

INDUSTRIAL RELATIONS CODE, 2020

A ROAD MAP FOR TRANSITIONING FROM
THE OLD LABOUR LAWS TO THE NEW
LABOUR CODES

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THE NEW FOUR CODES WILL REPLACE THE FOLLOWING EXISTING LABOUR LAWS

NEW LABOUR CODES

THE CODE ON WAGES, 2019	THE CODE ON SOCIAL SECURITY, 2020	THE INDUSTRIAL RELATIONS CODE, 2020	THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020
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EXISTING LABOUR LAWS

Payment of Wages Act, 1936	The Employees Compensation Act, 1923	The Trade Unions Act, 1926	The Factories Act, 1948
The Minimum Wages Act, 1948	The Employees State Insurance Act, 1948	The Industrial Employment (Standing Orders) Act, 1946	The Plantation Labour Act, 1951
The Payment of Bonus Act, 1965	The Employees Provident Fund And Miscellaneous Act, 1952	The Industrial Disputes Act, 1947	The Working Journalists (Fixation of Rates of Wages Act, 1958)
The Equal Remuneration Act, 1976	The Employment Exchange (Compulsory Notification) Act, 1959		The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

THE NEW LABOUR CODES

THE NEW FOUR CODES WILL REPLACE THE FOLLOWING EXISTING LABOUR LAWS

THE NEW LABOUR CODES

The Maternity Benefit
Act, 1961

The Payment Of Gratuity
Act, 1972

The Cine-Workers
Welfare Fund Act, 1981

The Building And Other
Construction Workers'
Welfare Cess Act, 1996

The Unorganized
Workers' Social Security
Act, 2008

The Motor Transport
Workers Act, 1966

The Contract Labour Act,
1970

The Sales Promotion
Employees (Conditions
of Service) Act, 1976

The Inter-State Migrant
Workmen (Regulation of
Employment and
Conditions of Service)
Act, 1979

The Cine-Workers and
Cinema Theatre Workers
(Regulation of
Employment) Act, 1981

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THE NEW LABOUR CODES

The Dock Workers
(Safety, Health and
Welfare) Act, 1986

The Building and Other
Construction Workers
(Regulation of
Employment and
Conditions of Service)
Act, 1996

The Mines Act, 1952

The Beedi and Cigar
Workers (Conditions of
Employment) Act, 1966

THE NEW LABOUR CODES

PREAMBLE

Code on Wages, 2019

An Act to amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental thereto.

Code on Social Security, 2020

An Act to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors and for matters connected therewith or incidental thereto.

Industrial Relations Code, 2020

An Act to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto.

Occupational Safety, Health and Working Conditions Code, 2020

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

DEFINITIONS

Definition of 'Appropriate Govt.'

'Appropriate Government' [Sec. 2(b)]

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

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

DEFINITIONS

Definition of 'Appropriate Govt.'

'Appropriate Government' [Sec. 2(b)]

In relation to any other industrial establishment, including State public sector undertakings, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.

DEFINITIONS

Definition of 'Worker'

Worker [Sec. 2(zr)]

"Worker" means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists as defined in clause (f) of section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 and sales promotion employees as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

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

Provided that for the purposes of Chapter III, "worker"—

(i) means all persons employed in trade or industry; and

(ii) includes the worker as defined in clause (m) of section 2 of the Unorganised Workers' Security Act, 2008.

Definition of 'Employee.'

DEFINITIONS

'Employee' [Sec. 2(l)]

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

Definition of 'Employer'

DEFINITIONS

'Employment' [Sec. 2(m)]

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

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

DEFINITIONS

Definition of 'Fixed-term Employment'

'Fixed term employment' [Sec. 2(o)]

"Fixed term employment" means the engagement of a worker on the basis of a written contract of employment for a fixed period:

Provided that—

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

Definition of 'Industry'

DEFINITIONS

Industry [Sec. 2(p)]

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

- any capital has been invested for the purpose of carrying on such activity; or
- such activity is carried on with a motive to make any gain or profit, but does not include—
 - (a) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or
 - (b) any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or
 - (c) any domestic service; or
 - (d) any other activity as may be notified by the Central Government;

DEFINITIONS

Definition of 'Industrial Disputes'

Industry [Sec. 2(q)]

"Industrial dispute" means any dispute or difference between employers and employers or between employers and workers or between workers and workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person and includes any dispute or difference between an individual worker and an employer connected with, or arising out of discharge, dismissal, retrenchment or termination of such worker.

DEFINITIONS

Definition of 'Retrenchment'

Retrenchment [Sec. 2(zh)]

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

- voluntary retirement of the worker; or
- retirement of the worker on reaching the age of superannuation; or
- termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer and the worker concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- termination of service of the worker as a result of completion of tenure of fixed term employment; or
- termination of the service of a worker on the ground of continued ill-health.

