

Bill No. 186 of 2019

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING
CONDITIONS CODE, 2019

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Bill No. 186 of 2019

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING
CONDITIONS CODE, 2019

A

BILL

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

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Occupational Safety, Health and Working Conditions Code, 2019.

(2) It extends to the whole of India:

Provided that the provisions of this Code in so far as they relate to the beedi and cigar and plantation shall not be applicable in the State of Jammu and Kashmir:

Short title,
extent,
commencement
and
application.

Provided further that the provisions of this Code in so far as they relate to the mines shall extend to whole of India, including the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India as defined under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976.

5 80 of 1976.

(3) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

(4) It shall not apply to the offices of the Central Government, offices of the State Government and any ship of war of any nationality.

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Definitions.

2. (1) In this Code, unless the context otherwise requires,—

(a) “adolescent” shall have the same meaning as assigned to it in clause (i) of section 2 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986;

15 61 of 1986.

(b) “adult” means a person who has completed his eighteenth years of age;

(c) “agent” when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of such mine or of any part thereof;

20

(d) “appropriate Government” means—

(i) in relation to an establishment carried on by or under the authority of the Central Government or the establishment of, railways, mines, oil field, major ports, air transport service, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking or subsidiary companies set up by the central public sector undertakings or autonomous bodies owned or controlled by the Central Government, including establishment of contractors for the purposes of such establishment, corporation or other authority, central public sector undertakings, subsidiary companies or autonomous bodies, as the case may be, the Central Government; and

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(ii) in relation to any factory, motor transport undertaking, plantation, newspaper establishment and establishment relating to beedi and cigar including the establishments not specified in clause (i), the State Government of a State in which it or, as the case may be, they are situated;

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(e) “audio-visual production” means audio-visual produced in wholly or partly in India including animation, cartoon depiction and audio-visual advertisement including digital production or any of the activities in respect of making thereof;

(f) “audio-visual worker” means a person, who is employed, directly or through any contractor, in or in connection with the audio-visual production to work as an artiste including actor, musician, singer, anchor, news reader or dancer or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise, and his remuneration with respect to such employment in or in connection with the production of audio-visual does not exceed, where remuneration is by way of monthly wages or where such remuneration is by way of lump sum, in each case, the amount notified in this regard by the Central Government;

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(g) “building or other construction work” means the construction, alteration, repair, maintenance or demolition in relation to buildings, streets, roads, railways,

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tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, internet towers, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua-ducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the Central Government, by notification, but does not include any building or other construction work of any factory or mine or any building or other construction work employing less than ten workers or any building or other construction work related to residential property not employing the workers more than such number as may be notified by the Central Government from time to time;

(h) “building worker” means a person who is employed to do any skilled, semi-skilled or unskilled, manual, technical or clerical work for hire or reward, whether the terms of such employment are express or implied, in connection with any building or other construction work, but does not include any such person who is employed mainly in a managerial or supervisory or administrative capacity;

(i) “cargo” includes anything carried or to be carried in a ship or other vessel, or vehicle;

(j) “Chief Inspector-cum-Facilitator” means a Chief Inspector-cum-Facilitator appointed under sub-section (3) of section 34;

(k) “competent authority” means any authority notified by the appropriate Government to perform all or any of the functions of the competent authority under this Code and for such areas as may be specified in the notification;

(l) “competent person”, means a person or an institution recognised as such by the Chief Inspector-cum-Facilitator for the purposes of carrying out tests, examinations and inspections required to be done in an establishment having regard to—

(i) the qualifications and experience of the person and facilities available at his disposal; or

(ii) the qualifications and experience of the persons employed in such institution and facilities available therein:

Provided that in case of mines the competent person includes such other person who is authorised by the manager referred to in section 64 to supervise or perform any work, or to supervise the operation of machinery, plant or equipment and is responsible for such duties assigned to him and also includes a shot firer or blaster;

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

(n) “contractor”, in relation to an establishment, means a person, who—

(i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or

(ii) supplies contract labour for any work of the establishment as mere human resource and includes a sub-contractor;

(o) “controlled industry” means any industry the control of which has been transferred to the Union by any Central Act in the public interest;

(p) “day” means a period of twenty-four hours beginning at mid-night; 5

(q) “District Magistrate”, in relation to any mine, means the District Magistrate or the Deputy Commissioner, as the case may be, who is vested with the executive powers of maintaining law and order in the revenue district in which the mine is situated:

Provided that in case of a mine, which is situated partly in one district and partly in another, the District Magistrate for the purpose shall be the District Magistrate authorised in this behalf by the Central Government; 10

(r) “dock work” means any work in or within the vicinity of any port in connection with, or required, for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and includes— 15

(i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port; and

(ii) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks; 20

(iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area in board the ship or in the docks;

(s) “employee” means,—

(i) in respect of an establishment, a person (other than an apprentice engaged under the Apprentices Act, 1961) employed on wages by an establishment to do any skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied; and 25 52 of 1961.

(ii) a person declared to be an employee by the appropriate Government, 30

but does not include any member of the Armed Forces of the Union:

Provided that notwithstanding anything contained in this clause, in case of a mine a person is said to be “employed” in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not— 35

(a) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of dispatch and of gathering sand and transport thereof to the mine);

(b) in operations or services relating to the development of the mine including construction of plant therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations; 40

(c) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;

(d) in operations, within the premises of the mine, of loading for dispatch of minerals;

5 (e) in any office of mine;

(f) in any welfare, health, sanitary or conservancy services required to be provided under this Code relating to mine, or watch and ward, within the premises of the mine excluding residential area; or

10 (g) in any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations;

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

(i) in relation to an establishment which is a factory, the occupier of the factory;

20 (ii) in relation to mine, the owner of the mine or agent or manager referred to in section 64;

(iii) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director; and

25 (iv) contractor; and

(v) legal representative of a deceased employer;

(u) “establishment” means—

30 (i) a place where any industry, trade, business, manufacture or occupation is carried on in which ten or more workers are employed; or

(ii) a factory, motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation, in which ten or more workers are employed; or

(iii) a mine or dock work;

35 (v) “factory” means any premises including the precincts thereof—

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

40 (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

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

Explanation I.—For computing the number of workers for the purposes of this clause all the workers in (different groups and relays) a day shall be taken into account;

Explanation II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed as factory if no manufacturing process is being carried on in such premises or part thereof;

(w) “family”, when used in relation to a worker, means—

(i) spouse,

(ii) children including adopted children of the worker who are dependent upon him and have not completed the age of eighteen years, and

(iii) parents, grand-parents and widow sister, dependent upon such worker.

Explanation.—For the purposes of this clause, such dependents shall not be included who are, for the time being, getting such income from such sources, as may be prescribed by appropriate Government;

(x) “godown” means any warehouse or other place, by whatever name called, used for the storage of any article or substance required for any manufacturing process which means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as finished products;

(y) “hazardous process” means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, hazardous substances, wastes or effluents thereof would—

(i) cause material impairment to the health of the persons engaged in or connected therewith, or

(ii) result in the pollution of the general environment;

(z) “hazardous substance” means any substance or such quantity of the substance as may be prescribed by appropriate Government or preparation of which by reason of its chemical or physio-chemical properties or handling is liable to cause physical or health hazards to human being or may cause harm to other living creatures, plants, micro-organisms, property or the environment;

(za) “industrial premises” means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry, trade, business, occupation or manufacturing is being ordinarily carried on with or without the aid of power and includes a godown attached thereto;

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

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit;

but does not include—

(a) any activity of the Government relating to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; and

(b) any domestic service;

(zc) “Inspector-cum-facilitator” means an Inspector-cum-facilitator appointed under sub-section (1) of section 34;

(zd) “inter-State migrant worker” means any person who is recruited by—

(i) an employer in one State for employment in his establishment situated in another State; or

(ii) through a contractor in one State for employment in an establishment in another State,

under an agreement or other arrangement for such employment and draws wages not exceeding the amount notified by the Central Government from time to time;

(ze) “machinery” means any article or combination of articles assembled, arranged or connected and which is used or intended to be used for converting any form of energy to performing work, or which is used or intended to be used, whether incidental thereto or not, for developing, receiving, storing, containing, confining, transforming, transmitting, transferring or controlling any form of energy;

(zf) “manufacturing process” means any process for—

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(ii) pumping oil, water, sewage or any other substance; or

(iii) generating, transforming or transmitting power; or

(iv) composing, printing, printing by letter press, lithography, offset, photogravure screen printing, 3 or 4 Dimensional printing, prototyping, flexography or other types of printing process or book binding; or

(v) constructing, reconstructing, repairing, refitting, finishing, or breaking up ships or vessels; or

(vi) preserving or storing any article in cold storage; or

(vii) such other processes as the Central Government may notify;

(zg) “medical officer” means the medical officer appointed under sub-section (1) of section 42;

(zh) “mine” means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—

(i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;

(ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;

(iii) all levels and inclined planes in the course of being driven;

(iv) all open cast workings;

(v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

(vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine; 5

(vii) all protective works being carried out in or adjacent to a mine;

(viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;

(ix) all power stations, transformer sub-stations, converter stations, 10
rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;

(x) any premises for the time being used for depositing sand or other 15
material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;

(xi) any premises in or adjacent to and belonging to a mine or which 20
any process ancillary to the getting, dressing or preparation for sale of minerals or coke is being carried on;

(xii) a mine owned by the Government;

(zi) "minerals" means all substances which can be obtained from the earth 25
by mining, digging, drilling, dredging, hydraulic, quarrying, or by any other operation and includes mineral oils (such as natural gas and petroleum);

(zj) "motor transport undertaking" means a motor transport undertaking 30
employing motor transport worker and engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier;

(zk) "motor transport worker" means a person who is employed in a motor 35
transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend the duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but does not include any such person—

(i) who is employed in a factory;

(ii) to whom the provisions of any law for the time being in force 40
regulating the conditions of service of persons employed in shops or commercial establishments apply;

(zl) "newspaper" means any printed periodical work containing public news 45
or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government;

(zm) "newspaper establishment" means an establishment under the control 50
of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate and includes the following newspaper establishments which shall be deemed to be one establishment, namely:—

(a) two or more newspaper establishments under common control;

(b) two or more newspaper establishments owned by an individual and his or her spouse unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;

5 (c) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory.

10 *Explanation 1.*—For the purposes of sub-clause (a) two or more establishments shall be deemed to be under common control where—

(A) (i) the newspaper establishments are owned by a common individual or individuals;

(ii) the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;

15 (iii) the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;

20 (iv) one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;

25 (v) one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not; or

30 (B) where there is functional integrality between concerned newspaper establishments.

Explanation 2.—For the purposes of this clause,—

(i) different departments, branches and centres of newspaper establishments shall be treated as parts thereof;

35 (ii) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper.

40 (zn) “notification” means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression “notify” with its grammatical variation and cognate expressions shall be construed accordingly;

(zo) “occupier” of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

45 (i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof;

(ii) in the case of a company, any one of the directors, except any independent director within the meaning of sub-section (6) of section 149 of the Companies Act, 2013;

(iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority or such other authority as may be prescribed by the Central Government, 5

shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire, the owner of the dock shall be deemed to be the occupier for all purposes except the matters as may be prescribed by the Central Government which are directly related to the condition of ship for which the owner of ship shall be deemed to be the occupier; 10

(zp) “office of the mine” means an office at the surface of the mine concerned; 15

(zq) “open cast working” means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;

(zr) “ordinarily employed” with reference to any establishment or part thereof, means the average number of persons employed per day in the establishment or part thereof during the preceding calendar year obtained by dividing the number of man days worked by the number of working days excluding rest days and other non-working days; 20

(zs) “owner”, in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor or sub-lessee for the working of a mine or any part thereof shall be subject to this Code in like manner as if he were an owner but not so as to exempt the former from any liability; 25 30

(zt) “plantation” means— 35

(a) any land used or intended to be used for—

(i) growing tea, coffee, rubber, cinchona or cardamom which admeasures five hectares or more;

(ii) growing any other plant, which admeasures five hectares or more and in which persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification, so directs. 40

Explanation.—Where any piece of land used for growing any plant referred to in this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the piece of land first mentioned shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more; and 45 50

(b) any land which the State Government may, by notification, declares and which is used or intended to be used for growing any plant referred to in sub-clause (a), notwithstanding that it admeasures less than five hectares:

5 Provided that no such declaration shall be made in respect of such land which admeasures less than five hectares immediately before the commencement of this Code; and

10 (c) offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (a) and sub-clause (b); but does not include factory on the premises;

(zu) “prescribed” means prescribed by rules made by the appropriate Government, the Central Government or the State Government, as the case may be, under this Code;

15 (zv) “principal employer”, where the contract labour is employed or engaged, means—

(i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, may specify in this behalf;

20 (ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;

(iii) in a mine, the owner or agent of the mine;

(iv) in relation to any other establishment, any person responsible for the supervision and control of the establishment;

25 (zw) “producer”, in relation to audio-visual production means the person by whom the arrangements necessary for producing such audio-visual (including the raising of finances and engaging audio-visual workers for producing audio-visual) are undertaken;

30 (zx) “qualified medical practitioner” means a medical practitioner who possesses any recognised medical qualification as defined in clause (i) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled on a Indian Medical register as defined in clause (e) and on a State Medical register as defined in clause (k) of the said section;

102 of 1956.

35 (zy) “relay” means a set of two or more persons carrying out the same kind of work during different periods of the day and each such period is called a “shift”;

40 (zz) “sales promotion employees” means any person by whatever name called employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person who,—

(i) being employed or engaged in a supervisory capacity, draws wages exceeding fifteen thousand rupees per mensem or an amount as may be notified by the Central Government from time to time; or

45 (ii) is employed or engaged mainly in a managerial or administrative capacity;

(zza) “Schedule” means the Schedule appended to this Code;

(zzb) “serious bodily injury” means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the

use of any part or section of a body, or the permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(*zzc*) “standards”, “regulations”, “rules”, “bye-laws” and “orders” respectively means standards, regulations, rules, bye-laws and orders made under this Code; 5

(*zzd*) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector-cum-Facilitator;

(*zze*) “worker” means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees, but does not include any such person— 10

(*i*) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957; or 15 45 of 1950.
46 of 1950.
62 of 1957.

(*ii*) who is employed in the police service or as an officer or other employee of a prison; or

(*iii*) who is employed mainly in a managerial or administrative capacity; or 20

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

(*zzf*) “Working Journalist” means a person whose principal avocation is that of a journalist and who is employed as such, either whole-time or part-time, in, or in relation to, one or more newspaper establishment, or other establishment relating to any electronic media such as newspaper or radio or like other media and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who is employed mainly in a managerial, supervisory or administrative capacity; 25 30

(2) For the purposes of this Code, a person working or employed in or in connection with mine is said to be working or employed—

(*a*) “above ground” if he is working in an open cast working or in any other manner not specified in clause (*b*); and 35

(*b*) “below ground” if he is working or employed—

(*i*) in a shaft which has been or is in the course being sunk; or

(*ii*) in any excavation which extends below superjacent ground.

CHAPTER II

REGISTRATION 40

3. (*1*) Every employer shall,—

(*a*) in relation to an establishment to which this Code applies on its commencement, within a period of sixty days from such commencement; and

(*b*) in relation to any other establishment to which this Code may be applicable at any time after such commencement, within a period of forty-five days from the date on which this Code becomes applicable to such establishment, 45

make an application to the registering officer appointed by the appropriate Government (hereinafter referred to as the registering officer) for the registration of such establishment:

5 Provided that the registering officer may entertain any such application for registration after the expiry of such period on payment of such late fees as may be prescribed by the appropriate Government.

(2) Every application under sub-section (1) shall be submitted to the registering officer in such manner, in such form, contain such particulars and shall be accompanied by such fees as may be prescribed by the appropriate Government.

10 (3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed by the Central Government:

15 Provided that if the registering officer fails to register an application so made or entertained within the prescribed period, then, such establishment shall be deemed to have been registered under this sub-section immediately on the expiration of such period.

20 (4) Any change in the ownership or management or in any particulars referred to in sub-section (2) which occurs after the registration of an establishment under this Code, shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed by the Central Government.

(5) The employer of an establishment shall, within thirty days of the closing of establishment—

(a) inform the closing of such establishment; and

25 (b) certify payment of all dues to the workers employed in such establishment,

30 to the registering officer in such manner as may be prescribed by the Central Government and the registering officer shall, on receiving such information and certificates remove such establishment from the register of establishments maintained by him and cancel the registration certificate within thirty days.

