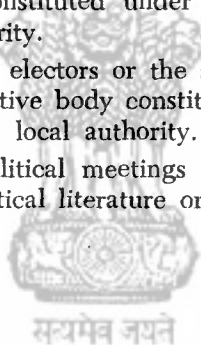
1. The payment of salaries, allowances and expenses to officers of the trade union.
2. The payment of expenses for the administration of the trade union, including audit of the accounts of the general funds of the trade union.
3. The prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs.
4. The conduct of trade disputes on behalf of the trade union or any member thereof.
5. The compensation to members for loss arising out of labour disputes.
6. Allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members.
7. The issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accidents or unemployment.
8. The provisions of educational, social or other benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependents of members.
9. The upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or employees as such.

SCHEDULE X-4

(See Section 122)

Items on which funds of trade union can be spent on political and civic purposes.

1. The payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Constitution or of any local authority, before, during, or after the election in connection with his candidature or election.
2. The holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidates.
3. The maintenance of any person who is a member of any legislative body constituted under the Constitution or of any local authority.
4. The registration of electors or the selection of a candidate for any legislative body constituted under the Constitution or for any local authority.
5. The holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

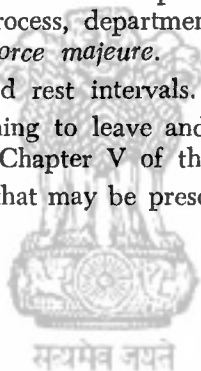


SCHEDULE XIV-1

(See Section 163)

Matters in respect of which notice of change is to be given by the employee.

1. Wage fixation including the wage-scales, the period and the mode of payment.
2. Fixation of dearness allowance, compensatory and other allowances.
3. Payment of bonus and payment under incentive schemes.
4. Classification of employees into wage categories or grades.
5. Rationalisation or other efficiency systems of work.
6. Retrenchment or reduction of permanent employees in any occupation, process, department, departments or a shift not due to *force majeure*.
7. Hours of work and rest intervals.
8. All matters pertaining to leave and holidays other than those specified in Chapter V of the Code.
9. Any other matter that may be prescribed.



SCHEDULE XIV-2

(See Section 163)

Form of notice of change by the employee

Address :

Date :

To

Name of the employer

Address



Dear Sir,

In accordance with the provisions of Section 163 of the Labour Code, I/we beg to inform you that I/we desire that your management should grant to the employee the demands specified in the Annexure to this notice of change.

Yours faithfully,

SCHEDULE XIV-3

(See Sections 164, 165 and 167)

Form of Memorandum of Settlement

Names of parties :

Representing employer(s) :

Representing employees :

SHORT RECITAL OF THE CASE

Whereas a dispute(s) has/have arisen between

-----and-----in the matter of

and whereas negotiations and discussions have been carried on by and between the parties, the parties have now arrived at a settlement of the said dispute(s) as per the following terms :

TERMS OF SETTLEMENT

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.

10. (a) All differences or disputes which arise in respect of this settlement or of interpretation thereof shall be referred to an arbitrator agreed to between the parties and failing agreement the arbitrator to be nominated by the

principal judicial authority appointed under Chapter XI having jurisdiction to decide the dispute.

(b) All disputes in respect of individual employees shall be similarly referred for arbitration to the arbitrator so appointed under clause (a) during the currency of this settlement.

11. This settlement shall remain in operation for a period of-----from the date hereof.

Witnesses :

Signature of the parties

1.-----

2.-----

-----dated this-----day of-----19

*Before me



*Chief Conciliator/Conciliator/Judicial Authority

*Strike out if not applicable.

SCHEDULE IV-4

(See Section 167)

Form of notice of change by the employer

Address :

Date :

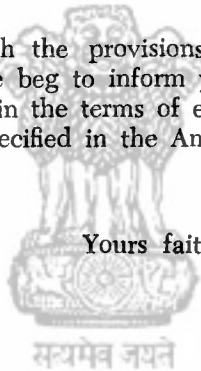
To

Name of registered/recognised
Trade Union,
Address

Dear Sir,

In accordance with the provisions of Section 167 of the Labour Code, I/we beg to inform you that I/we desire to effect the change/s in the terms of employment and conditions of service as specified in the Annexure to this notice of change.

Yours faithfully,



SCHEDULE XIV-5

(See Section 168)

Approach letter in respect of matters in Schedule XIV-6
Part-A

Address :

Date :

To

Name of the employer
Address

Dear Sir,

I/we (on behalf of the employees employed in your establishment) claim the following reliefs/benefits to them in respect of the matters mentioned in Schedule XIV-6-Part A of the Labour Code. The benefits may kindly be granted to me/us/the employees concerned within a fortnight hereof.

Yours faithfully,

Signature of employee(s)/
Secretary Registered/Recognised
Trade Union

Particulars of benefits claimed from the employer
(State the benefits in detail)

SCHEDULE XIV-6

(See Section 166 and 168)

PART A

Matters within the jurisdiction of the Labour Court.

1. Justifiability or legality of an order passed by an employer under the standing orders.
2. Application for interpretation of the standing orders.
3. Variation of statutory standing orders.
4. Discharge or dismissal of an employee including reinstatement of or grant of relief to employees wrongfully dismissed including adjudication upon the justifiability of the order of the employer on merits and quantum of punishment imposed.
5. Permanency.
6. Withdrawal of any customary concession or privilege.
7. Illegality or otherwise of a strike, stoppage, lockout.
8. Compensation for—
 - (i) Lay-off;
 - (ii) Retrenchment.
9. Cash benefits in respect of—
 - (i) sickness;
 - (ii) maternity;
 - (iii) disablement due to injury, accident or occupational disease.
10. Claims on account of provident fund, gratuity.
11. Monetary computation in lieu of non-monetary benefits under a settlement or an award or under the terms and conditions of service and employment.
12. Claims in respect of deduction or delay in payment of wages, arrears of wages, overtime wages, wages for weekly off, dearness allowance, any other allowance or any other monetary benefit due to an employee under the terms of employment and conditions of service or a settlement.

13. Claim for bonus, production bonus or bonus under incentive scheme in force in the establishment.
14. Any other matter that may be prescribed.

PART B

Matters within the jurisdiction of Industrial Tribunals.

1. Fixation of remuneration including period and mode of payment.
2. Classification of employees into wage categories or grades.
3. Introduction of incentive payment schemes and terms thereof.
4. Rationalisation, automation or any other efficiency system of work.
5. Retrenchment and closure of establishment.
6. Conditions of service including weekly hours, spread-overs, opening and closing hours, shift working.
7. De-casualisation scheme.
8. Contract labour system.
9. Appeals from the orders of the Labour Court, Social Security Corporation, Registrar of Unions, Director of Labour (Administration.)
10. Any other matter that may be prescribed.