Definition of 'Settlement'

Settlement [Sec. 2(zi)]

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

DEFINITIONS

Definition of 'Strike'

Strike [Sec. 2(zk)]

DEFINITIONS

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

Definition of 'Wages'

Meaning and Inclusions	Specified exclusions	Conditional inclusions	Value of remuneration in kind
<p>Means all remuneration whether by way of salaries, allowances or otherwise expressed in terms of money or capable of being so expressed which would, in terms of employment, express or implied where fulfilled, be payable to a person employed in respect of his employment, and includes -</p> <ul style="list-style-type: none"> • Basic Pay; • Dearness allowance; and • Retaining allowance, if any 	<ul style="list-style-type: none"> • Statutory bonus payable but not forming part of remuneration • Value of house accommodation and utilities (such as light, water, medical attendance, etc.) • Employer contribution to provident fund/pension together with accretions, • Conveyance allowance or value of travelling concession; • Sum paid to defray special expenses due to nature of work • House rent allowance • Remuneration payable under any award settlement; • Any overtime allowance • Any commission payable • Any gratuity payable on termination; • Any retrenchment comp/benefit payable or ex gratis payment made 	<p>Where the aggregate of specified exclusions as highlighted.</p> <ul style="list-style-type: none"> • exceeds one-half or such other notified percentage of all • amount which exceeds such one-half or other percent, so notified. • shall be deemed as remuneration & shall accordingly be added under this clause <p>Conveyance value of travel concession, house rent allowance, remuneration payable under award or settlement and overtime allowance shall be taken for computation of wage - for the purpose of equal wages to all genders</p>	<p>Where an employee is given remuneration in kind</p> <ul style="list-style-type: none"> • in lieu of other the whole be part of the wages payable to him • value of such remuneration as does not exceed 15% of total wages payable to him <p>Shall be deemed to form part of wages of such employee.</p>

WORK COMMITTEE

Works Committee

(Section 3 Rule 3)

Works Committee [Sec. 3] :

Works Committee to be constituted in an industrial establishment employing **100 or more workers**.

- **Objective:** To promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavor to compose any material difference of opinion in respect of such matters.
- **Representation:** Equal number of representatives of employer and workers engaged in the establishment.
- To be only constituted upon the order of the appropriate Government.

GRIEVANCE REDRESSAL COMMITTEE

Grievance Redressal Committee (GRC)

(Section 4 & Rule 4)

Grievance Redressal Committee [Sec. 4] : (Mandatory)

GRC to be constituted in every industrial establishment employing **20 or more workers**.

- **Objective:** For resolution of disputes arising out of individual grievances.
- **Representation:** Equal number of representatives of employer and workers engaged in the establishment.
- **Maximum number** of members increased to 10 workers from 6. (In the erstwhile ID Act)
- Chairman of GRC will be elected among the members , alternately on rotational basis every year
- **Adequate representation of women workers-** proportionate to total workers employed.
- **Limitation Period:** Application to be raised within One Year from the date of cause of action to the GRC
- Application : Name , designation , Deptt, E.Code No. etc with details of grievance (Rule 5)
- **Proceedings:** to be completed within 30 days and decided by majority view of GRC
- **Conciliation:** The aggrieved worker may file application within 60 days to conciliation officer in case of no resolution.
- **Adjudication:** Application can be filed directly to the Tribunal for adjudication within 45 days of application made to conciliation officer.
- **Limitation Period for raising dispute to Tribunal:** Two years from the date of discharge, dismissal, retrenchment or otherwise termination of service.

Registration & Recognition as Negotiating Union

(Chapter –III)

TRADE UNION

Registration of Trade Unions [Sec. 6] : 7 or more members may apply for registration

- A Trade Union with 10 % of total strength or 100 workers, whichever is less, employed in the industrial establishment or industry can apply for registration [but in any case the number cannot be less than 7 members]. **Section 7 to 9** (procedure of registration) **Section 10** : Appeal for not granting or cancellation

Recognition [Sec.14]:

- The employer has to recognize a Trade Union registered in any industrial establishment as a sole negotiating union of workers.
- If there are more than one Trade Union, such union having 51% or more workers as its member shall be the "Sole negotiating union of workers".
- Recognition shall be valid for 3 years, with maximum up to 5 years .

Recognition of Trade Unions at Central & State Level [Sec. 27]:

- A Trade Union or Federation of Trade Unions may be recognized by the Central & State Governments, as Central Trade Union at the Central level, and State Trade Union at State level.