(6) If an employer of an establishment—

(a) violates any provision of this Code applicable to such establishment; or

(b) has misrepresented or misrepresents any fact relating to registration to the registering officer,

35 the registering officer may after providing employer an opportunity of being heard, revoke the registration of the establishment.

(7) No employer of an establishment—

(a) who has not registered the establishment under this section; or

40 (b) the registration of such establishment has been cancelled under sub-section (5) or revoked under sub-section (6) and no appeal has been preferred against such cancellation or revocation under section 4 or where such appeal has been preferred, such appeal has been dismissed,

shall employ any employee in the establishment.

45 **4.** (1) Any person aggrieved by an order made under section 3 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person notified in this behalf by the appropriate Government: Appeal.

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal within a period of thirty days from the date of receipt of such appeal.

Notice by employer of commencement and cessation of operation.

5. (1) No employer of an establishment being factory or mine or relating to contract labour or building or construction work shall use such establishment to commence the operation of any industry, trade, business, manufacture or occupation thereon without sending notice of such purpose in such form and manner and to such authority and within such time as may be prescribed by the appropriate Government and shall also intimate the cessation of such operation in the prescribed manner to the said authority.

(2) The appropriate Government shall provide electronic receipt of notice or intimation referred to in sub-section (1).

CHAPTER III

DUTIES OF EMPLOYER AND EMPLOYEES, ETC.

Duties of employer.

6. (1) Every employer shall,—

(a) ensure that workplace is free from hazards which cause or are likely to cause injury or occupational disease to the employees;

(b) comply with the Occupational Safety and Health standards made under this Code and of the regulations, rules, bye-laws and orders made thereunder;

(c) provide such annual health examination or test free of costs to such employees of such age or such class of employees or establishments or such class of establishments, as may be prescribed by the appropriate Government;

(d) provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees;

(e) ensure the disposal of hazardous and toxic waste including disposal of e-waste;

(f) issue a letter of appointment to every employee on his appointment in the establishment, with such information as may be prescribed by the appropriate Government and where an employee has not been issued such appointment letter on or before the commencement of this Code, he shall, within three months of such commencement, be issued such appointment letter;

(g) ensure that no charge is levied on any employee, in respect of anything done or provided for maintenance of safety and health at workplace including conduct of medical examination and investigation for the purpose of detecting occupational diseases;

(h) ensure and be responsible for the safety and health of persons who are in the work premises of the factory, mine, dock work, building or other construction work or plantation, with or without the knowledge of such employer, as the case may be.

(2) Without prejudice to the generality of the provisions of sub-section (1), the duties of an employer shall particularly in respect of factory, mines, dock, building and other construction work or plantation include—

(a) the provision and maintenance of plant and systems of work in the workplace that are safe and without risk to health;

(b) the arrangements in the workplace for ensuring safety and absence of risk to health in connection with the use, handling, storage and transport of articles and substances;

5 (c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work;

(d) the maintenance of all places of work in the workplace in a condition that is safe and without risk to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risk;

10 (e) the provision, maintenance or monitoring of such working environment in the workplace for the employees that is safe, without risk to health as regards facilities and arrangements for their welfare at work.

15 **7. (1)** The owner and agent of every mine shall jointly and severally be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Code and the regulations, rules, bye-laws and orders made thereunder.

Duties and responsibilities of owner, agent and manager in relation to mine.

20 (2) In the event of any contravention by any person whosoever of any of the provisions of this Code or of the rules, regulations, bye-laws or orders made thereunder, relating to mine, except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, then, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention, namely:—

25 (a) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;

(b) the manager of the mine;

(c) the owner and agent of the mine;

30 (d) the person appointed, if any, to carry out the responsibility under section 24.

(3) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Code or that a person to carry the responsibility under section 24 has been appointed.

35 **8. (1)** Every person who designs, manufactures, imports or supplies any article for use in any establishment shall—

Duties of manufacturers, designer, importers or suppliers.

(a) ensure so far as is reasonably practicable, that the article is so designed and constructed in the establishment as to be safe and without risk to the health of the workers when properly used;

40 (b) carry out or arrange for the carrying out of such tests and examination in the establishment as may be considered necessary for the effective implementation of the provisions of clause (a);

(c) take out steps as may be necessary to ensure that adequate information will be available—

45 (i) in connection with the use of the article in any establishment;

(ii) about the use for which such article is designed and tested; and

(iii) about any conditions necessary to ensure that the article, when put to such use, shall be safe, and without risk to the health of the workers:

Provided that where an article is designed or manufactured outside India, then it shall be obligatory on the part of the importer to see—

(A) that the article conforms to the same standards of such article manufactured in India; or 5

(B) that, if the standards adopted in the country outside India for the manufacture of such article is above the standards adopted in India, then the article conforms to such standards in such country; or

(C) that, if there is no standard of such article in India, then, the article conforms to the standard adopted in the country from where it is imported at its national level. 10

(2) The designer, manufacturer, importer or supplier shall also comply with such duties as the Central Government may, in consultation with the National Occupational Safety and Health Advisory Board, by regulations specify. 15

(3) Every person, who undertakes to design or manufacture any article and substance for use in any factory, may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably, practicable, the elimination or minimisation of any risks to the health or safety of the workers to which the design or manufacture of article and substance may give rise to such risk. 20

(4) Nothing contained in sub-sections (1) and (2) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

(5) Any duty imposed on any person by sub-sections (1) and (2) shall extend only to things done in the course of business carried on by him and to matters within his control. 25

(6) Every person,—

(a) who erects or instal any article for use in a factory, shall ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory; 30

(b) who manufactures, imports or supplies any substance for use in any factory shall—

(i) ensure, so far as practicable, that such substance is safe and has no risks involved to health of persons working in such factory; 35

(ii) carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;

(iii) take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health; 40

(c) undertake the manufacture of any substance for use in any factory to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimisation of any risks to health or safety to which the substance may give rise out of such manufacture or research; 45

(7) For the purposes of this section, an article and substance is not to be regarded as properly used, if they are used without regard to any information or advice relating to their use which has been made available by the person who has designed, manufactured, imported or supplied the article and substance.

5 *Explanation.*—For the purpose of this section—

(a) “article” shall include plant and machinery;

(b) “substance” means any natural or artificial substance whether in a solid or liquid form or in the form of a gas or vapour; and

10 (c) “substance for use in any factory” means any substance whether or not intended for use by persons working in a factory.

15 **9.** (1) It shall be the duty of the architect, project engineer or designer responsible for any building or other construction work or the design of any project or part thereof relating to such building or other construction work to ensure that, at the planning stage, due consideration is given to the safety and health aspects of the building workers and employees who are employed in the erection, operation and execution of such projects and structures, as the case may be.

Duties of architects, project engineers and designers.

20 (2) Adequate care shall be taken by the architect, project engineer and other professionals involved in the project referred to in sub-section (1), not to include anything in the design which would involve the use of dangerous structures or other processes or materials, hazardous to health or safety of building workers and employees during the course of erection, operation and execution, as the case may be.

25 (3) It shall also be the duty of the professionals, involved in designing the buildings structures or other construction projects, to take into account the safety aspects associated with the maintenance and upkeep of the structures and buildings where maintenance and upkeep may involve special hazards.

30 **10.** (1) Where at any place in an establishment, an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident or which is of such nature as may be prescribed by the appropriate Government, then,—

Notice of certain accident.

(a) employer or owner or agent or manager referred to in section 64 of such establishment if it is mine; or

(b) employer or manager in relation to such establishment if it is factory or relates to dock work; or

35 (c) the employer of such establishment if it is plantation, building or other construction work or in relation to any other establishment,

shall send notice thereof to such authorities, in such manner and within such time, as may be prescribed by the appropriate Government.

40 (2) Where a notice given under sub-section (1) relates to an accident causing death in an establishment, the authority to whom the notice is sent shall make an inquiry into the occurrence within two months of the receipt of the notice or if there is no such authority, the Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry within the said period.

45 **11.** Where in an establishment there is any dangerous occurrence of such nature, (whether causing any bodily injury or disability, or not) the employer shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

Notice of certain dangerous occurrences.

Notice of certain diseases.

12. (1) Where any worker in an establishment contracts any disease specified in the Third Schedule, the employer of the establishment shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

(2) If any qualified medical practitioner attends on a person, who is or has been employed in an establishment, and who is, or is believed by the qualified medical practitioner, to be suffering from any disease specified in the Third Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector-cum-Facilitator in such form and manner and within such time as may be prescribed by the appropriate Government.

(3) If any qualified medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to ten thousand rupees.

Duties of employees.

13. Every employee at work place shall—

(a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the workplace;

(b) comply with the safety and health requirements specified in the standards;

(c) co-operate with the employer in meeting the statutory obligations of the employer under the Code;

(d) report any situation which is unsafe or unhealthy, that comes to his attention, as soon as practicable, to his employer or to the health and safety representative and in case of mine to the owner or agent or manager referred to in section 64, safety officers or an official for his workplace or section thereof, as the case may be, who shall report it to the employer;

(e) not wilfully interfere with, or misuse, or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers;

(f) not do, wilfully and without reasonable cause, anything, likely to endanger himself or others; and

(g) perform such other duties as may be prescribed by the appropriate Government.

Rights of employee.

14. (1) Every employee in an establishment shall have the right to obtain the information from the employer relating to employee's health and safety at work and represent to the employer directly or through a member of the Safety Committee, if constituted by the employer for such purpose, regarding inadequate provision for protection of his safety or health in connection with the work activity in the workplace, and if not satisfied, to the Inspector-cum-Facilitator.

(2) Where the employee referred to in sub-section (1) in any workplace have reasonable apprehension that there is a likelihood of imminent serious bodily injury or death or imminent danger to health, they may bring the same to the notice of their employer directly or through a member of the Safety Committee referred to in sub-section (1) and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

(3) The employer or any employee referred to in sub-section (1) shall take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum-Facilitator.

(4) If the employer referred to in sub-section (3) is not satisfied about the existence of any imminent danger as apprehended by his employees, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

15. No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health, safety or welfare under this Code.

Duty not to interfere with or misuse things.

CHAPTER IV

OCCUPATIONAL SAFETY AND HEALTH

5 **16.** (1) The Central Government shall, by notification, constitute the National Occupational Safety and Health Advisory Board (hereinafter in this Code referred to as the National Board) to discharge the functions conferred on it by or under this Code and to advise to the Central Government on the matters relating to—

National Occupational Safety and Health Advisory Board.

(a) standards, rules and regulations to be framed under this Code;

10 (b) implementation of the provisions of this Code and the rules and regulations relating thereto;

(c) the issues of policy and programme relating to occupational safety and health referred to it, from time to time, by the Central Government; and

15 (d) any other matter relating to this Code referred to, from time to time, by the Central Government.

(2) The National Board shall consist of—

(a) Secretary, Ministry of Labour and Employment—Chairperson (*ex officio*);

(b) Director General, Factory Advice Service and Labour Institutes, Mumbai—Member (*ex officio*);

20 (c) Director General, Mines Safety, Dhanbad—Member (*ex officio*);

(d) Chief Controller of Explosives, Nagpur—Member (*ex officio*);

(e) Chairman, Central Pollution Control Board, New Delhi—Member (*ex officio*);

25 (f) Chief Labour Commissioner (Central), New Delhi—Member (*ex officio*);
(g) Principal Secretaries dealing with labour matters of 4 States (by rotation as the Central Government may deem fit)—Member (*ex officio*);

(h) Director General, Employee State Insurance Corporation, New Delhi—Member (*ex officio*);

(i) Director General, Health Services, New Delhi—Member (*ex officio*);

(j) five representatives of employers—Member (*ex officio*);

30 (k) five representatives of employees—Member (*ex officio*);

(l) five eminent persons connected with the field of Occupational Safety and Health, or representatives from reputed research institutions or similar other discipline—Member:

35 (m) Joint Secretary, Ministry of Labour and Employment—Member Secretary (*ex officio*).

(3) The terms of office of the Members referred to in clause (g), (j), (k) and (l) of sub-section (2) shall be of three years and the procedure to be followed in their appointment, the discharge of their functions by the National Board shall be such as may be prescribed by the Central Government.

40 (4) The Central Government may, in consultation with the Board, determine the number, nature and categories of other officers and employees required to assist the Board in the efficient discharge of its functions and terms and conditions of service of such officers and employees of the Board shall be such as may be prescribed by the Central Government.

(5) The Central Government may constitute as many technical committees or advisory committees consisting of such number of members having such qualifications as may be prescribed by the Central Government, to assist the National Board in discharge of its function specified in sub-section (1).

State
Occupational
Safety and
Health
Advisory
Board.

17. (1) The State Government shall constitute a Board to be called the State Occupational Safety and Health Advisory Board (hereinafter referred to as "State Advisory Board") to advise the State Government on such matters arising out of the administration of this Code as may be referred to it by the State Government. 5

(2) The constitution, procedure and other matters relating to such Advisory Board shall be such as may be prescribed by the State Government. 10

(3) The State Government may constitute as many technical committees or advisory committees of such Advisory Board including site appraisal committees, consisting of such number of members and having such qualifications as may be prescribed, to assist the State Government or State Advisory Board in discharge of their functions relating to the area falling within their respective jurisdictions. 15

Occupational
safety and
health
standards.

18. (1) The Central Government shall declare, by notification, standards on occupational safety and health for work places relating to factories, mines, dock work, building and other construction work and other establishments.

(2) In particular and without prejudice to the generality of the power to declare standards to be followed under sub-section (1), such standards shall relate to— 20

(a) physical, chemical, biological and any other hazards to be dealt with for the period of working life of employee to ensure to the extent feasible on the basis of the best available evidence or functional capacity, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to such hazards; 25

(b) the norms—

(i) appraising the hazards to employees and users to which they are exposed;

(ii) relating to relevant symptoms and appropriate energy treatment and proper conditions and precautions of safe use or exposure; 30

(iii) for monitoring and measuring exposure of employees to hazards;

(iv) for medical examination and other tests which shall be made available, by the employer or at his cost, to the employees exposed to hazards; and

(v) for hazard evaluation procedures like safety audit, hazard and operability study, fault-free analysis, event-free analysis and such other requirements; 35

(c) the medical examination including criteria for detection and reporting of occupational diseases to be extended to the employees even after he ceases to be in employment, if he is suffering from an occupational disease which arises out of or in the course of employment;

(d) such aspects of occupational safety and health relating to work places which the Central Government considers necessary on the report of the authority designated by such Government for such purpose; 40

(e) such safety and health measures as may be required having regard to the specific conditions prevailing at the workplaces relating to mine, factory, building and other construction work, beedi and cigar, dock work or any other establishment notified; and 45

(f) matters specified in the Second Schedule.

(3) Notwithstanding anything contained in section 123, the Central Government may, on the basis of the recommendation of the National Board and after notifying its intention so to do for not less than forty-five days', by notification, amend the Second Schedule to this Code.

5 (4) The State Government may, with the prior approval of the Central Government, by notification amend the standards made under sub-sections (1) and (2) for the establishment for which it is the appropriate Government situated in the State.

10 **19.** It shall be the duty of such institutions in the field of occupational safety and health as the Central Government may notify to conduct research, experiments and demonstrations relating to occupational safety and health and thereafter submit their recommendations to the appropriate Government. Research related activities.

20. (1) At any time during the normal working hours of an establishment or at any other time,— Safety and occupational health surveys.

(a) the Chief Inspector-cum-Facilitator in the case of factory or mine; or

15 (b) the Director General of Factory Advice Service and Labour Institute in the case of factory; or

(c) the Director General of Mines Safety in the case of mine; or

(d) the Director General of Health Services in the case of factory or mine; or

20 (e) such other officer as may be authorised by the appropriate Government in the case of any other establishment or class of establishment,

as he may deem necessary, after giving notice in writing to the employer, conduct survey of the factory or mine or such other establishment or class of establishments and such employer shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

25 *Explanation.*—For the purposes of this sub-section, the expression “employer” includes manager for the factory or in the case of any other establishment or class of establishments such person who is for the time being responsible for the safety and the occupational health of such other establishment or class of establishments, as the case may be.

30 (2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession which is relevant to the survey.

35 (3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be working hour for him.

Explanation.—For the purposes of this section, the report submitted to the appropriate Government by the person conducting the survey under sub-section (1) shall be deemed to be a report submitted by an Inspector-cum-Facilitator under this Code.