Negotiating Union Council

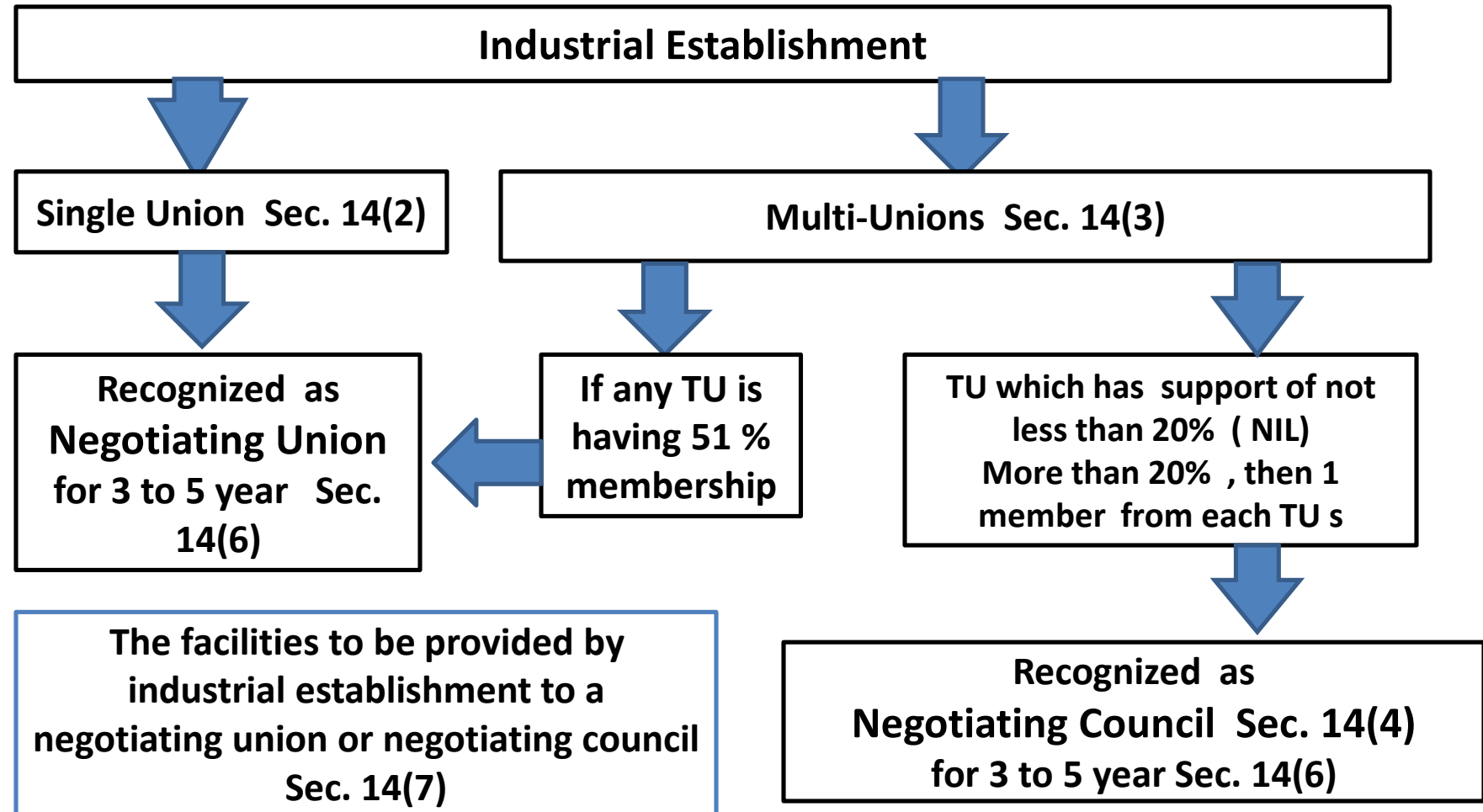
Registration of Trade Unions [Sec. 5]

- If no union is having 51% support, then the employer will form a Negotiating Council consisting of representatives of such Registered Trade Unions having not less than 20% members [Sec. 14(4)].
- Such representation shall be one representative for each 20% workers.
- Settlement will be signed if it is agreed by the majority of the representatives of the TU in such negotiating council.
- If a member does not contribute to the Fund of trade union, he shall not be excluded from any benefits [Sec. 15(3)].

Disputes of Trade Unions [Sec. 22]: Intra Trade Union Disputes to be decided by the Tribunal having jurisdiction.

One Trade Union and another , one or more workers having dispute of membership ,registration or admin. or refusal of membership

Concept of 'Negotiating Union' & Negotiating Council



Standing Orders

STANDING ORDERS

Applicability:

- The IR Code provides the applicability of Chapter IV relating to **Standing Orders** to industrial establishment employing **300 or more workers** on any day of the preceding 12 months [Section 28].

STANDING ORDERS

Model & Submission of draft Standing Orders for Certification

Model Standing Orders:

- The Central Government shall make model standing orders [Sec. 29]. Thus, the State Governments are deprived from notifying the model standing orders.
- **Adoption of Model Standing Orders:** The model standing orders shall be deemed to have been adopted by an industrial establishment in the absence of certified standing orders and the employer is required to send information in this regard.

Certification of Draft Standing Orders: Section 30

- Within a period of 6 months from the application of this Code, every employer needs to prepare a draft Standing Orders after consulting the negotiating trade union and submit the same for certification to the certifying officer.
- The draft standing orders shall be deemed to be certified after the expiry of 60 days from the date of receipt.
- The standing orders will be certified if it contained the provisions relating to matters set out in the First Schedule and are in conformity with the provisions of the Code.

Continued application of existing certified Standing Orders [Sec.30(11)]:

- The certified standing orders already applicable on the industrial establishment shall be deemed to be standing orders certified under this Chapter to the extent these are not inconsistent with the provisions of this IR Code.

Continued.....

STANDING ORDERS

Appeals [Sec.32]:

- An appeal against the order of certifying officer can be filed within 60 days of receipt of order to the appellate authority appointed by the appropriate Government.

Date of operation of Standing Orders [Sec.33]:

- The Standing Orders shall come in to operation after the expiry of 30 days from the date of dispatch of certified copies by the certifying officer.

Modification of Standing Orders [Sec.34]:

- The certified standing orders can be modified with prior consultation between the employer and negotiating council, after expiry of 6 months from the date on which the standing orders or the last modifications thereof came into operation.

Power to Exempt [Sec.39]:

- The appropriate Government may exempt, any industrial establishment or class of industrial establishments from all or any of the provisions of Chapter IV.

Prosecution for failure to submit draft standing orders [Sec.86(10)]:

- In case of failure to submit draft standing orders or modifying it without prior approval, attracts a punishment of fine which shall not be less than Rs. 50,000, but may extend to Rs. 2,00,000 and in case of a continuing offence with an additional fine of Rs, 2000 per day till the offence continues.

STANDING ORDERS

KEY FEATURES OF THE DRAFT MODEL STANDING ORDERS PUBLISHED BY THE CENTRAL GOVT

1. Probationary Period

- Should ordinarily be 6 months
- Can be extended to a maximum period of further 3 months.
- Does not talk about deemed permanency.

2. Fixed Term Employment

- Eligible for proportionate benefits not less than that of a permanent worker doing same work or work of similar nature.
- Becomes eligible for gratuity upon working for one year.
- Pro rata gratuity for every completed year of service.

3. Identity Card has to be issued

- It is to always be worn.
- To be surrendered at the time of suspension or termination/cessation of employment.

4. Publication of information

- Working hours, as specified in the terms of agreement, are to be published on the HRMS portal.

STANDING ORDERS

KEY FEATURES OF THE DRAFT MODEL STANDING ORDERS PUBLISHED BY THE CENTRAL GOVT

- Holidays, pay rates and wages are to also be published
- Can be made to work on holidays, but benefits are to be paid as per established law (like the S&E Act).
- Any change has to be duly notified and information has to be given.

5. Wage Bands

- Wage bands for all workers are to be fixed.

6. Work From Home

- At the discretion of employer.

7. Late Coming

- Any worker, reporting late than the scheduled time for reporting shall not be permitted to enter his department or section, unless permitted by the express permission of the manager, or any other officer, duly authorized for such purpose.
- A worker shall be deemed absent, if he/she fails to attend duty, unless he has obtained written permission for such absence from the manager or the Officer authorized in this behalf.
- A worker who habitually comes late and remains absent will be liable to deduction of wages

STANDING ORDERS

KEY FEATURES OF THE DRAFT MODEL STANDING ORDERS PUBLISHED BY THE CENTRAL GOVT

8. Leaves

- No leave can be taken as a matter of right.
- To be applied atleast 7 days before.
- Late application to be accompanied with reasons.
- Reasons for refusal to be given.
- Extension at the discretion of the management.
- No alternate employment to be taken up while on leave.
- 10 days of casual leave
- Maximum 3 days at once, in case of sickness

9. Service Record

- To be maintained for all workers.
- Experience letter to be issued, even if terminated.
- At the discretion of employer.
- Background verification.
- Date of birth cannot be changed later.

STANDING ORDERS

KEY FEATURES OF THE DRAFT MODEL STANDING ORDERS PUBLISHED BY THE CENTRAL GOVT

10. Superannuation/Retirement

- 58 years, unless otherwise agreed.

11. Transfer

- To be carried out as per transfer policy.
- Can be transferred as per exigencies of work
- No change in service conditions.
- Can even be transferred from one job to another, which he is capable of doing.
- Date of birth cannot be changed later.
- Transfer to another state only when provided in the service conditions/appointment letter.
- Reasonable notice before transfer.
- Reasonable time for joining.
- Allowance to be provided.
- Deputation or assignment to another team or department, whether in or outside India is also possible.

STANDING ORDERS

KEY FEATURES OF THE DRAFT MODEL STANDING ORDERS PUBLISHED BY THE CENTRAL GOVT

12. Medical Examination

- Mandatory at the instance of the management.

13. No dissemination of confidential information

14. No Moonlighting

NOTICE OF CHANGE

Notice of Change & Power to Exempt

Notice of Change [Sec. 40]

- An employer who proposes to effect any change in the conditions of service as specified in the Third Schedule, is required to give at least 21 days prior notice. Exceptions: No notice would be required, if:
 - (a) the change is effected in pursuance of any settlement or award;
 - (b) in case of emergent situation which requires change of shift or shift working, otherwise than in accordance with standing orders, in consultation with Grievance Redressal Committee;
 - (c) such change is effected in accordance with the orders of the appropriate Government.

Power to Exempt [Sec.41]:

- In case the application of this provision affects the employer so prejudicially and cause serious repercussions on the industry and the public interest so requires, the appropriate Government may exempt, any class of industrial establishments or any class workers, from this provision either conditionally or unconditionally.