40 **21.** For the purposes of this Code, the Central Government and the State Government shall develop and maintain an effective programme of collection, compilation and analysis of occupational safety and health statistics and for that purpose appropriate Government may promote, encourage or directly engage in programme of studies, information and communication concerning occupational safety and health statistics. Statistics.

45 **22.** (1) The appropriate Government may, by general or special order, require any establishment or class of establishments to constitute in the prescribed manner a Safety Committee consisting of representatives of employers and workers engaged in such establishment in such manner that the number of representatives of workers on the Committee Safety Committee and safety officers.

shall not be less than the number of representatives of the employer and the representatives of the workers shall be chosen in such manner and for such purpose as may be prescribed by appropriate Government.

(2) In every establishment relating to,—

(a) factory and building and other construction work wherein five hundred workers or more; or 5

(b) mine wherein one hundred workers or more, are ordinarily employed,

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

CHAPTER V

10

HEALTH AND WORKING CONDITIONS

Responsibility of employer for maintaining health and working conditions.

23. (1) The employer shall be responsible to maintain in his establishment such health and working conditions for the employees as may be prescribed by the Central Government.

(2) Without prejudice to the generality of the power conferred under sub-section (1), the Central Government may prescribe for providing all or any of the following matters in the establishment or class of establishments, namely:— 15

(i) cleanliness and hygiene;

(ii) ventilation, temperature and humidity;

(iii) environment free from dust, noxious gas, fumes and other impurities;

(iv) adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work rooms; 20

(v) potable drinking water;

(vi) adequate standards to prevent overcrowding and to provide sufficient space to employees or persons, as the case may be, employed therein;

(vii) adequate lighting; 25

(viii) sufficient arrangement for latrine and urinal accommodation to male, female and transgender separately for employees maintaining hygiene therein;

(ix) effective arrangements for treatment of wastes and effluents; and

(x) any other arrangement which the Central Government considers appropriate.

CHAPTER VI

30

WELFARE PROVISIONS

Welfare facilities in the establishment, etc.

24. (1) The employer shall be responsible to provide and maintain in his establishment such welfare facilities for the workers as may be prescribed by the Central Government, including,—

(i) adequate and suitable facilities for washing to workers for male and female separately; 35

(ii) bathing places and locker rooms for male, female and transgender employees separately;

(iii) place of keeping clothing not worn during working hours and for the drying of wet clothing; 40

(iv) sitting arrangements for all workers obliged to work in a standing position;

(v) adequate standard of canteen or workers thereof in an establishment employing one hundred or more workers including contract labour ordinarily employed;

and in case of mines, medical examination of the workers employed or to be employed in the mines, before their employment and at a specific intervals;

(vi) adequate first-aid boxes or cupboards with contents readily accessible during all working hours; and

5 (vii) any other welfare measures which the Central Government considers, under the set of circumstances, as required for decent life of the workers.

(2) Without prejudice to the generality of the powers referred to under sub-section (1), the Central Government may also prescribe for the following matters, namely:—

10 (i) ambulance room in every factory, mine and other construction work wherein more than five hundred workers are ordinarily employed;

(ii) medical facilities at the operating centres and halting stations, uniforms, raincoats and other like amenities for protection from rain or cold for motor transport workers;

15 (iii) adequate, suitable and separate shelters or rest-rooms for male, female and transgender workers and lunch-room in every factory and mine wherein more than fifty workers are ordinarily employed and in motor transport undertaking wherein worker is required to halt at night;

20 (iv) the appointment of welfare officer in every factory, mine or plantation wherein two hundred and fifty or more workers are ordinarily employed and the qualification, conditions of service and duties of such welfare officer;

25 (v) to provide temporary living accommodation, free of charges and within the work site or as near to it as may be possible by the employer to all building workers employed by him and for causing removal or demolition of such temporary living accommodation and for returning by the employer the possession of any land obtained by him for such purpose from Municipal Board or any other local authority;

(vi) payment by the principal employer, the expenses incurred on providing the accommodation to the contractor, where the building and other construction work is done through the contractor;

(vii) any other matter which may be prescribed.

30 (3) The Central Government may make rules to provide for the facility of creche having suitable room or rooms for the use of children under the age of six years of the employees at suitable location and distance either separately or along with common facilities in establishments wherein more than fifty workers are ordinarily employed.

35 (4) Every employer of plantation shall be responsible, subject to the provision of sub-sections (1) to (3), to provide and maintain welfare facilities through his own resources relating to drinking water, housing, medical, education and toilet to the workers in the plantation or through schemes for such purpose sponsored by the Central Government or State Government, Municipality or Panchayat for the locality in which the plantation is situated.

40 *Explanation.*—For the purposes of this sub-section,—

(i) the expression “Municipality” has the same meaning as assigned to it under clause (e) of article 243P; and

(ii) the expression “Panchayat” has the same meaning as assigned to it under clause (d) of article 243.

CHAPTER VII

HOURS OF WORK AND ANNUAL LEAVE WITH WAGES

Weekly and
daily working
hours, leave,
etc.

25. (1) No worker shall be required or allowed to work, in any establishment or class of establishments for more than—

(a) such period as may be notified by the appropriate Government; 5

(b) such hours in a day as may be notified by the appropriate Government subject to the period specified in clause (a); and

(c) the periods of work in each day shall be so fixed as not to exceed such hours, with such intervals within such period, as may be notified by the appropriate Government: 10

Provided that the period of work of a worker shall be so arranged, as not to spread over more than such hours as may be notified by the appropriate Government in any day inclusive of intervals for rest under this sub-section:

Provided further that in the case of mines,—

(i) the persons employed below ground in a mine shall not be allowed to work for more than such hours as may be notified by the appropriate Government in any day; 15

(ii) no work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of work for each shift is not spread over more than the daily maximum hours as notified under clause (i); 20

(iii) no person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained under sub-section (1) of section 33:

Provided also that the hours of work in case of motor transport worker shall include— 25

(i) the time spent in work done during the running time of the transport vehicle;

(ii) the time spent in subsidiary work; and

(iii) periods of mere attendance at terminals of less than fifteen minutes. 30

Explanation.—For the purposes of this sub-section—

(a) “running time” in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed by the Central Government during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work; 35 40

(b) “subsidiary work” means the work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular—

(i) the work in connection with accounts, the paying of cash, the signing of registers, the handing over of service sheets, the checking of tickets and other similar work; 45

(ii) taking over and garaging of the transport vehicles;

(iii) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;

5 (iv) work in connection with the upkeep and repair of the transport vehicle; and

(v) the loading and unloading of the transport vehicle;

(c) "period of mere attendance" means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule.

(2) Notwithstanding anything contained in sub-section (1), the hours of work for working journalist shall, subject to a maximum of one hundred and forty-four hours of work during any period of four consecutive weeks and a period of not less than twenty-four consecutive hours of rest during any period of seven consecutive days, be such as may be prescribed by the Central Government.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a sales promotion employee, —

(i) in addition to such holidays, casual leave or other kinds of leave as may be prescribed by the Central Government, shall be granted, if requested for—

20 (a) earned leave on full wages for not less than one-eleventh of the period spent on duty;

(b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service;

25 (ii) may accumulate earned leave upto such maximum limit as may be prescribed by the Central Government;

(iii) may limit up to which the earned leave may be availed of at a time by him and the reasons for which such limit may be exceeded, shall be such as may be prescribed by the Central Government;

(iv) shall,—

30 (a) when he voluntarily relinquishes his post or retires from service; or

(b) when his services are terminated for any reason whatsoever (not being termination as punishment),

35 be entitled to cash compensation, subject to such conditions and restrictions as may be prescribed by the Central Government (including conditions by way of specifying the maximum period for which such cash compensation shall be payable), in respect of the earned leave earned by him and not availed of;

(v) dies while in service, his heirs shall be entitled to cash compensation for the earned leave earned by him and not availed of;

40 (vi) or his heirs shall be paid the cash compensation in respect of any period of earned leave for which he or his heirs, is or are entitled to cash compensation under clause (iv) or clause (v), as the case may be, shall be an amount equal to the wages due to such sales promotion employee for such period.

(4) Notwithstanding anything contained in this section the working hours of an adolescent workers shall be regulated in accordance with the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

Weekly and compensatory holidays.	26. (1) No worker shall be allowed to work in an establishment for more than six days in a week:	
	Provided that in any motor transport undertaking, an employer may, in order to prevent any dislocation of a motor transport service, require a worker to work on any day of rest which is not a holiday so arranged that the worker does not work for more than ten days consecutively without a holiday for a whole day intervening.	5
	(2) The appropriate Government may, by notification, exempt such workers as it thinks fit from the provisions of sub-section (1), subject to such conditions as may be prescribed.	
	(3) Where, as a result of the passing of an order or the making of a rule under the provisions of this Code exempting an establishment or the workers therein from the provisions of sub-section (2), a worker is deprived of any of the weekly holidays, the worker shall be allowed, within the month in which the holidays were due or within the two months immediately following that month, compensatory holidays of equal number to the holidays so deprived.	10
Extra wages for overtime.	27. There shall be paid wages at the rate of twice the rate of wages in respect of overtime work, where a worker works in an establishment or class of establishments for more than such hours of work in any day or in any week as prescribed by the appropriate Government and the period of overtime work shall be calculated on a daily basis or weekly basis, whichever is more favourable to such worker:	15
	Provided that no worker shall be required to work overtime by the employer without the prior consent of the worker in writing for such work.	20
Night shifts.	28. Where a worker in an establishment works on a shift which extends beyond midnight,—	
	(a) for the purposes of section 26, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;	
	(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.	25
Prohibition of overlapping shifts.	29. (1) The work shall not be carried on in any establishment by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.	30
	(2) The appropriate Government or subject to the control of the appropriate Government, the Chief Inspector-cum-Facilitator, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any establishment or class of establishments or any department or section of an establishment or any category or description of workers therein from the provisions of sub-section (1):	35
	Provided that the provisions of this sub-section shall not apply to mines.	
Restriction on double employment in factory and mine.	30. No worker shall be required or allowed to work in a mine or factory if he has already been working in any other such similar establishment within the preceding twelve hours, save in such circumstances as may be prescribed by the appropriate Government.	
Notice of periods of work.	31. (1) There shall be displayed and correctly maintained in every establishment a notice of periods of work, showing clearly for every day the periods during which workers may be required to work in accordance with the provisions of this Code.	40
	(2) The form of notice required by sub-section (1), the manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator shall be such as may be prescribed by the appropriate Government.	45
	(3) Any proposed change in the system of work in any establishment which will necessitate a change in the notice referred to in sub-section (1) shall be intimated to the	

Inspector-cum-Facilitator before the change is made, and except with the previous sanction of the Inspector-cum-Facilitator, no such change shall be made until one week has elapsed since that last change.

5 **32.** (1) Every worker employed in an establishment shall be entitled for leave with wages subject to the following conditions, namely:— Annual leave
with wages,
etc.

(i) that he has worked one hundred and eighty days or more in such calendar year;

10 (ii) that he shall be entitled for one day leave for every twenty days of his work, and in the case of adolescent worker for fifteen days of his work, in case of worker employed below ground mine, at the rate of one day for every fifteen days of his work, in such calendar year;

(iii) any period of layoff, maternity leave or annual leave availed by such person in such calendar year shall be counted for calculating the period of ninety days or more under clause (i), but he shall not earn leave for the period so counted;

15 (iv) any holidays falling between the leave availed by such person in a calendar year or prefixed or suffixed holiday shall be excluded from the period of leave so availed;

20 (v) in case of such worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate specified in clause (ii), if he has worked for one-fourth of the total number of days in the remainder of the calendar year;

25 (vi) in case such worker is discharged or dismissed from service or quits employment or is superannuated or dies while in service, during the course of the calendar year, such worker or his heir or nominee, shall be entitled to wages in lieu of the quantum of leave to which such worker was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death, calculated as specified in preceding clause, even if such worker has not worked for the required period under this sub-section making such worker eligible to avail such leave, and such payment shall be made—

30 (a) where such worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting; and

(b) where such worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death;

35 (vii) if such worker does not in any one calendar year take the whole of the leave allowed to him under this sub-section and the rules made thereunder, then, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year so that—

40 (a) the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty days; and

(b) such worker, who has applied for leave with wages but has not been given such leave in accordance with this sub-section and the rules made thereunder shall be entitled to carry forward the leave refused without any limit.

45 (viii) without prejudice to clause (vi) such worker shall be entitled on his demand for encashment of leave at the end of calendar year;

(ix) such worker shall be entitled, where his total number of leave exceeds thirty days under sub-clause (a) of clause (vii), to encash such exceeded leave.

(2) The appropriate Government may, by notification, extend the provisions of sub-section (1) to any other establishment except railway establishment.

(3) The provisions of this sub-section (1) shall not operate to the prejudice of any right to which a person employed in a mine may be entitled under any other law or under the terms of any award, agreement or contract of service: 5

Provided that if such award, agreement or contract of service, provides for longer annual leave with wages than that provided in sub-section (1), the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service but leave shall be regulated in accordance with the provisions of sub-section (1) with respect of matters not provided for in such award, agreement or contract of service: 10

Provided further that where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in sub-section (1) it may, by order in writing and subject to such conditions as may be specified therein exempt the mine from all or any of the provisions of sub-section (1). 15

CHAPTER VIII

MAINTENANCE OF REGISTERS, RECORDS AND RETURNS

Maintenance of registers and records and filing of returns.

33. An employer of an establishment shall—

(a) maintain register in prescribed form, electronically or otherwise, containing such particulars of workers as may be prescribed by the appropriate Government including,— 20

(i) work performed by them;

(ii) number of hours of work constituting normal working hours in a day;

(iii) day of rest allowed in every period of seven days; 25

(iv) wage paid and receipts given therefor;

(v) leave, leave wages, overtime work, attendance and dangerous occurrences; and

(vi) employment of adolescent;

(b) display notices at the workplace of the workers in the manner and form as may be prescribed by the appropriate Government; 30

(c) issue wage slips to the workers, in electronic forms or otherwise; and

(d) file such return electronically or otherwise to the Inspector-cum-Facilitator in such manner and during such periods as may be prescribed by the appropriate Government. 35

CHAPTER IX

INSPECTOR-CUM-FACILITATORS AND OTHER AUTHORITY

Appointment of Inspector-cum-Facilitators.

34. (1) The appropriate Government may, by notification, appoint Inspector-cum-Facilitators for the purposes of this Code who shall exercise the powers conferred on them under this Code throughout the State or such geographical limits assigned in relation to one or more establishments situated in such State or geographical limits or in one or more establishments, irrespective of geographical limits, assigned to him by the appropriate Government, as the case may be. 40

(2) The Inspector-cum-Facilitators appointed under sub-section (1) shall, apart from other duties to be discharged by them under this Code, conduct such inspections including web based inspection in such manner as may be prescribed by the appropriate Government. 45

(3) The appropriate Government may, by notification, appoint any person or persons possessing the prescribed qualifications and experience to be Chief Inspector-cum-Facilitator for the purposes of such establishments or class of establishments and for such local limits of jurisdiction as may be specified in the notification and the Chief Inspector-cum-Facilitator may within the local limits of his jurisdiction exercise the powers of the Inspector-cum-Facilitator:

Provided that a Chief Inspector-cum-Facilitator may be appointed for the purposes of a State or more than one States or for the purposes of the whole of the Country.

(4) The appropriate Government may, by notification, appoint for the purposes of such establishments, as many Additional Chief Inspector-cum-Facilitators, Joint Chief Inspector-cum-Facilitators and Deputy Chief Inspector-cum-Facilitators or any other officer of any designation as it thinks appropriate, to exercise such powers of the Chief Inspector-cum-Facilitator within his jurisdiction as may be specified in the notification.

(5) Every Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator and every other officer appointed under sub-section (4) shall, in addition to the powers of a Chief Inspector-cum-Facilitator specified in the notification by which the officer is appointed, exercise the powers of an Inspector-cum-Facilitator within such local limits as may be specified in the notification.

(6) No person shall be appointed under sub-section (1), sub-section (3), sub-section (4) or sub-section (7), or having been so appointed, shall continue to hold office, who is, or who becomes, directly or indirectly interested in a workplace or work activity or in any process or business carried on in any workplace or in any plant or machinery connected therewith.

(7) The appropriate Government may also, by notification, appoint such public officers as it thinks fit to be additional Inspector-cum-Facilitators for exercising the powers and discharging the duties of Inspector-cum-Facilitator for all or any of the purposes of this Code within such local limits as may be specified in such notification.