Voluntary Reference of Disputes to Arbitration

Voluntary reference of disputes to arbitration [Sec. 42]

- An industrial disputes (existing or apprehended) can be voluntarily referred to arbitration by the employer as well as the workers. The parties to the dispute are required to execute a written agreement referring the dispute to an arbitrator.
- The employer or workers who are not parties to the arbitration agreement but are concerned in the dispute will get an opportunity of presenting their case before the arbitrator(s).
- The arbitration award shall be passed by majority decision of the arbitrators and in case the opinion is equally divided, the award of umpire shall prevail.
- Pending arbitration proceedings the appropriate Government may prohibit the continuance of any strike or lock-out connected with the dispute as may be in existence on the date of the reference.
- Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section.

Mechanism for Resolution of Industrial Disputes

Industrial Tribunals [Sec. 43]

- The Central Government and State Government shall constitute Industrial Tribunals for adjudication of industrial disputes.
- The Industrial Tribunal constituted by the Central Government shall also hear the Appeals in the matters arising out of Employees' Provident Fund.

Two member Bench:

The Industrial Tribunals shall consist of two members appointed by the appropriate Government, out of whom one will be Judicial Member and other an Administrative Member not below the rank of Joint Secretary. Jointly the two member bench will hear the cases relating to following matters:-

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

Mechanism for Resolution of Industrial Disputes

- The remaining cases shall be decided by either of the two member.
- **Presiding Officer:** The Judicial member shall preside over the Tribunal [Sec. 44(8)].
- **Majority Decision:** The decision of a Tribunal shall be by consensus of the members. In case of difference of opinion, the matter will be referred to appropriate Government, who will appoint a Judicial member of other Tribunal who will hear the points and decide. According the majority decision will prevail and Award would be passed [Sec. 47(3)].
- **Deemed Civil Court for Execution of Award:** Every award shall be executed in accordance with the execution procedure laid down under the CPC, and accordingly the Tribunal shall be deemed to be a Civil Court [Sec. 49(9)].
- **Power to grant Interim Relief:** The Tribunal has been conferred with the power to grant interim relief to the workers during the pendency of adjudication proceedings [Sec.50(2)].
- **Transfer of Proceedings:** The cases pending before the Labour Courts shall stand transferred to the Industrial Tribunals and same shall be dealt with de-novo or from its stage at which were pending, as the Tribunal may deem fit [Sec.51(2)].

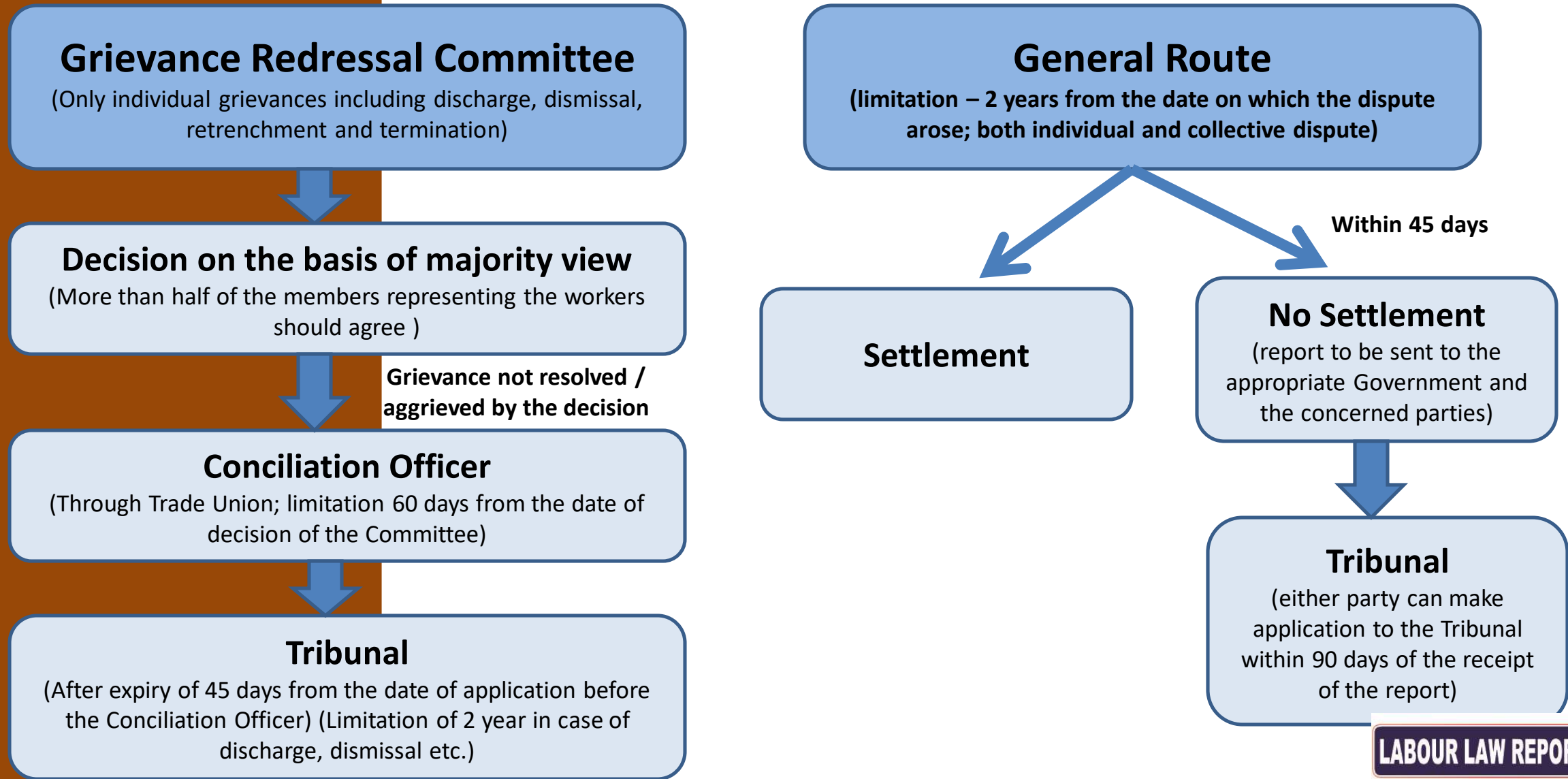
INDUSTRIAL DISPUTES

Limitation Period for Raising Industrial Disputes

Limitation Period for raising industrial Disputes [Sec. 53]:

- **Limitation period for raising industrial dispute with the Conciliation officer:** The conciliation officer is prohibited from holding conciliation proceedings , if it is raised after two years from the date on which such industrial dispute arose [Sec. 53].
- Now the worker has to raise an Industrial dispute within the time limit of 2 years instead of 3 years in the erstwhile ID Act.
- **Time frame to conclude Conciliation Proceedings:** to conclude the conciliation proceedings within 45 days of commencement of such proceedings and to send a report to the concerned parties. In cases of strike or lock-out the period for concluding the conciliation proceedings and to send the report is **14 days**.
- **Limitation Period for raising dispute to Tribunal:** After the receipt of the report from the conciliation officer, the parties concerned has to approach the **Industrial Tribunal within 90 days** from receipt of such report [Sec.53(6)].
- **Power to make reference curtailed:** Except the reference to National Tribunal in the cases involving question of national importance or of industrial establishments situated in more than one State.
- **Payment of full wages to worker pending proceedings in higher Courts [Sec. 56]:** Where the employer has challenged the Award of reinstatement in the higher Courts, he is liable to pay such worker, during the pendency of proceedings, full wages last drawn by such worker.

Dispute Raising Mechanism



Settlement and Award

- **Enforceability of Award:** An award shall become enforceable on expiry of 30 days from the date of its communication to the concerned parties [Sec. 55(3)].
- **Persons on whom settlements & Awards are binding [Sec.57]:**
 - If the settlement is arrived outside the conciliation proceedings, it shall be binding on the parties to the agreement.
 - In case a settlement is arrived during the course of conciliation proceedings, it shall be binding on –
 - (a) all parties to the dispute;
 - (b) all other parties summoned to appear;
 - (c) the legal heirs of the employer;
 - (d) all workers employed in the establishment, and all persons who subsequently become employed that in establishment.

Period of Operation of Settlements

Period of Operation of Settlements [Sec. 58]

- Settlement shall come in to operation on such date as is agreed upon by the parties.
- If no date is agreed upon, the settlement will come in to operation on the date of which the memorandum of settlement is signed.
- Settlement shall be binding for a period of 6 months the date of which the memorandum of settlement is signed, and shall continue to be binding until the expiry of 60 days from the date of notice to terminate the settlement is given.

Recovery of Money and Execution of Award

Recovery of money & Execution of Award [Sec. 59(1)]

- Any money due to a worker under settlement or Award or payment of any lay-off, retrenchment or closure compensation is due, the worker may make an application to the appropriate Government for recovery of money due to him and same may be recovered from the employer as an arrear of land revenue.
- **Limitation Period:** One year from the date on which money become due to the worker.

Computation of benefit or Money due [Sec.59(2)]:

- Where any worker is entitled to receive from the employer any money or any benefit which is capable to being computed in terms of money and if the question arises as to the amount of money due or as to the amount at which such benefit should be computed, the worker may file an application to the Industrial Tribunal.
- **Limitation Period:** No limitation period prescribed for raising such claims.

Commencement & Conclusion of Proceedings

Before Conciliation Officer

- **Commencement of Conciliation Proceedings [Sec. 60(1)]:** Conciliation proceedings shall be deemed to have commenced on the date of first meeting is held after receipt of notice of strike or lock-out.
- **Conclusion of Conciliation Proceedings [Sec. 60(2)]:** Conciliation proceedings shall be deemed to have concluded:
 - (a) Where a settlement is arrived at;
 - (b) On recording of failure of conciliation, where no settlement is arrived at;
 - (c) when a reference is made to National Tribunal.