(8) Without prejudice to the other functions of the Inspector-cum-Facilitator under this Code, an Inspector-cum-Facilitator may in respect of any establishment or class of establishments in local area or areas of his jurisdiction where the Chief Inspector-cum-Facilitator with the approval of the appropriate Government and subject to such restrictions or conditions as he may think fit to impose, by order in writing authorise the Inspector-cum-Facilitator to exercise such of the powers of the Chief Inspector-cum-Facilitator as may be specified in such order:

Provided that the Chief Inspector-cum-Facilitator, with the approval of the appropriate Government, may by order in writing, prohibit the exercise, by any Inspector-cum-Facilitator or any class of Inspector-cum-Facilitators specified in such order, of any such power by such Inspector-cum-Facilitator or class of Inspector-cum-Facilitators.

(9) Every Chief Inspector-cum-Facilitator, Additional Chief Inspector-cum-Facilitator, Joint Chief Inspector-cum-Facilitator, Deputy Chief Inspector-cum-Facilitator, Inspector-cum-Facilitator and every other officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, and shall be officially subordinate to such authority as the appropriate Government may specify in this behalf.

35. (1) Subject to any rules made in this behalf, an Inspector-cum-Facilitator, within the local limits of his jurisdiction may,—

(i) enter, with such assistance of persons, being persons in the service of the Government, or any local or other public authority, or with an expert, as he thinks fit, any place which is used, or which he has reason to believe, is used as a workplace;

(ii) inspect and examine the mine, premises, plant, machinery, article or any other relevant material;

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Inspector-
cum-
Facilitators.

(iii) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or death or not and take on the spot or otherwise statement of any person which he may consider necessary for such inquiry;

(iv) in respect of a plantation and subject to any rules made by the State Government in this behalf, within his jurisdiction, examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Code, and take on the spot or otherwise statement of any person which he may consider necessary for carrying out the purposes of this Code relating to plantation; 5

(v) supply information and sensitises the employers and workers regarding the provisions of this Code and compliance thereof; 10

(vi) require the production of any register or any other document relating to the workplace or work activity;

(vii) search or seize, or take copies of, any register, record or other document or any portion thereof, as he may consider necessary in respect of any offence under this Code, which he has reason to believe, has been committed; 15

(viii) direct the concerned occupier or employer that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any inspection or inquiry; 20

(ix) take measurements, photographs and videographs and make such recordings as he considers necessary for the purpose of any examination or inquiry;

(x) take samples of any articles or substances found in any premises into which he has power to enter and of the air of the atmosphere in or in the vicinity of any such premises in such manner as may be prescribed by the appropriate Government; 25

(xi) direct the employer to—

(a) dismantle any article or substance; or

(b) subject such article or substance to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of any provision of this Code); 30

if such article or substance is found in any premises, being an article or substance which appears to the Inspector-cum-Facilitator as having caused or is likely to cause danger to the health and safety of employees, and take possession of such article or substance or a part thereof and detain it for so long as is necessary for such examination, as required; 35

(xii) issue show cause notice relating to safety, health and welfare provisions arising under this Code, rules, regulations and bye-laws made thereunder;

(xiii) prosecute, conduct or defend before any court any complaint or other proceeding arising under this Code, the rules and regulations made thereunder; and

(xiv) exercise such other powers and perform such other duties as may be prescribed by the appropriate Government. 40

(2) Any person required to produce any document or to give any information required by an Inspector-cum-Facilitator under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code. 45 of 1860.

(3) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code. 45 2 of 1974.

36. The District Magistrate shall, within the local limits of his jurisdiction, exercise such powers and duties of the Inspector-cum-Facilitator in respect of mines as may be prescribed by the Central Government. 50

37. The appropriate Government may, by notification, empanel experts possessing such specialised qualifications and experience as may be prescribed, and authorise the employers of such start up establishments and class of other establishments to choose any of such experts as are specified in the notification for third party certification in respect of such start up establishments and class of other establishments who shall perform such duties and hold such responsibilities as may be prescribed and submit their reports to the concerned employer and Inspector-cum-Facilitator separately for the purpose of ensuring compliance of the provisions of this Code.

Third party audit and certification.

38. (I) Without prejudice to the other powers of the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator in this Code, the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator,—

Special powers of the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator in respect of factory, mines and dock work and building and other construction work.

(A) in respect of a factory shall have the following special powers, namely:—

(a) where it appears to the Inspector-cum-Facilitator that conditions in a factory or part thereof are such that they may cause serious hazard or imminent danger by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard or imminent danger and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard or danger is removed;

(b) any order issued by the Inspector-cum-Facilitator under sub-clause (a) shall have effect for a period of three days until extended by the Chief Inspector-cum-Facilitator by a subsequent order;

(c) any person aggrieved by an order of the Inspector-cum-Facilitator under sub-clause (a), and the Chief Inspector-cum-Facilitator under sub-clause (b), shall have the right to appeal to the High Court;

14 of 1947.

(d) any person whose employment has been affected by an order issued under sub-clause (a), shall, without prejudice to the rights of the parties under the Industrial Disputes Act, 1947, be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible in such manner as may be prescribed by the appropriate Government;

(B) in respect of mines shall have the following special powers, namely:—

(a) if, in respect of any matter for which no express provision is made by or under this Code, it appears to the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator that any mine or part thereof or any matter, thing or practice in or connected with the mine, or with the control, supervision, management or direction thereof, is dangerous to human life or safety or is defective so as to threaten or tend to cause, the bodily injury of any person, he may give notice in writing thereof to the employer of the mine stating therein the particulars in respect of which he considers the mine or part thereof or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as he may specify in the notice;

(b) where the employer of a mine fails to comply with the terms of a notice given under sub-clause (a) within the period specified therein, the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice;

(c) without prejudice to the provisions contained in sub-clause (a), the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator may, by order

in writing addressed to the employer of a mine, prohibit the extraction or reduction of pillars or blocks of minerals in any mine or part thereof, if, in his opinion, such operation is likely to cause the crushing of pillars or blocks of minerals or the premature collapse of any part of the workings or otherwise endanger the mine or the life or safety of persons employed therein or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by fire or flooding;

(d) if the Inspector-cum-Facilitator authorised, by general or special order in writing by the Chief Inspector-cum-Facilitator, is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by order in writing containing a statement of the grounds of his opinion, prohibit until he is satisfied that the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger;

(e) every person whose employment is prohibited under sub-clause (b) or sub-clause (d) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition in employment and the employer shall be liable for payment of such full wages of that person:

Provided that the employer may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited;

(f) where a notice has been given under sub-clause (a) or an order made under sub-clause (b) or sub-clause (c) or sub-clause (d) by an Inspector-cum-Facilitator, employer of the mine may, within ten days after the receipt of the notice or order, as the case may be, appeal against the same to the Chief Inspector-cum-Facilitator who may confirm, modify or cancel the notice or order;

(g) the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator sending a notice under sub-clause (a) or making an order under sub-clause (b) or sub-clause (c) or sub-clause (d) and the Chief Inspector-cum-Facilitator making an order (other than an order of cancellation in appeal) under sub-clause (f) shall forthwith report the same to the Central Government;

(h) if the employer of the mine objects to a notice sent under sub-clause (a) by the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator or to an order made by the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator under sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (f), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision on appeal, as the case may be, send his objection in writing stating the grounds thereof to the Central Government which shall, ordinarily within a period of two months from the date of receipt of the objection, decide the matter.

(i) every notice under sub-clause (a), or order under sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (f), to which objection is made under sub-clause (h), shall be complied with, pending with the concerned Chief Inspector-cum-Facilitators or Inspector-cum-Facilitators of the mine for the decision of the Central Government:

Provided that the Central Government may, on the application of the employer, suspend the operation of a notice under sub-clause (a), pending its decision on the objection.

2 of 1974.

(j) nothing in this section shall affect the powers of an Executive Magistrate under section 144 of the Code of Criminal Procedure, 1973;

5 (k) where in respect of any matter relating to safety of mine for which express provision is made by or under this Code, the employer of a mine fails to comply with such provisions, the Chief Inspector-cum-Facilitator may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter;

10 (l) where the employer fails to comply with the terms of a notice given under sub-clause (k) within the period specified in such notice or within the extended period of time specified under that sub-clause, the Chief Inspector-cum-Facilitator may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice;

15 (m) every person whose employment is prohibited under sub-clause (l), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager shall be liable for payment of such full wages of that person:

20 Provided that the employer may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-clause (l);

25 (n) the provisions of sub-clauses (g), (h) and (i) shall apply in relation to a notice issued under sub-clause (k) or an order made under sub-clause (l) as they apply in relation to a notice under sub-clause (a) or an order under sub-clause (b);

(o) Chief Inspector-cum-Facilitator may, for reasons to be recorded in writing, reverse or modify any order passed by him under this Code or under any regulation, rule or bye-law made thereunder in relation to mine;

30 (p) no order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation;

(q) the Central Government may reverse or modify any order passed by Chief Inspector-cum-Facilitator under this Code in relation to mine.

35 (C) in respect of dock work shall have the following special powers, namely:—

40 (a) if it appears to an Inspector-cum-Facilitator that any place where any dock work is being carried on is in such a condition that it is dangerous to life, safety or health, of dock workers, he may, in writing, serve on the employer, an order prohibiting any dock work in such place until measures have been taken to remove the cause of the danger to his satisfaction;

(b) an Inspector-cum-Facilitator after serving an order under clause (a) shall endorse a copy thereof to the Chief Inspector-cum-Facilitator who may modify or cancel the order without waiting for an appeal;

45 (c) any person aggrieved by an order under clause (a) or clause (b) may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the Central Government and the Chief Inspector-cum-Facilitator or Central Government shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty days:

Provided that the Chief Inspector-cum-Facilitator or the Central Government may entertain the appeal after the expiry of the said period of fifteen days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that an order under clause (a) shall be complied with, pending the decision of the Chief Inspector-cum-Facilitator or Central Government.

(2) Without prejudice to the other powers of an Inspector-cum-Facilitator elsewhere in this Code,—

(a) if it appears to the Inspector-cum-Facilitator that any site or place at which any building or other construction work is being carried on, is in such condition that it is dangerous to life, safety or health of building workers or the general public, he may, in writing serve on the employer of building workers or on the employer of the establishment or on the person in charge of such site or place an order prohibiting any building or other construction work at such site or place until measures have been taken to remove the cause of the danger to his satisfaction;

(b) an Inspector-cum-Facilitator serving an order under clause (a) shall endorse a copy to the Chief Inspector-cum-Facilitator;

(c) such prohibition order shall be complied with by the employer forthwith.

(3) Any person aggrieved by an order under clause (a) of sub-section (2), may, within fifteen days from the date on which the order is communicated to him, may prefer an appeal to the Chief Inspector-cum-Facilitator or where such order is by the Chief Inspector-cum-Facilitator, to the appropriate Government and the Chief Inspector-cum-Facilitator or the appropriate Government, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal within sixty days:

Provided that the Chief Inspector-cum-Facilitator or the appropriate Government may, entertain the appeal after the expiry of the said period of fifteen days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the prohibition, shall be complied with, subject to the decision of the Chief Inspector-cum-Facilitator or the appropriate Government.

Secrecy of information by Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, etc.

39. (1) All copies of, and extracts from, registers or other records pertaining to any establishment and all other information relating to any manufacturing or commercial business or any working process acquired by the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator or by any one assisting him, in the course of the inspection or survey of any establishment under this Code or acquired by any person authorised under section 20 in the exercise of his duties thereunder, shall be regarded as confidential and shall not, while in service or after leaving the service, be disclosed to any person or authority unless the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator considers disclosure necessary to ensure the health, safety or welfare of any person employed in establishment.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information to—

(a) any court;

(b) any Committee or Board constituted under this Code;

(c) an official superior or the employer of the establishment concerned;

(d) a Commissioner for employees' compensation appointed under the Employees' Compensation Act, 1923;

(e) the Controller, Indian Bureau of Mines; and

(f) any such officer, authority or authorised as may be specified in this behalf by the appropriate Government.

22 of 2005.

(3) Notwithstanding anything contained in the Right to Information Act, 2005, no Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator shall disclose the source of any complaint, without his consent, made to him regarding the contravention of the provisions of this Code and shall also not while making an inspection under this Code in pursuance of such complaint, disclose to the employer concerned or any of his representative that the inspection is being made in pursuance of such complaint.

40. Every employer of an establishment shall afford the Chief Inspector-cum-Facilitator and every Inspector-cum-Facilitator having jurisdiction or every person authorised by Chief Inspector-cum-Facilitator all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Code.

Facilities to be afforded to the Inspector-cum-Facilitator.

41. Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector-cum-Facilitator or of an Inspector-cum-Facilitator may, for the purpose of surveying, levelling or measuring any mine or any output therefrom, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof or any output therefrom at any time by day or night:

Powers of Special Officer to enter, measure, etc. in relation to mine.

Provided that, where in the opinion of the Chief Inspector-cum-Facilitator or of an Inspector-cum-Facilitator an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

42. (1) The appropriate Government may appoint medical practitioners having prescribed qualification to be medical officers for the purposes of this Code in relation to factory, mines, plantation, motor transport undertakings and any other establishment as may be:

Medical officer.

Provided that the medical officers so appointed shall before entering into their office, disclose to the appropriate Government their interest in the concerned establishment.

(2) The medical officer shall perform the following duties, namely:—

(a) the examination and certification of workers in a mine or factory or any other establishment engaged in such dangerous occupations or processes as may be prescribed;

(b) the exercise of such medical supervision for any factory, mines, plantation, motor transport undertaking and such other establishment as may be prescribed by the appropriate Government where cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in such establishments;

(c) the examination and certification of adolescent for the purpose of ascertaining his fitness for employment in factory, plantation, motor transport undertakings and any other establishment as may be prescribed by the appropriate Government in any work which is likely to cause injury to their health.

CHAPTER X

SPECIAL PROVISION RELATING TO EMPLOYMENT OF WOMEN

43. Notwithstanding any prohibition in any other law for the time being in force in this behalf and subject to such conditions relating to safety, holidays and working hours or any other condition to be observed by the employer as may be prescribed by the appropriate Government, the women workers may, with her consent, be employed in an establishment before 6 a.m. and beyond 7 p.m.

Employment of women in night.

44. Where the appropriate Government considers that the employment of women is dangerous for their health and safety, in an establishment or class of establishments, due to the operation carried out therein, such Government may in the prescribed manner, prohibit the employment of women for such operation.

Prohibition of employment of women in dangerous operation.

CHAPTER XI

SPECIAL PROVISIONS FOR CONTRACT LABOUR AND INTER-STATE MIGRANT WORKER, ETC.

PART I

CONTRACT LABOUR AND INTER-STATE MIGRANT WORKER

Applicability
of this Part.**45. (1)** This Part shall apply to— 5

(i) every establishment in which twenty or more contract labour are employed or were employed on any day of the preceding twelve months through contract;

(ii) every manpower supply contractor who has employed on any day of the preceding twelve months twenty or more contract labour:

Provided that the provisions of this clause shall not apply to sections 59 to 62: 10

Provided further that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification, apply the provisions of this Part to any establishment or manpower supply contractor employing such number of worker less than twenty as may be specified in the notification:

Provided also that, where any other threshold of contract labour as provided in this sub-section is in force in a State under the law for the time being in force in such State immediately before the commencement of this Code, then, such threshold shall prevail, without prejudice to the first proviso, for the purposes of this sub-section till it is amended by the competent legislature. 15

(2) This Part shall not apply to the establishment in which work only of an intermittent or casual nature is performed: 20

Provided that if a question arises as to whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the National Board or a State Advisory Board and its decision thereon shall be final. 25

Explanation.—For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months; or

(ii) if it is of seasonal character and is performed for more than sixty days in a year. 30

Appointment
of licensing
officers.**46.** The appropriate Government may, by an order, appoint such persons, being Gazetted officers of the Government, as it thinks fit to be licensing officers and define the limits, within which the licensing officer shall exercise the powers conferred on him by or under this Part of the Code. 35Licensing of
contractors.**47. (1)** No contractor to whom this Part applies shall—

(a) supply or engage contract labour in any establishment; or

(b) undertake or execute the work through contract labour,

except under and in accordance with a licence issued to him by a licensing officer after satisfying that the contractor fulfils such requisite qualifications or criteria as may be prescribed by the Central Government and such licence shall, in addition to the prescribed particulars and conditions specified in sub-section (3), specify the number of such contract labour who can be engaged and the amount of security to be deposited by the contractor. 40

(2) Where the contractor does not fulfil the requisite qualifications or criteria referred to in sub-section (1), the licensing officer may issue him a “work specific licence” renewable within such period as may be prescribed by the appropriate Government to supply or engage 45

the contract labour, or execute the work through contract labour, only for the concerned work order as may be specified in such licence and subject to such conditions as may be specified in such licence.

(3) Subject to the provisions of this Part,—

5 (a) a licence under sub-section (1), may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as may be prescribed by the appropriate Government;

(b) the licence referred to in sub-section (1) or sub-section (2), shall be obtained from, if for such establishment the appropriate Government is—

10 (i) the Central Government, the licensing officer appointed by that Government; and

(ii) the State Government, the licensing officer appointed by that Government:

15 Provided that in case the contractor supplies or engages contract labour or undertakes or executes the work under sub-section (1) in more than one establishment situated in different States, then, he shall obtain the licence,—

20 (i) where for such establishments, Central Government is the appropriate Government, from the licensing officer appointed by the Central Government having jurisdiction over the place where the head office of the contractor is situated; or

(ii) where for such establishments, State Government is the appropriate Government from the licensing officer appointed by the State Government having jurisdiction over the place where the head office of the contractor is situated.

25 **48.** (1) Every application for issuing a licence under sub-section (1) or sub-section (2) of section 47 shall be made in such form and manner and shall contain such particulars regarding the number of contract labour, nature of work for which contract labour is to be employed and such other particulars as may be prescribed by the appropriate Government.

Grant of licence.

30 (2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed by the appropriate Government.

35 (3) The licence issued under sub-section (1) of section 47 shall be valid for a period of five years in respect of the number of contract labour specified therein and in case the contractor wants to increase the number of the contract labour, then, he shall apply in the prescribed manner for the renewal of the licence for such purpose to the licensing officer and if the licence is renewed by the licensing officer in the prescribed manner, the contract labour shall be increased to such extent by depositing such security deposit as specified in the renewed licence for the balance period.

49. The contractor shall not charge directly or indirectly, in whole or in part, any fee or commission from the contract labour.

No fees or Commission or any cost to workers.

40 **50.** (1) When a contractor receives work order from an establishment either to supply contract labour in the establishment or to execute the contract through contract labour in the establishment he shall, within such time and in such manner as may be prescribed, intimate to the appropriate Government.

Information regarding work order to be given to the appropriate Government.

45 (2) Where the contractor fails to give intimation under sub-section (1), the licensing officer may, after giving the holder of the licence an opportunity of showing cause, suspend or cancel the licence in such manner as may be prescribed by the appropriate Government.

Revocation, suspension and amendment of licence.	<p>51. (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—</p> <p>(a) a licence granted under this Part has been obtained by misrepresentation or suppression of any material fact, or</p> <p>(b) the holder of a licence has, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Part or the rules made thereunder, then code, without prejudice to any other penalty to which the contractor may be liable under this Code, the licensing officer may, after giving the contractor an opportunity of showing cause, revoke or suspend the licence.</p> <p>(2) Subject to any rules that may be made in this behalf, the licensing officer may amend a licence granted under this Part.</p>	5 10
Appeal.	<p>52. (1) Any person aggrieved by an order made under section 47 or section 48 or section 51 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate authority notified in this behalf by the appropriate Government:</p> <p>Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.</p> <p>(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within thirty days from the date on which the appeal is preferred.</p>	15 20
Liability of principal employer for welfare facilities.	<p>53. Welfare facilities relating to providing of canteens, rest rooms, drinking water and first aid as referred to and prescribed, under section 23 and section 24 shall be provided by the principal employer of the establishment to the contract labour who are employed in such establishment.</p>	25
Effect of employing contract labour from a non-licenced contractor.	<p>54. Where any establishment is employing contract labour through a contractor who is required to obtain a licence under this Part, but he has not obtained such licence, the contract labour so engaged through such contractor, shall be deemed to be employed by the principal employer.</p>	
Responsibility for payment of wages.	<p>55. (1) A contractor shall be responsible for payment of wages to each contract labour employed by him and such wages shall be paid before the expiry of such period as may be prescribed by the appropriate Government.</p> <p>(2) Every contractor shall, make the disbursement of wages referred to in sub-section (1), through bank transfer or electronic mode and inform the principal employer electronically the amount so paid by such mode:</p> <p>Provided that where it is not practicable to disburse such payment otherwise than in cash, then, it shall be disbursed in the presence of a representative duly authorised by the principal employer and it shall be the duty of such representative to certify the amount so paid as wages in such manner as may be prescribed by the appropriate Government.</p> <p>(3) In case the contractor fails to make payment of wages referred to in sub-section (1), within the prescribed period or makes short payment, then, the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the concerned contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.</p> <p>(4) The appropriate Government, in the event the contractor does not pay the wages to the contract labour employed by him, shall pass the orders of making payment of such wages from the amount deposited by such contractor as security deposit under the licence issued by the licensing officer to the contractor, in the manner as prescribed by the appropriate Government.</p>	30 35 40 45 50

56. Every concerned contractor or principal employer of the establishment concerned shall issue experience certificate, in such form as may be prescribed by the appropriate Government, to the contract labour annually, or as and when demanded by the contract labour giving details of the work performed by such contract labour. Experience certificate.
57. (1) Notwithstanding anything contained in this Part, the appropriate Government may, after consultation with the National Board or a State Advisory Board, prohibit, by notification, employment of contract labour in any process, operation or other work in any establishment. Prohibition of employment of contract labour.
- (2) Before issuing any notification under sub-section (1), in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as—
- (a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;
- (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
- (c) whether it is done ordinarily through regular workers in that establishment or an establishment similar thereto; and
- (d) whether it is sufficient to employ considerable number of whole-time worker.
- Explanation.*—If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.
58. The appropriate Government may, in the case of an emergency, direct, by notification, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Code or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors. Power to exempt in special cases.
59. It shall be the duty of every employer of an establishment employing inter-State migrant worker in connection with the work of that establishment,— Facilities to inter-State migrant workers.
- (i) to ensure suitable conditions of work to such worker having regard to the fact that they are required to work in a State different from their own State;
- (ii) in case of fatal accident or serious bodily injury to any such worker, to report to the specified authorities of both the States and also the next of kin of the worker;
- (iii) to provide and maintain suitable residential accommodation to such worker during the period of their employment;
- (iv) to provide the prescribed medical facilities and periodical medical examination to the such worker, free of charge.
60. (1) There shall be paid by the contractor to every inter-State migrant worker at the time of recruitment, a displacement allowance equal to fifty per cent. of the monthly wages payable to him. Displacement allowance.
- (2) The amount paid to a worker as displacement allowance under sub-section (1), shall not be refundable and shall be in addition to the wages or other amount payable to him.
61. A journey allowance of a sum not less than the fare from the place of residence of the inter-State migrant workers in his State to the place of work in the other State shall be payable by the contractor to the workers both for the outward and return journeys at the time of recruitment only and such worker shall be entitled to payment of wages during the period of such journeys as if he were on duty. Journey allowance, etc.

Past liabilities.

62. No suit or other proceeding shall lie in any court or before any authority for the recovery of debt or any part thereof relating to an inter-State migrant worker after the completion of his employment where it remains unsettled obligation to the contractor or the principal employer and such debt or part thereof shall, on the completion of the period of employment of such worker, be deemed to have been extinguished.

5

PART II

AUDIO-VISUAL WORKERS

Prohibition of employment of audio-visual worker without agreement.

63. (1) No person shall be employed as an audio-visual worker in or in connection with production of any audio-visual programme unless,—

(a) an agreement in writing is entered into—

10

(i) with such person by the producer of such audio-visual programme; or
(ii) by the producer of such audio-visual programme with the contractor, where such person is employed through such contractor; and

(b) such agreement is registered with the competent authority by the producer of such audio-visual programme.

15

(2) Every agreement, referred to in sub-section (1) shall,—

(a) be in the prescribed form;

(b) specify the name and such other particulars as may be prescribed by the Central Government with respect to, the audio-visual worker whose employment the agreement relates;

20

(c) include, where such audio-visual worker is employed through a contractor, a specific condition to the effect that in the event of the contractor failing to discharge his obligations under the agreement to the audio-visual worker with respect to payment of wages or any other matter, the producer of the audio-visual programme shall also be liable to discharge such obligations and shall be entitled to be reimbursed with respect thereto by the contractor.

25

(3) A copy of the agreement referred to in sub-section (1) with respect to the employment of the audio-visual worker shall, if such audio-visual worker is entitled to the benefits of provident fund, also be forwarded by the producer of the audio-visual programme to the authority as may be prescribed by the Central Government.

30

(4) Notwithstanding anything contained in Chapter V, VI and VII, the agreement referred to in sub-section (1) shall include,—

(i) nature of assignment;

(ii) wages and other benefits (including provident fund, if any);

(iii) health and working condition;

35

(iv) safety;

(v) hours of work; and

(vi) welfare facilities,

and it shall be responsibility of the producer to provide the facilities specified in the agreement to the audio-visual worker and the payment of wages shall be through electronic mode.

40

PART III

MINES

Managers.

64. (1) Save as may be otherwise prescribed by the Central Government, every mine shall be under a sole manager who shall have the prescribed qualifications and the owner or agent of every mine shall appoint a person having such qualifications to be the manager:

45

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications.

(2) Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

(3) Except in case of an emergency, the owner or agent of a mine or anyone on his behalf shall not give, otherwise than through the manager, instructions affecting the fulfillment of his statutory duties, to a person, employed in a mine, who is responsible to the manager.

10 **65.** (1) The provisions of this Code, except those contained in sections 35, 38, 40, 41 and 44, shall not apply to—

Code not to apply in certain cases.

(a) any mine or part thereof in which excavation is being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale subject to such conditions relating to number of employees, depth of excavation and other matters as may be prescribed by the Central Government;

(b) any mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand (excluding mouldings and glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone, slate, road metal, earth, fullers earth (marl, chalk) and lime stone subject to such conditions relating to workings, opencast workings and explosives as may be prescribed by the Central Government.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may declare that the provisions of this Code shall apply to such mine or part thereof as may be prescribed by it.

(3) Without prejudice to the provisions contained in sub-section (2), if at any time any of the conditions specified in clause (a) or clause (b) of sub-section (1) is not fulfilled in relation to any mine referred to in that sub-section, the provisions of this Code not set out in sub-section (1), shall become immediately applicable, and it shall be the duty of the employer of the mine to inform about such non-fulfillment to such authority in such manner and within such time as may be prescribed by the Central Government.

35 **66.** (1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as a result of breakdown of such machinery plant or equipment, the manager may, subject to the provision of clause (B) of sub-section (1) of section 38 and in accordance with the provisions as specified in section 25 relating to exemption from weekly day of rest, hours of work above ground, hours of work below ground and notices regarding hours of work relating to mines, permit persons to be employed in contravention of sections 25, 30 and sub-section (1) of section 31 on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Exemption from provision regarding employment.

45 Provided that in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of mineral would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(2) Every case in which action has been taken by the manager under sub-section (1), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator.

Employment of persons below eighteen years of age.

67. (1) No person below eighteen years of age shall be allowed to work in any mine or part thereof.

(2) Notwithstanding anything contained in sub-section (1), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager as referred to in section 64: 5

Provided that, in the case of trainees, other than apprentices, prior approval of the Chief Inspector-cum-Facilitator or an Inspector-cum-Facilitator shall be obtained before they are allowed to work.

(3) The Central Government may prescribe the provisions for medical examination of apprentice, other trainee and employee in the mine to ensure their fitness to work and to prevent the persons below sixteen years of age to work as apprentice or trainee and those who are not adults to work as such employee. 10

Explanation.—In this section, “apprentice” means an apprentice as defined in clause (a) of section 2 of the Apprentices Act, 1961. 52 of 1961.

Decision of question whether a mine is covered under this Code.

68. If any question arises as to whether any excavation or working (or premises in or adjacent to and belonging to a mine, on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on) is a mine within the meaning of this Code, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government in the Ministry of Labour shall be conclusive on the point. 15 20

PART IV

BEEDI AND CIGAR WORKERS

Licence to industrial premises and person.

69. (1) Save as otherwise provided in this Part, no employer shall use or allow to use any place or premises as an industrial premises unless he holds a valid licence issued under this section and no such premises shall be used except in accordance with the terms and conditions of such licence. 25

(2) Any person who intends to use or allows to use any place or premises specified in sub-section (1), shall make an application in writing to the competent authority, appointed by the State Government, in such form on payment of such fees as may be prescribed by the State Government, for a licence to use, or allow to use, such premises as an industrial premises. 30

(3) The application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed by the State Government. 35

(4) The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters, namely:—

(a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;

(b) previous experience of the applicant or he has employed experienced person or has entered into agreement with the experienced person for employment for the period of licence; 40

(c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour; 45

(d) whether the application is made *bona fide* on behalf of the applicant himself or in benami of any other person; and

(e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed by the State Government.

(5) A licence granted under this section shall be valid for three years and may be renewed thereafter.

(6) An application for the renewal of a licence granted under this section shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed by the State Government, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof:

Provided that the competent authority shall not grant or renew a licence unless it is satisfied that the provisions of this Code and the rules made thereunder have been complied with:

Provided further that the competent authority shall, in deciding whether to renew a licence or to refuse a renewal thereof, have regard to the matters specified in sub-section (3).

(7) The competent authority may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under this section, if it appears to it that such licence has been obtained by misrepresentation or fraud or that the licensee has contravened or failed to comply with any of the provisions of this Code or the rules made thereunder or any of the terms or conditions of the licence.

(8) The State Government may issue in writing to a competent authority such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licences under this section.

(9) Subject to the foregoing provisions of this section, the competent authority may grant or renew licences under this Part on such terms and conditions as it may determine and where the competent authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

70. Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence may, within such time and on payment of such fees as may be prescribed, appeal to such authority as the State Government may, by notification, specify in this behalf, and such authority may by order confirm, modify or reverse any order refusing to grant or renew a licence or cancelling or suspending a licence. Appeals.

71. (1) The State Government may permit, the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees, as may be prescribed. Permission to work by employees outside industrial premises.

(2) The employer shall maintain the record of the work permitted under sub-section (1), to be carried on outside the industrial premises, in the form as may be prescribed.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises:

Provided that nothing in this sub-section shall apply to any labour who is given raw material by an employer or a contractor to make beedi or cigar or both at home.

72. Nothing contained in this Part shall apply to the owner or occupier of a private dwelling house, not being an employee of an employer to whom this Part applies, who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him. Part not to apply to self-employed persons in private dwelling houses.

Explanation.—For the purposes of this section,—

(i) “family” does not include child, as defined in the Child and Adolescent (Prohibition and Regulation) Act, 1986, for this section.

(ii) “private dwelling house” means a house in which persons engaged in the manufacture of beedi or cigar or both, reside.

PART V

BUILDING AND OTHER CONSTRUCTION WORKERS

Prohibition of employment of certain persons in certain building or other construction work. **73.** No person about whom the employer knows or has reasons to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person. 5

PART VI

FACTORIES 10

Approval and licensing of factories. **74. (1)** The appropriate Government may make rules in respect of factory or class or description of factories for—

(a) the submission of plans including specifications, nature and certification thereof;

(b) the previous permission for the site on which the factory is to be situated and for the construction or extension thereof; and 15

(c) registration and licensing and renewal thereof including fees to be payable for such registration, licensing and renewal, as the case may be.

(2) If on an application for permission referred to in clause (b) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (c) of that sub-section, sent to the State Government or Chief Inspector-cum-Facilitator in the mode prescribed including electronic mode, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted. 20

(3) Where a State Government or a Chief Inspector-cum-Facilitator refuses to grant permission to the site, construction or extension of a factory and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the State Government and to the State Government in any other case. 25

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, of the addition of any plant or machinery if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health. 30 35

Liability of owner of premises in certain circumstances. **75.** Where any premises or separate buildings are leased to different occupiers for use as separate factories, the owner of the premises and occupiers of the factories utilising such common facilities which include safety and fire prevention and protection, access, hygiene, occupational health, ventilation, temperature, emergency preparedness and response, canteens, shelter, rest rooms and crèches shall jointly and severally be responsible for providing maintenance of such common facilities and services as may be prescribed by the appropriate Government. 40

Power to apply Code to certain premises. **76. (1)** The appropriate Government may, by notification in the Official Gazette, declare that all or any of the provisions of this Part shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on irrespective of the number of workers working in the factory. 45

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Code, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

Explanation.—For the purposes of this section, “owner” shall include a lessee or mortgagee with possession of the premises.