Before the Industrial Tribunal

- **Commencement of Proceedings before tribunal etc. [Sec. 60(3)]:** The proceedings shall be deemed to have commenced in the tribunal etc. on the date of filing of application or appeal or date of reference of dispute.
- **Conclusion of Proceedings before tribunal etc. [Sec. 60(3)]:** The proceedings shall be deemed to have concluded on the date on which the award becomes enforceable.

Strikes & Lock-outs

- **Notice of Strike [Sec. 62]:** The Code prohibits strikes or lock-outs in any establishment unless a prior notice of 14 days is provided. Similar provisions existed in the Industrial Disputes Act, 1947 for public utility services (such as, railways and airlines). The Code expands these provisions to apply to all industrial establishments. This will impact the ability of workers to strike and employers to lock-out.
- **Illegal Strike [Sec. 63]:**
 - A strike or lock-out shall be illegal, if it is –
 - (a) Commenced without giving prior notice
 - (b) Continued in contravention of express prohibition declared by appropriate Government during pendency of arbitration proceedings.
- **Consequence of illegal Strike [Sec. 63(3)]:** If workers or Trade union resorted to an illegal strike and in consequence, the employer declared a lock-out without giving prior notice required under the Code, then such lock-out declared in consequence of illegal strike shall not be deemed to be illegal. Similar provisions apply for illegal lock-out also.

Lay Off, Retrenchment & Closure

Particulars	Seasonal establishments Or Establishment employing < 50 workers [Sec.65]	Employing 50 or more but less than 300 workers [Chapter IX]	Employing 300 or more workers [Chapter X] Special Provisions (only applicable to factories, mines and plantations)
Lay-off	Not covered under the Code	Employer has to give Notice of Lay-off to the appropriate Govt. (only for factories, mines and plantations)	After obtaining prior permission from appropriate Government [Sec.78]. However, no permission required if lay-off is due to shortage of power or natural calamity
Lay-off Compensation	Full wages in absence of service rules / employment agreement / standing orders	50% of total of the total of basic wages and DA [Sec.67] (only for factories, mines and plantations)	50% of total of the total of basic wages and DA [Sec. 78(10) r/w Sec. 67]
Retrenchment	notice or wages in lieu of notice in accordance with contract of service	1 month's notice or wages in lieu of notice [Sec.70]	3 month's notice or wages in lieu of notice
Retrenchment Procedure	Statutory procedure	By observing the procedure of retrenchment [Sec. 70, 71 & 72]	After obtaining prior permission from appropriate Government [Sec.79]
Retrenchment Compensation	15 days wages for every completed year of service or any part thereof in excess of six months	15 days wages for every completed year of service [Sec.70]	15 days wages for every completed year of service [Sec. 79(9)]
Closure of undertaking	As per the exigencies of business – no notice is to be given	At least 60 days prior notice of intended closure [Sec. 74]	After obtaining prior permission from appropriate Government by filing application at least 90 days before intended closure [Sec.80].
Closure Compensation	notice or wages in lieu of notice in accordance with contract of service and retrenchment compensation.	1 month's notice or wages in lieu of notice, and 15 days wages for every completed year of service [Sec.75 r/w Sec. 70]	3 months notice / 15 days wages for every completed year of service [Sec. 80(8)]

Procedure for Retrenchment

Following are the conditions precedent to retrenchment:

- Worker who has completed one year of service can be retrenched, if he is given
- **Notice** of one month or wages in lieu of such notice ;
- **Retrenchment compensation** equal to 15 days wages for every completed year of service;
- **Last come first go**- The employer shall ordinarily retrench the worker who was the last person to be employed in that category
- **Re-employment of retrenched worker**: Post retrenchment, if the employer proposes to take into employment any person within one year of such retrenchment, he is required to give an opportunity to the retrenched workers to offer themselves for re-employment and such retrenched workers who offer themselves for re-employment shall have preference over other persons.

Compensation and notice pay should be paid at or before the time retrenchment.

Worker Re-skilling Fund only 15 days Payment – Shall be Notified

Worker Re-skilling Fund [Sec. 83] :

The appropriate Government shall, by notification, set up a fund to be called the worker re-skilling fund which shall consist of

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

The fund will be utilised by crediting the 15 days wages to the account of retrenched worker, within a period of 45 days of such retrenchment.

Contributions to the worker re-skilling fund: The IR Code stipulates that every employer retrenching its employees will be required to make a contribution to the worker re-skilling fund of an amount equal to 15 days' wages last drawn by every impacted worker. The provision applies '*in case of retrenchment only*'. Thus, it does not cover the cases arisen out of mass redundancies in the scenario of closure of an establishment, and accordingly avoids a significant financial liability in cases of closure.

Unfair Labour Practices

Unfair Labour Practice [Sec. 84] :

Employer, worker and Trade Unions are prohibited from committing any unfair labour practice specified in Second Schedule of the Code. **Glow-slow included in the Unfair Labour Practice**

First Offence: In case of violation of section 84, employer can be prosecuted under section 86 (5) and shall be liable for punishment with a minimum fine of Rs. 10,000/- that may extend up to Rs. 2,00,000/-.