77. The appropriate Government may by rules make the provisions relating to any factory or class or description of factories in which manufacturing process or operation is carried on which exposes any of the persons employed in it to a serious risk of bodily injury, poisoning or disease, for—

Dangerous operations.

(a) specifying the manufacturing process or operation and declaring it to be dangerous;

(b) prohibiting or restricting the employment of pregnant women in the manufacturing process or operation;

(c) the periodical medical examination before, or at any time during the employment to ascertain the fitness of a worker or employee for such employment on the cost of the occupier; and

(d) welfare amenities, sanitary facilities, protective equipment and clothing and any other requirement necessary for dangerous operations.

78. (1) The appropriate Government may, constitute one or more site appraisal committees consisting of a chairman and other members, for such purpose as may be prescribed including to consider and to give recommendations on an application for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of such factory.

Constitution of site appraisal committee.

(2) The site appraisal committee referred to in sub-section (1) shall make its recommendation within a period of ninety days of the receipt of the application for any of the purpose referred to in the said sub-section in such form, as may be prescribed.

79. (1) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed by the State Government all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector-cum-Facilitator, the local authority within whose jurisdiction the factory is situated and the general public in the vicinity.

Compulsory disclosure of information by occupier.

(2) The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector-cum-Facilitator and the local authority and, thereafter, at such intervals as may be prescribed by the State Government, inform the Chief Inspector-cum-Facilitator and the local authority of any change made in the said policy.

(3) The information furnished under sub-section (1) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(4) Every occupier shall, with the approval of the Chief Inspector-cum-Facilitator, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(5) Every occupier of a factory shall, if such factory proposes to engage in a hazardous process at any time after the commencement of this Code, within a period of thirty days before the commencement of such process, inform the Chief Inspector-cum-Facilitator about the nature and details of the process in such form and in such manner as may be prescribed by the State Government.

(6) Where any occupier of a factory contravenes the provisions of sub-section (5), the licence issued under section 74 to such factory shall, notwithstanding any penalty which may be imposed on the occupier of factory under the provisions of this Code, be liable for cancellation.

(7) The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector-cum-Facilitator, lay down measures for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed by the State Government among the workers and the general public living in the vicinity.

Specific responsibility of occupier in relation to hazardous processes.

80. Every occupier of a factory involving any hazardous process shall—

(a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed by the State Government;

(b) appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed by the State Government:

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector-cum-Facilitator shall be final;

(c) provide for medical examination of every worker—

(i) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance; and

(ii) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed by the State Government.

National Board to inquire into certain situations.

81. (1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, direct the National Board to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed by the State Government for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected, due to such failure or neglect and for the prevention and recurrence of such extraordinary situations in future in such factory or elsewhere.

(2) The recommendations of the National Board shall be advisory in the nature.

Emergency standards.

82. (1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Directorate General Occupational Safety and Health formerly known as Directorate General of Factory Advice Service and Labour Institutes or any Institution authorised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Code, be enforceable and have the same effect as if they had been incorporated in the rules made under this Code.

83. The maximum permissible limits of exposure of chemical and toxic substances in manufacturing process in any factory shall be of the value as may be prescribed by the State Government.

Permissible limits of exposure of chemicals and toxic substances.

84. (1) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may, bring the same to the notice of the occupier, agent, manager or any other person who is in-charge of the factory or the process concerned directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

Right of workers to warn about imminent danger.

(2) It shall be the duty of such occupier, agent, manager or the person in-charge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the nearest Inspector-cum-Facilitator.

(3) If the occupier, agent, manager or the person in-charge referred to in sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by the workers, he shall, nevertheless, refer the matter forthwith to the nearest Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

85. The appropriate Government may prescribe the manner in which the appropriate authority to whom the manager or occupier of the factory may make appeal against the order of the Inspector-cum-Facilitator and the procedure for disposing of such appeals.

Appeal against the order of Inspector-cum-facilitator in case of factory.

86. (1) The appropriate Government may prescribe the provisions defining the persons who hold positions of supervision or management or employed in a confidential position in a factory or empowering the Chief Inspector-cum-Facilitator to declare any person, other than a person so defined, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector-cum-Facilitator, such person holds such position or is so employed and the provisions of this Code, shall not apply to any person so defined or declared.

Power to make exempting rules and order.

(2) The appropriate Government may, by notification, make rules, in respect of any worker or class of workers in any establishment or class of establishments, for providing the exemption, extent of exemption and conditions subject to which such exemption may be given.

(3) In making rules under sub-section (1) and sub-section (2), the appropriate Government shall prescribe for any establishment or class of establishments relating to overtime hours in respect of the following, namely:—

- (i) the total number of hours of work in any day;
- (ii) the spread over in any one day;
- (iii) the total number of hours of work in a week;
- (iv) the total number of hours of overtime in a quarter; and
- (v) or any other related aspect.

(4) The appropriate Government or the Chief Inspector-cum-Facilitator may, by order in writing, exempt on such conditions as it may deem expedient, any or all of the adult workers in any establishment or class of establishments and any exemption so granted shall be subject to such conditions as may be prescribed by the appropriate Government.

Explanation.—“Quarter” means a period of three consecutive months beginning on the 1st day of January, the 1st day of April, the 1st day of July or the 1st day of October.

CHAPTER XII

OFFENCES AND PENALTIES

General penalty for offences.	<p>87. Save as is otherwise expressly provided in this Code, if in, or in respect of, any establishment, there is any contravention of the provisions of this Code or rules or regulations or bye-laws or any of standards, made thereunder or of any order in writing given under the Code or such rules or regulations or bye-laws or standards, the employer of the establishment shall be liable to penalty which shall not be less than two lakhs but which may extend up to three lakh rupees, and if the contravention is continued after the conviction, then, with further fine which may extend to two thousand rupees for each day till the contravention is so continued.</p>	5 10
Punishment for causing obstruction to Chief-Inspector-cum-Facilitator or Inspector-cum-Facilitator, etc.	<p>88. (1) Whoever wilfully—</p> <p>(i) prevents or causes obstruction to a Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or an officer of the appropriate Government or a person authorised to discharge any duty or to exercise any powers under this Code or the rules or the regulations or the bye-laws made thereunder, from discharging such duty or exercising such power; or</p> <p>(ii) refuses entry to the Chief Inspector-cum-Facilitator or the Inspector-cum-Facilitator or person or public authority or experts referred to in clause (i) of sub-section (1) of section 35 to any place where such Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or such person or authority or experts is entitled to enter; or</p> <p>(iii) fails or refuses to produce any document which he is required to produce; or</p> <p>(iv) fails to comply with any requisition or order issued to him,</p> <p>under this Code or the rules, regulations or bye-laws made thereunder then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.</p> <p>(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.</p>	15 20 25 30
Penalty for non-maintenance of register, records and non-filing of returns, etc.	<p>89. (1) Any person, who is required under this Code or the rules or regulations or bye-laws or order made thereunder, to—</p> <p>(i) maintain any register or other document or to file returns, omits or fails to maintain such register or document or to file such returns; or</p> <p>(ii) produce any register or plan or record or report or any other document, omits or fails to produce such register or plan or record or report or such other document,</p> <p>then, he shall be liable to penalty which shall not be less than rupees fifty thousand but which may extend to one lakh rupees.</p> <p>(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be liable to penalty which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.</p>	35 40
Punishment for contravention of certain provisions.	<p>90. (1) Any person, who, save as permitted by or under this Code, contravenes, any—</p> <p>(i) provision of this Code or of any rule, regulation or bye-laws; or</p> <p>(ii) order prohibiting, restricting or regulating the employment of workers including women, audio-visual worker and contract labour and employee below eighteen years of age in case of mines,</p>	45

then, he shall be liable to penalty which shall not be less than fifty thousand but which may extend to one lakh rupees.

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both.

91. (1) Whoever—

(a) produces false records or counterfeits or knowingly makes or produces or uses a false statement, declaration or evidence regarding any document in connection with compliance of any of the provisions of this Code or any rules, regulations or bye-laws or any order made thereunder; or

(b) falsifies any plan or section, the maintenance of which is required by or under this Code or produces before any authority such plan or section, knowing the same to be false; or

(c) makes, gives or delivers knowingly a false plan, section, return, notice, record or report containing a statement, entry or detail,

then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

(2) Where any person convicted of an offence punishable under sub-section (1) is again convicted of an offence under the same provision, then, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.

92. Any person who, without reasonable excuse, the burden to prove such excuse lies upon him, omits to make or furnish in the prescribed form or manner or at, or within, the prescribed time any plan, section, return, notice, register, record or report required by or under any provision of this Code to be made or furnished, then he shall be liable to penalty which shall not be less than rupees one lakh but which may extend to two lakh rupees.

93. (1) Whoever being the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator or any other person referred to in section 39 or section 116 discloses, contrary to the provisions of that section, any such information as is referred to in that section without the consent of the appropriate Government, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

(2) No court shall proceed to the trial of any offence under this section except with the previous sanction of the appropriate Government.

94. Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Code, publishes or discloses to any person the results of an analysis, of a sample of substance used or intended to be used in any process under this Code, shall be punishable with imprisonment for a term, which may extend to six months or with fine, which may extend to fifty thousand rupees or with both.

95. (1) Whoever fails to comply with or contravenes any of his duties specified under sub-section (1) or sub-section (2) of section 6 or clause (d) of section 13 in so far as such duty relates to hazardous processes or section 80,

shall, in respect of such failure or contravention, be punishable with an imprisonment for a term which may extend to two years and with fine which may extend to five lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues, after the conviction for the first such failure or contravention.

Punishment for falsification of records, etc.

Penalty for omission to furnish plans, etc.

Punishment for disclosure of information.

Penalty for wrongfully disclosing results of analysis.

Penalty for contravention of the provisions of duties relating to hazardous processes.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to three years or with a fine of twenty lakh rupees, or with both.

Penalty for contravention of provisions of duties relating to safety provisions resulting in an accident.

96. (1) If a person fails to comply with or contravenes any duties under this Code or the rules, regulations, or bye-laws or orders made thereunder and such non-compliance or contravention has resulted in an accident or dangerous occurrences causing,—

(a) death, he shall be punishable with an imprisonment for a term which may extend to two years or with a fine which shall not be less than five lakh rupees or with both; or

(b) serious bodily injury to any person within the establishment, he shall be punishable with an imprisonment for a term which may extend to one year or with a fine which shall not be less than two lakh rupees but not exceeding four lakh rupees or both:

Provided that while imposing the fine under this section, the court may direct that a portion of the fine, which shall not be less than fifty per cent. thereof, shall be given as compensation to the victim or to the legal heirs of the victim, in the case of his death.

(2) Where a person having been convicted under sub-section (1) is again convicted thereunder, shall be punishable with double the punishment provided under that sub-sections for first conviction.

Special provision for contravention of order under section 38.

97. Whoever continues to work in contravention of any general or special order issued under the provisions of section 38, shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine which may extend to five lakh rupees:

Provided that the court shall not impose a fine under this section which shall be less than two lakh rupees without recording in the judgement the reasons for imposing such fine.

Failure to appoint manager in mine.

98. Whoever in contravention of the provisions of section 64, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

Offences by employees.

99. (1) Subject to the provisions of section 13, except clause (d) thereof, if any employee employed in a workplace contravenes any provision of this Code or any rules or orders made thereunder, imposing any duty or liability on employee, he shall be punishable with fine which may extend to ten thousand rupees.

(2) Where an employee is convicted of an offence punishable under sub-section (1) the employer of the establishment shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

Prosecution of owner, agent or manager of a mine.

100. No prosecution shall be instituted against any owner, agent or manager of a mine for any offence under this Code except at the instance of the Chief Inspector-cum-Facilitator or of the District Magistrate or of Inspector-cum-Facilitator authorised in this behalf by general or special order in writing by the Chief Inspector-cum-Facilitator:

Provided that the Chief Inspector-cum-Facilitator or the District Magistrate or the Inspector-cum-Facilitator as so authorised shall before instituting such prosecution satisfy himself that the owner, agent or manager of a mine had failed to exercise due diligence to prevent the commission of such offence.

Provided further that in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager of a mine without the previous approval of the Chief Inspector-cum-Facilitator.

5 **101.** Where the owner, agent or manager of the mine or employer or occupier of the factory is charged with an offence punishable under this Code he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

Exemption of owner, agent or manager of a mine or occupier of a factory from liability in certain cases.

(a) that he has exercised due diligence to enforce the execution of this Code, and

15 (b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he was the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and the owner, agent or manager of a mine or the occupier or the manager of the factory shall be, discharged from any liability under this Code in respect of such offence:

20 Provided that in seeking to prove as aforesaid the owner, agent or manager of a mine or the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support, shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

25 Provided further that, if the person charged as the actual offender by the owner, agent or manager of the mine or occupier or manager of the factory as the case may be, cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the owner, agent or manager of the mine or occupier or manager of the factory, as the case may be, and shall, if the offence be proved, convict him.

30 **102.** (1) Where an offence under this Code has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies, etc.

40 Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

45 (2) Notwithstanding anything contained in sub-section (1) where any offence under this Code has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, company secretary or other officer of the company, such director, manager, company secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, means,—

(i) in relation to a firm, a partner thereof; or

(ii) the owner of a mine, being a firm or other association of individuals or a company; or

(iii) in case of association of individuals other than specified in sub-clause (ii), any of its members. 5

Limitation of prosecution and cognizance of offence.

103. (1) No court shall take cognizance of any offence punishable under this Code, unless a complaint in respect thereof is made within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector-cum-Facilitator and a complaint is filed in this regard. 10

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Code.

Explanation.—For the purposes of this section,—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues; 15

(b) where for the performance of any act, time is granted or extended on an application made by the employer of an establishment, the period of limitation shall be computed from the date on which the time so granted or extended expired.

Power of officers of appropriate Government to impose penalty in certain cases.

104. (1) Notwithstanding anything contained in section 103, for the purpose of imposing penalty under sections 87, 89, 90, 92, 99 and sub-section (3) of section 107, the appropriate Government may appoint any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government, as the case may be, for holding enquiry in such manner, as may be prescribed by the Central Government. 20

(2) While holding the enquiry, the officer referred to in sub-section (1) shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of such officer, may be useful for or relevant to the subject matter of the enquiry and if, on such enquiry, he is satisfied that the person has committed any offence under the provisions referred to in sub-section (1), he may impose such penalty as he thinks fit in accordance with such provisions. 25
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Jurisdiction of a court for entertaining proceedings, etc., for offence.

105. For the purposes of conferring jurisdiction on any court in relation to an offence under this Code or the rules, regulation or bye-laws made thereunder in connection with an establishment, the place where the establishment is for the time being situate, shall be deemed to be the place where such offence has been committed.

Power of court to make orders.

106. (1) Where the employer of a mine or a factory or a dock is convicted of an offence punishable under this Code, the court may, in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the court from time to time on application made in this behalf) to take such measures as may be specified in the order for remedying the matters in respect of which the offence was committed. 35
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(2) Where an order is made under sub-section (1), the employer of the mine or the factory shall not be liable under this Code in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, employer shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both. 45

2 of 1974.

107. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused, either before or after the holding of the enquiry under section 104, be compoundable for a sum of fifty per cent. of the maximum fine provided for such offence in such manner as may be prescribed by the appropriate Government, by such Gazetted Officer, as the said Government may, by notification, specify in this behalf:

Compounding
of offences.

Provided that the composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded:

10 Provided further that where the composition of any offence is made after commencement of the inquiry under section 104 such composition shall be brought by the officer in writing, to the notice of the Officers referred to in section 104 before whom the inquiry is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

15 (2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second or subsequent time within a period of five years from the date of commission of such offence—

(a) which was earlier compounded; or

(b) for which such person was earlier convicted.

20 (3) Any person who fails to comply with an order made by the officer referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

CHAPTER XIII

MISCELLANEOUS

25 **108.** The Central Government may, by notification, direct that any power exercisable by it under this Code or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by the State Government or by such officer or authority subordinate to the State Government as may be specified in the said notification.

Delegation
of powers.

30 **109.** (1) When any offence is committed under this Code involving an issue of a certain age of a person and such person is in the opinion of the court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

Onus as to
age.

35 (2) The prescribed medical authority shall, while examining a worker for issuing the certificate of age for the purposes of this Code, take into account the Aadhaar card of the worker, and in the absence thereof, the date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination Board of the worker, if available, and in the absence thereof, the birth certificate of the worker given by a corporation or a municipal authority or a Panchayat, and only in the absence of any of the methods specified in this sub-section, the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test.

40 **110.** In any proceeding for an offence for the contravention of any provision of this Code or regulations or bye-laws or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or all practicable measures were taken to satisfy the duty or requirement.

Onus of
proving
limits of
what is
practicable,
etc.

45 **111.** (1) Any person desirous of obtaining common licence in respect of a factory, for engaging contract worker and industrial premises for beedi and cigar work under this Code shall make an application to such authority as may be designated by the appropriate Government by notification.

Common
licence for
contractor,
factories and
to industrial
premises and
person.

(2) The application referred to in sub-section (1) shall be in such form and filed in such manner and accompanied by such fee as may be prescribed by the Central Government.

(3) On receipt of an application under sub-section (1), the designated authority shall refer the same to the concerned licensing officers for his report within a period of thirty days and the provisions of this Code relating to his area shall apply accordingly. 5

(4) Where the licensing authority agrees to grant licence in respect of a factory, for engaging contract worker and industrial premises for beedi and cigar work, the designated authority shall issue a licence within sixty days of the receipt of application:

Provided that where no report as referred to in sub-section (2) is received within the period specified therein it shall be presumed that the concerned licensing officer has no objection to the grant of the same: 10

Provided further that where a licensing officer opposes to grant of such licence, the applicant may be granted the licence in respect of rest of the areas specified in his application.

(5) Where all but one of the licensing officers oppose to grant the licence, the application for common licence shall be deemed to have been rejected and the applicant shall apply to respective licensing officer under the provisions of this Code. 15

(6) any person aggrieved, by any order passed under this section, may file an appeal in such form, accompanied with such fee to such appellate authority as may be prescribed by the Central Government; and

(7) the rules relating to this section shall be made by the Central Government. 20

Effect of law and agreements inconsistent with this Code.

112. (1) The provisions of this Code shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement or contract of service whether made before or after the commencement of this Code:

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Code, the employee shall continue to get the former notwithstanding that he receives benefits in respect of other matters under this Code. 25

(2) Nothing contained in this Code shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Code. 30

Power of appropriate Government to direct inquiry in certain cases.

113. (1) The appropriate Government may, in the event of the occurrence of an accident in an establishment which has caused or had the potentiality to cause serious danger to employees and other persons within, and in the vicinity of the workplace or whether immediate or delayed, or any occupational disease as specified in the third Schedule, which has been or is suspected to have been contracted, in epidemic proportions, appoint one or more persons possessing legal or special knowledge to act as assessors or competent persons in such inquiry in order to inquire into the causes of the accident and disease, fix responsibilities and suggest a plan of action for the future to prevent such accidents or diseases and submit the report to the appropriate Government. 35 40

(2) The appropriate Government may direct a Chief Inspector-cum-Facilitator or any other officer under the control of the Government concerned or appoint a committee to undertake a survey in such manner as may be prescribed by the appropriate Government on the situation relating to safety or health at work at any workplace or class of workplaces or into the effect of work activity on the health of the employees and other persons within and in the vicinity of the workplace. 45

- 5 of 1908. (3) The officer directed or committee appointed under sub-section (2) to hold an inquiry, shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also so far as may be necessary for the purposes of the inquiry, exercise such powers of an Inspector-cum-Facilitator under this Code as may be necessary.
- (4) The Central Government may make rules for regulating the procedure of inquiries and other related matters under this section.
- 10 **114.** The appropriate Government may, if it thinks fit, cause to be published any report submitted to it by the National Board or State Advisory Board or any extracts from any report submitted to it under this Code. Publication of reports.
- 115.** The Central Government may give directions to a State Government for the implementation of the provisions of this Code. Powers of Central Government to give directions.
- 15 **116.** (1) No person shall in respect of the establishment, disclose any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties. General restriction on disclosure of information.
- (2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of the business or process or for the purposes of any legal proceeding (including adjudication or arbitration), pursuant to any of the relevant statutory provisions or of any criminal proceeding or proceeding before a tribunal under this Code which may be taken, whether pursuant to any of the relevant statutory provisions or otherwise, or for the purposes of any report of any such proceedings.
- 20 **117.** No civil court shall have jurisdiction in respect of any matter to which any provision of this Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Code. Jurisdiction of civil courts barred.
- 118.** (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-laws order made thereunder. Protection of action taken in good faith.
- (2) No prosecution or other legal proceeding shall lie against the Government, any Board or Committees constituted under this Code or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-laws order made or issued thereunder.
- 30 **119.** The appropriate Government may, by notification and subject to such conditions and restrictions, if any, and for such period or periods as may be specified in the notification, direct that all or any of the provisions of this Code or the rules or the regulations made thereunder shall not apply to or in relation to any establishment or class of establishments. Power to exempt in special cases.
- 40 **120.** In case of a public emergency, the appropriate Government may, by notification, exempt any workplace or work activity or class thereof from all or any of the provisions of this Code for such period and subject to such conditions as it may think fit: Power to exempt during public emergency.
- Provided that no such notification shall be made for a period exceeding three months at a time.
- 45 *Explanation.*—For the purposes of this section ‘public emergency’ means a grave emergency whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

Power to exempt public institution.

121. The appropriate Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training, research or information, from all or any of the provisions of this Code:

Provided that no such exemption shall be granted from the provisions relating to hours of work and holidays unless the persons having the control of the institution submit, for the approval of the appropriate Government, a scheme of the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates for the institution, and the appropriate Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Code.

Persons required to give notice, etc., legally bound to do so.

122. Every person required to give any notice or to furnish any information to any authority in relation to the provisions of this Code shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

45 of 1860.

Power of Central Government to amend Schedule.

123. The Central Government may, by notification, amend any Schedule by way of addition, alteration or omission therein and on any such notification being issued, the Schedule shall be deemed to be amended accordingly.

Power to remove difficulties.

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

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

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

Power of appropriate Government to make rules.

125. (1) The appropriate Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Code.

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

(a) income from the sources under *Explanation* to clause (w) of sub-section (1) of section 2;

(b) to prescribe the substance as hazardous substance under clause (z) of sub-section (1) of section 2;

(c) the late fee under the proviso to sub-section (1) of section 3;

(d) the manner of submitting application under sub-section (2) of section 3 and the form of such application and the particulars to be contained therein and the fees to be accompanied therewith;

(e) the form and manner of sending the notice and the authority to whom the notice shall be sent and the manner of intimating the authority under sub-section (1) of section 5;

(f) test free of cost to such employees of such age or such class of establishments under clause (c) of sub-section (1) of section 6;

(g) the information to be included in the letter of appointment under clause (f) of sub-section (1) of section 6;

(h) the nature of bodily injury and the form of notice and the time within which the notice shall be sent under sub-section (I) of section 10;

(i) nature of dangerous occurrence and the form of notice, the time within which and the authority to which notice shall be given under section 11;

5 (j) the form of notice related to certain diseases and the time within which the notice shall be sent to the authority under sub-section (I) of section 12;

(k) the form and manner of the report and the time within which such report shall be sent to the office of the Chief Inspector-cum-Facilitator under sub-section (2) of section 12;

10 (l) such other duties of employees under clause (g) of section 13;

(m) the manner of constituting a safety committee and the manner and the purpose for choosing the representative of the employer and the workers in the Safety Committee under sub-section (I) of section 22;

15 (n) the qualifications, duties and number of safety officers under sub-section (2) of section 22;

(o) condition for exemption of workers from weekly and compensatory holidays under sub-section (2) of section 26;

(p) circumstances for exemption from restriction on double employment in factory and mine under section 30;

20 (q) the form and manner of display of such notice and the manner in which such notice is sent to the Inspector-cum-Facilitator under sub-section (2) of section 31;

(r) the form of registers and particulars of workers under clause (a) of section 33;

(s) the manner and form of displaying notices under clause (b) of section 33;

25 (t) the manner of filing return to the Inspector-cum-Facilitator under clause (d) of section 33;

(u) the manner of conducting inspection including web based inspection under sub-section (2) of section 34;

(v) the qualification and experience of Chief Inspector-cum-Facilitator under sub-section (3) of section 34;

30 (w) the manner of taking samples of any article or substance found in any premises under clause (x) of sub-section (I) of section 35;

(x) the powers and duties of Inspector-cum-Facilitator under clause (xiv) of sub-section (I) of section 35;

35 (y) the qualification, experience, duties and responsibilities of experts to be empaneled under section 37;

(z) the manner of providing alternative employment under sub-clause (d) of clause (A) of sub-section (I) of section 38;

(za) the qualification for the appointment of medical practitioner and other establishment under sub-section (I) of section 42;

40 (zb) other establishment and the dangerous occupation or processes under clause (a) of sub-section (2) of section 42;

(zc) medical supervision and any other establishment in respect of illness under clause (b) of sub-section (2) of section 42;

45 (zd) examination and certification of adolescent for his fitness for employment and any other establishment under clause (c) of sub-section (2) of section 42;

- (ze) any other condition to be observed by the employer under section 43;
- (zf) conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour under clause (a) of sub-section (3) of section 47;
- (zg) the particulars for grant of licence under sub-section (1) of section 48;
- (zh) the procedure for grant of licence under sub-section (2) of section 48; 5
- (zi) manner of applying for the renewal of licence and the manner of renewal of licence under sub-section (3) of section 48;
- (zj) information regarding work order for supply or engagement of contract labour under sub-section (1) of section 50;
- (zk) to suspend or cancel the licence in such manner for contract labour under sub-section (2) of section 50; 10
- (zl) the period before which the wages shall be paid under sub-section (1) of section 55;
- (zm) the manner of certifying the amounts paid as wages under proviso to sub-section (2) of section 55 ; 15
- (zn) the format of issuing experience certificate under section 56;
- (zo) the conditions relating to number of employees, depth of excavation and other matter under clause (a) of sub-section (1) of section 65;
- (zp) the conditions relating to workings, opencast workings and explosives under clause (b) of sub-section (1) of section 65; 20
- (zq) any other common facilities for liability of owner of premises under section 75;
- (zr) form of application for establishment of factory involving hazardous process under sub-section (2) of section 78;
- (zs) the appellate authority against the order of Inspector-cum-Facilitator of factory under section 85; 25
- (zt) for exemption, extent of exemption and conditions subject to which such exemption in respect of any worker or class of worker in an establishment or class of establishments under sub-section (2) of section 86;
- (zu) rules selecting to overtime hours under sub-section (3) of section 86; 30
- (zv) the manner of holding inquiry by the adjudicating officer under sub-section (1) of section 104;
- (zw) the manner of compounding of offence under sub-section (1) of section 106;
- (zx) any other matter which is required to be, or may be, prescribed under this Code. 35

Power of
Central
Government
to make
rules.

126. (1) The Central Government may, subject to the conditions of previous publication and by notification, make rules for carrying out the purposes of this Code.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— 40

(a) the authority under sub-clause (iii) of clause (zo) of sub-section (1) of section 2;

(b) to define the occupier in case of owner of dock under proviso of sub-clause (iii) of clause (zo) of sub-section (1) of section 2;

(c) form of certificate of registration, the time within which and the conditions subject to which such certificates shall be issued under sub-section (3) of section 3;

5 (d) other particulars and form under sub-section (4) of section 3;

(e) the manner of informing closing of establishment and certifying payment to the registering officer under sub-section (5) of section 3;

(f) procedure of National Board and the officers and staff thereof under sub-section (3) of section 16;

10 (g) the number of members, qualifications and terms and conditions of service under sub-section (4) of section 16;

(h) the number of members of technical committees or advisory committees and their qualifications under sub-section (5) of section 16;

(i) health and working conditions under sub-section (1) of section 23;

15 (j) welfare facilities for the workers under sub-section (1) of section 24;

(k) to define "running time" in relation to a working day under *Explanation (a)* of sub-section (1) of section 25;

(l) the hours of work for working journalist under sub-section (2) of section 25;

(m) other kinds of leave under clause (i) of sub-section (3) of section 25;

20 (n) the maximum period of accumulating leave under clause (ii) of sub-section (3) of section 25;

(o) the limit up to which the earned leave may be availed of at a time and the reasons for which such leave may be exceeding under clause (iii) of sub-section (3) of section 25;

25 (p) conditions and restrictions for entitlement of cash compensation under clause (iv) of sub-section (3) of section 25;

(q) powers and duties of District Magistrate under section 36;

(r) requisite qualifications or criteria under sub-section (1) of section 47;

(s) period of renewal of licence under sub-section (2) of section 47;

30 (t) specify the name and such other particulars under clause (b) of sub-section (2) section of 63;

(u) authority to whom the information relating to audio-visual programme by the producer under sub-section (3) of section 63;

35 (v) the matter which may be save and the qualifications of sole manager under sub-section (1) of section 64;

(w) to declare the mines and part thereof for the purpose of applicability of the provisions of this Code under sub-section (2) of section 65;

(x) for the grant of common licence under section 111;

(y) qualification under clause (g) of section 128.

(z) the language of the bye-laws under sub-section (7) of section 131; 5

Power of
State
Government
to make
rules.

127. (1) The State Government may, subject to the conditions of previous publication and by notification, make rules for the matters relating to the factories, plantation and any other matter for the carrying out the provision of this Code by the State Government.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— 10

(a) the constitution, procedure and other matters relating to State Advisory Board under sub-section (2) of section 17;

(b) the number of members and their qualifications under sub-section (3) of section 17;

(c) the form of application and the payment of fees under sub-section (2) of section 69; 15

(d) the manner of preparing the plan of the place of premises under sub-section (3) of section 69;

(e) other matter under clause (e) of sub-section (4) of section 69;

(f) fees under sub-section (6) of section 69; 20

(g) the time of filing appeal, fees and the appellate authority under section 70;

(h) the form of application by the employee under sub-section (1) of section 71;

(i) form of maintaining the record of the work under sub-section (2) of section 71;

(j) rules for manner and approval, licensing of factories under sub-section (1) of section 74; 25

(k) mode of submission of application under sub-section (2) of section 74;

(l) limit for replacement of any plant or machinery under *Explanation* to section 74;

(m) the manner of disclosing information by occupier of a factory under sub-section (1) of section 79; 30

(n) the interval of informing Chief Inspector-cum-Facilitator and the local authority about the policy relating to hazardous process of a factory under sub-section (2) of section 79;

(o) the form and manner of informing Chief Inspector-cum-Facilitator under sub-section (5) of section 79; 35

(p) the manner of publicising among the workers and the general public living in the vicinity of the factory including a hazardous process under sub-section (7) of section 79;

5 (q) maintain health and medical records of the workers and the conditions for accessibility by workers engaged in hazardous process under clause (a) of section 80;

(r) the qualification and experience of persons handling hazardous substance and manner of providing necessary facilities for protecting the workers under clause (b) of section 80;

10 (s) the manner of providing medical examination of a worker under sub-clause (ii) of clause (c) of section 80;

(t) the maximum permissible limit of exposure of chemical and toxic substances in manufacturing process in any factory under section 83;

(u) any other matter which has to be, or may be, prescribed.

15 (3) The Central Government may, by notification and in consultation with the State Government, make rules for the purposes of bringing uniformity, throughout the country, in occupational safety, health or such other matters as it considers necessary in respect of factories.

128. The Central Government may, by notification in the Official Gazette, make regulations consistent with this Code for all or any of the following purposes, namely:—

20 (a) for prescribing the qualifications required for appointment as Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator;

(b) for prescribing and regulating the duties and powers of the Chief Inspector-cum-Facilitator and of Inspector-cum-Facilitators in regard to the inspection of mines under this Code;

25 (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them, and for prescribing the qualifications (including age) of agents and managers of mines and of persons acting under them;

(d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

30 (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

35 (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mines to be under a manager not having the prescribed qualifications;

40 (h) for providing for inquiries to be made under this Code, including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Code and for the suspension or cancellation of any such certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects;

Power of Central Government to make regulations in relation to mines and dock work.