Repeat Offence: In case of second or subsequent offence, the person shall be punished with a minimum fine of Rs. 50,000/- that may extend to Rs. 5,00,000/- or with imprisonment which may extend to 3 months or with both.

Offences & Composition thereof

- The Code provides for strict punishments for contravening various provisions of the Code. The fine may extend from **Rs. 20,000 to Rs. 20,00,000/-** and certain offences may be punishable with imprisonment up to 6 months.
- The Enhanced penalties will be imposed on the employer who is again found guilty of a similar offence already committed by him. The quantum of penalties for repeat offences has been increased, and certain repeat offences may be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty lakhs rupees or both.
- **Composition of Offence:** The IR Code provides for compounding of offence with punishment of fine only OR the offence is punishable with imprisonment for a term which is not more than one year or with fine. **Thus, there would not be any compounding in cases the offence is punishable with only imprisonment or where the punishment is with imprisonment for more than one year or with fine.**
- **Cooling-off Period of three years** – after the expiry of 3 years and on the occurrence of same violation, it shall not be treated as second or repeat offence and same can be compounded.
- The compounding money shall be a sum equivalent to 50% of the maximum fine provided for such offence punishable with fine only and for a sum of 75% if such offence is punishable with imprisonment for a term which is not more than one year, or with fine. The amount of composition shall be credited to the Social Security Fund. [Sec. 89]

Provisions Retained

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings. (Sec.90)

Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings. (Sec.91)

Representation of Parties

(Sec.94)

A worker who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

- any member of the executive or other office-bearer of a registered Trade Union of which he is a member;
- any member of the executive or other office-bearer of a federation of Trade Unions to which the Trade Union referred to in clause (a) is affiliated;
- where the worker is not a member of any Trade Union, any member of the executive or other office-bearer of any Trade Union connected with, or by any other worker employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Code by—

- an officer of an association of employer of which he is a member;
- an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;
- where the employer is not a member of any association of employers, an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

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

Notwithstanding anything contained in sub-section (3), in any proceeding before a Tribunal or a National Industrial Tribunal, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Tribunal or National Industrial Tribunal, as the case may be.

Power to Remove Difficulties

- The Central Government has the power to **make such provisions not inconsistent with the provisions of the Code, in order to remove any difficulty**, which arises in giving effect to the provisions of the Code on Wages.

Provided every such order must be made before **the expiry of a period of three years from the commencement of this Code.**

Offences & Penalties

Type of Offence	Punishment for First	Repeated Offence	Continuing Offence
S-78, 79, 80 Lay-off, Retrenchment, Closure without permission	Rs. 1,00,000 to 10,00,000/- [Sec. 86(1)] - Compoundable	Rs. 5,00,000 to 20,00,000/- and/or Imprisonment of 6 months [Sec. 86(2)] – Compoundable with 75% of maximum fine	
S-67,70,73,75 Non payment of dues to workmen on lay-off or retrenchment or deemed retrenchment or closure compensation	Rs. 50,000 to 2,00,000/- [Sec. 86(3)] - Compoundable	Rs. 1,00,000 to 5,00,000/- and/or Imprisonment of 6 months [Sec. 86(4)] – Compoundable with 75% of maximum fine	
Sec. 84 Unfair Labour Practice (Violation of Schedule-II)	Rs. 10,000 to 2,00,000/- [Sec. 86(5)] - Compoundable	Rs. 50,000 to 5,00,000/- and/or Imprisonment of 3 months [Sec. 86(6)] – Compoundable with 75% of maximum fine	
S-30, S-35 Failure to submit Draft Standing Orders or modification thereof	Rs. 50,000 to 2,00,000/- [Sec. 86(10)] - Compoundable		Rs. 2000/- per day till offence continues
Contravention of provision of Standing Orders	Rs. 1,00,000 to 2,00,000/- [Sec. 86(11)] - Compoundable	Rs. 2,00,000 to 4,00,000/- and/or Imprisonment of 3 months [Sec. 86(12)]– Compoundable with 75% of maximum fine	
Illegal Lock-out	Rs. 50,000 to 1,00,000/- and/or Imprisonment of 1 month [Sec. 86(14)] – Compoundable with 75% of maximum fine		
Breach of terms of settlement	Rs. 20,000 to 2,00,000/- and/or Imprisonment of 3 months [Sec. 86(17)] – Compoundable with 75% of maximum fine		Rs. 1000/- per day till offence continues
Breach of any other provision of the Code	Up to Rs.1,00,000/- Compoundable		

Repeal & Savings

[Sec. 104]

- From the date of implementation of this Code the following Central Act shall stand repealed:-
 - The Trade Unions Act, 1923;
 - The Industrial Employment (Standing Orders) Act, 1946 and
 - The Industrial Disputes Act, 1947.
- However, such repeal shall not affect anything done or any action taken under the provisions of the enactments so repealed including any rule, regulation, notification, nomination, appointment, order or direction made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code.

THANK YOU 😊

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