(i) for regulating, subject to the provisions of the Indian Explosives Act, 1884, 4 of 1884.
and of any rules made thereunder, the storage, conveyance and use of explosives;

(j) for prohibiting, restricting or regulating the employment of women in mines or
in any class of mines or on particular kinds of labour which are attended by danger to
the life, safety or health of such persons and for limiting the weight of any single load 5
that may be carried by any such person;

(k) for providing for the safety of the persons employed in a mine, their means of
entrance there into and exit there from, the number of shafts or outlets to be furnished,
and the fencing of shafts, pits, outlets, pathways and subsidences;

(l) for prohibiting the employment in a mine either as manager or in any other 10
specified capacity of any person except persons paid by the owner of the mine and
directly answerable to the owner or manager of the mine;

(m) for providing for the safety of the roads and working places in mines, including
the sitting, maintenance and extraction or reduction of pillars or blocks of minerals and
the maintenance of sufficient barriers between mine and mine; 15

(n) for the inspection of workings and sealed off fire-areas in a mine, and for the
restriction of workings in the vicinity of the sea or any lake or river or any other body
of surface water, whether natural or artificial, or of any public road or building, and for
requiring due precaution to be taken against the irruption or inrush of water or other
liquid matter into, outbreak of fire in or premature collapse of, any workings; 20

(o) for providing for the ventilation of mines and the action to be taken in
respect of dust, fire, and inflammable and noxious gases, including precautions against
spontaneous combustion, underground fire and coal dust;

(p) for regulating, subject to the provisions of the Indian Electricity Act, 1910, 9 of 1910.
and of any rules made thereunder, the generation, storage, transformation, transmission 25
and use of electricity in mines and for providing for the care and the regulation of the
use of all electrical apparatus and electrical cables in mines and of all other machinery
and plant therein;

(q) for regulating the use of machinery in mines, for providing for the safety of
persons employed on or near such machinery and on haulage roads and for restricting 30
the use of certain classes of locomotives underground;

(r) for providing for proper lighting of mines and regulating the use of safety
lamps therein and for the search of persons entering a mine in which safety lamps are
in use;

(s) for providing against explosions or ignitions of inflammable gas or dust or 35
irruptions of or accumulations of water in mines and against danger arising there from
and for prohibiting, restricting or regulating the extraction of minerals in circumstances
likely to result in the premature collapse of workings or to result in or to aggravate the
collapse of workings or irruptions of water or ignitions in mines;

(t) for specifying type of accidents for the purposes of notice under section 10 40
and for specifying the notices of accidents and dangerous occurrences, and the notices,
reports and returns of mineral output, persons employed and other matters provided
for by regulations, to be furnished by owners, agents and managers of mines, and for
prescribing the forms of such notices, returns and reports, the persons and authorities
to whom they are to be furnished, the particulars to be contained in them, and the time 45
within which they are to be submitted;

(u) for requiring owners, agents and managers of mines to have fixed boundaries
for the mines, for prescribing the plans and sections and field notes connected therewith
to be kept by them and the manner and places in which such plans, sections and field

notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector-cum-Facilitator, and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue;

(v) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about, mines for dealing effectively with the situation.

(w) for specifying the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 5;

(x) for specifying the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within forty-five meters of any railway subject to the provisions of the Indian Railways Act, 1890 or of any public roads or other works as the case may be, which are maintained by the Government or any local authority;

(y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890;

(z) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner in the same manner as an arrear of land revenue;

(za) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public;

(zb) for specifying the number of officials to be appointed;

(zc) for specifying the qualifications of the officials to be appointed;

(zd) for specifying the qualifications and experience of the agents;

(ze) for specifying the period during which the agent shall be resident in India;

(zf) for specifying duties and responsibilities of suppliers, designers, importer and contractors for safety in mines;

(zg) for requiring the owners, agents and managers of mines to formulate, maintain and enforce safety management plan in their mines;

(zh) for requiring the managers of mines to formulate and implement codes of practice or standard operating procedure in respect of any machinery or operation used in the mines;

(zi) for providing for the safety in opencast mines and associated operations and machineries used therein;

(zj) for regulating the extraction of methane from working or abandoned coal mines or from virgin coal seam;

(zk) for specifying the forms of returns which shall be filed by the establishments or the class of establishments under this code;

(zl) for the general requirement relating to the construction, equipping and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;

- (zm) for the safety of any regular approaches over a dock, wharf, quay or other places which dock workers have to use for going for work and for fencing of such places and projects;
- (zn) for the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment; 5
- (zo) providing and maintaining adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;
- (zp) providing for the fire and explosion prevention and protection;
- (zq) providing for safe means of access to ships, holds, stagings, equipment, lifting appliances and other working places; 10
- (zr) providing for the safety of workers engaged in the opening and closing of hatches, protection of ways and other openings in the docks which may be dangerous to them;
- (zs) providing for the safety of workers on docks from the risk of falling overboard being struck by cargo during loading or unloading operations; 15
- (zt) providing for the construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;
- (zu) providing for the safety of workers employed in freight container terminals or other terminals for handling unitised cargo; 20
- (zv) providing for the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;
- (zw) providing for the construction, maintenance and use of staging;
- (zx) providing for the rigging and use of ship's derricks; 25
- (zy) providing for the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other liftings devices used in the dock work;
- (zz) providing for the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo; 30
- (zza) providing for the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;
- (zzb) providing for the handling of dangerous substances and working in dangerous or harmful environments and the precautions to be taken in connection with such handling; 35
- (zzc) providing for the work in connection with cleaning, chipping, painting, operations and precautions to be taken in connection with such work;
- (zzd) providing for the employment of persons for handling cargo, handling appliances, power operated hatch covers or other power operated ship's equipment, such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery; 40
- (zze) providing for the transport of dock workers;
- (zzf) providing for the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibrations and air pollution at the work place; 45

(zzg) providing for protective equipment or protective clothing;

(zzh) providing for the sanitary, washing and welfare facilities;

(zzi) providing for—

(i) the medical supervision;

5 (ii) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

(iii) the safety and health organisation; and

(iv) the training of dock workers and for the obligations and rights of the dock workers for their safety and health at the work place;

10 (zzj) providing for the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

15 (zzk) providing for the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers; and

(zzl) any other matter which has to be, or may be, prescribed.

129. The power to make rules, regulations, and bye-laws under this Code shall be subject to the condition of the previous publication of the same being made, in the following manner, namely:—

Prior publication of rules, etc.

20 (a) the date to be specified after a draft of rule, regulation, standard and bye-laws proposed to be made will be taken under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rule, regulation, standard and bye-laws is published for general information;

25 (b) rule, regulation, standard and bye-laws shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Code.

30 **130.** Notwithstanding anything contained in section 130, regulations under section 129 may be made without previous publication and without reference to the National Occupational Safety Health Advisory Board constituted under sub-section (1) of section 16 if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Power to make regulation without previous publication.

Provided that any regulations so made shall be sent to the said National Occupational Safety Health Advisory Board for information and shall not remain in force for more than one year from the making thereof.

35 **131.** (1) The employer of a mine may, and shall, if called upon to do so by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, to frame and submit to the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator a draft of such by-laws, not being inconsistent with this Code or any regulations or rules for the time being in force, governing the use of any particular machinery or the adoption of a particular method of working in the mine, as the employer may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

Bye-laws.

(2) If any such Employer—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, or

45 (b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator sufficient, the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator may—

(i) propose a draft of such bye-laws as appear to him to be sufficient; or

(ii) propose such amendments in any draft submitted to him by the employer as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the employer for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator to the employer under the provisions of sub-section (2), the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator and the employer are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator shall refer the draft bye-laws for settlement to the technical Committee constituted under sub-section (5) of section 16 in respect of mines.

(4) When such draft bye-laws have been agreed to by the employer and the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, or, when they are unable to agree, have been settled by the Committee constituted under sub-section (5) of section 16 in respect of mines, a copy of the draft bye-laws shall be sent by the Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator to the Central Government for approval:

Provided that the Central Government may make such modification of the draft bye-laws as it thinks fit:

Provided further that before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, a notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(5) Every objection under second proviso to sub-section (4) shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(6) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(7) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Code, and the employer shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed by the Central Government, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable dispatch.

(8) The Central Government may, by order in writing rescind, in whole or in part, any bye-laws so made, and thereupon such bye-law shall cease to have effect accordingly.

Laying of regulations, rules and bye-laws, etc., before Parliament.

132. Every standard, rule, regulation and bye-laws made by the Central Government under this Code shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, rule or bye-law or both Houses agree that the regulation, rule or bye-law should not be made, the regulation, rule or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however,

that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation, rule or bye-law, as the case may be.

133. Every rule made by the State Government under this Code shall be laid, as soon as may be, after it is made, before the State Legislative. Laying of rules made by State Government.

5 **134.** (1) The following Acts shall stand repealed with effect from such date as may be notified in this behalf, namely:— Repeal and savings.

- | | |
|-------------------|--|
| 63 of 1948. | (a) The Factories Act, 1948; |
| 35 of 1952. | (b) The Mines Act, 1952; |
| 54 of 1986. | (c) The Dock Workers (Safety, Health and Welfare) Act, 1986; |
| 10
27 of 1996. | (d) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; |
| 69 of 1951. | (e) The Plantations Labour Act, 1951; |
| 37 of 1970. | (f) The Contract Labour (Regulation and Abolition) Act, 1970; |
| 30 of 1979. 15 | (g) The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979; |
| 45 of 1955. | (h) The Working Journalist and other News Paper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955; |
| 29 of 1958. | (i) The Working Journalist (Fixation of rates of wages) Act, 1958; |
| 27 of 1961. | (j) The Motor Transport Workers Act, 1961; |
| 11 of 1976. 20 | (k) The Sales Promotion Employees (Conditions of Service) Act, 1976; |
| 32 of 1966. | (l) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966; |
| 50 of 1981. | (m) The Cine Workers and Cinema Theatre Workers Act, 1981. |

25 (2) Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed for the purposes under any of the provisions of the enactments repealed by this Code, shall be deemed to have been appointed under this Code for such purposes under this Code.

30 (3) Notwithstanding such repeal, anything done or any action taken under the enactments so repealed (including any rule, regulation, bye-laws, notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code till they are repealed by the Central Government.

10 of 189735 (4) Without prejudice to the provisions of sub-section (2), provisions of section 6 of the General Clauses Act, 1897 shall apply to the repeal of such enactment.

THE FIRST SCHEDULE

[See section 2(y)]

List of Industries involving hazardous processes

1. Ferrous Metallurgical Industries
 - Integrated Iron and Steel
 - Ferro-alloys
 - Special Steels
2. Non-ferrous metallurgical Industries
 - Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium
3. Foundries (ferrous and non-ferrous)
 - Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting
4. Coal (including coke) industries
 - Coal, Lignite, Coke, etc.
 - Fuel Gases (including Coal Gas, Producer Gas, Water Gas)
5. Power Generating Industries
6. Pulp and paper (including paper products) industries
7. Fertiliser Industries
 - Nitrogenous
 - Phosphatic
 - Mixed
8. Cement Industries
 - Portland Cement (including slag cement, puzzolona cement and their products)
9. Petroleum Industries
 - Oil Refining
 - Lubricating Oils and Greases
10. Petro-chemical Industries
11. Drugs and Pharmaceutical Industries
 - Narcotics, Drugs and Pharmaceuticals
12. Fermentation Industries (Distilleries and Breweries)
13. Rubber (Synthetic) Industries
14. Paints and Pigment Industries
15. Leather Tanning Industries
16. Electro-plating Industries
17. Chemical Industries
 - Coke Oven by-products and Coaltar Distillation products

-Industrial Gases (nitrogen, oxygen, acetylene, argon, carbondioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, etc.)

-Industrial Carbon

-Alkalies and Acids

-Chromates and dichromates

-Lead and its compounds

-Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides)

-Electrothermal produces (artificial abrasive, calcium carbide)

-Nitrogenous compounds (cyanides, cyanamides and other nitrogenous compounds)

-Phosphorous and its compounds

-Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine)

-Explosives (including industrial explosives and detonators and fuses)

18. Insecticides, Fungicides, Herbicides and other Pesticides Industries

19. Synthetic Resin and plastics

20. Man made Fibre (Cellulosic and non-cellulosic) industry

21. Manufacture and repair of electrical accumulators

22. Glass and Ceramics

23. Grinding or glazing of metals

24. Manufacture, handling and processing of asbestos and its products

25. Extraction of oils and fats from vegetable and animal sources

26. Manufacture, handling and use of benzene and substances containing benzene

27. Manufacturing processes and operations involving carbon disulphide

28. Dyes and Dyestuff including their intermediates

29. Highly flammable liquids and gases

THE SECOND SCHEDULE

[See section 18(2)(f)]

List of matters:

- (i) fencing of machinery;
- (ii) work on or near machinery in motion;
- (iii) employment of adolescents on dangerous machines;
- (iv) striking gear and devices for cutting off power;
- (v) self acting machines;
- (vi) casing of new machinery;
- (vii) prohibition of employment of women and children near cotton openers;
- (viii) hoists and lifts;
- (ix) lifting machines, chains, ropes and lifting tackles;
- (x) revolving machinery;
- (xi) pressure plant;
- (xii) floors, stairs and means of access;
- (xiii) pits, sumps, openings in floors and other similar indentation of area;
- (xiv) safety officers;
- (xv) protection of eyes;
- (xvi) precautions against dangerous fumes, gases, etc.;
- (xvii) precautions regarding the use of portable electric light;
- (xviii) explosive or inflammable dust, gas, etc.;
- (xix) safety committee;
- (xx) power to require specifications of defective parts or tests of stability;
- (xxi) safety of buildings and machinery;
- (xxii) maintenance of buildings;
- (xxiii) prohibition in certain cases of danger;
- (xxiv) notice in respect of accidents;
- (xxv) court of inquiry in case of accidents;
- (xxvi) safety management in plantation;
- (xxvii) the general requirement relating to the construction, equipments and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;
- (xxviii) the safety of any regular approaches over a dock, wharf, quay or other places which dock worker have to use for going for work and for fencing of such places and projects;
- (xxix) the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;

(xxx) adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;

(xxxv) the fire and explosion preventions and protection;

(xxxvi) safe means of access to ships, holds, stagings, equipment, appliances and other working places;

(xxxvii) the Construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;

(xxxviii) the safety of workers employed in freight container terminals of other terminals for handling unitized cargo;

(xxxix) the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;

(xl) the construction, maintenance and use of staging;

(xli) the rigging and use of ship's derricks;

(xlii) the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work;

(xliii) the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;

(xliv) the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;

(xlv) the handling of dangerous substances and working, in dangerous or harmful environments and the precautions to be taken in connection with such handling;

(xlvi) the work in connection with cleaning, chipping painting, operations and precautions to be taken in connection with such work;

(xlvii) the employment of persons for handling cargo, handling appliances, power operated batch covers or other power operated ship's equipment such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;

(xlviii) the transport of dock workers;

(xlix) the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibration and air pollution at the work place;

(l) protective equipment and protective clothing;

(li) the sanitary, washing and welfare facilities;

(lii) the medical supervision;

(liii) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;

(liv) the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted; and

(liv) the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers.

(*lii*) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(*liii*) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person child the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(*liv*) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(*lv*) the erection installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(*lvi*) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;

(*lvii*) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;

(*lviii*) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;

(*lix*) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;

(*lx*) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working only of the operations and as if it were securely fenced:

(*lxi*) the safe handling and use of plant, including tools and equipment operated by compressed air:

(*lxii*) the precaution to be taken in case of fire;

(*lxiii*) the limits of weight to be lifted or moved by workers;

(*lxiv*) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(*lxv*) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;

(*lxvi*) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

(*lxvii*) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipment and floating operational equipments;

(*lxviii*) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(*lxix*) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefore and the matters connected therewith, to be framed by the employers and contractors for tile operations to be carried on in a building or other construction work;

(*lxx*) emergency standards for enforcement of suitable standards in respect of hazardous processes in a factory;

(*lxxi*) the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory;

(*lxxii*) lightning;

(*lxxiii*) any other matter which is the Central Government considers under the circumstance for better working condition for safety at the work place.

THE THIRD SCHEDULE

[See section 12(1)]

List of Notifiable Diseases

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead-tetra-ethyle poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
 - (a) radium or other radio-active substances;
 - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.
18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.
19. Byssionosis.
20. Asbestosis.
21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.
22. Noise induced hearing loss (exposure to high noise levels).
23. Beryllium poisoning.
24. Carbon monoxide poisoning.
25. Coal miners' pneumoconiosis.
26. Phosgene poisoning.
27. Occupational cancer.
28. Isocyanates poisoning.
29. Toxic nephritis.

STATEMENT OF OBJECTS AND REASONS

The Second National Commission on Labour (the Commission) had submitted its Report on “Occupational Safety, Health and Working Conditions of the Workers” in June, 2002. In pursuance of the recommendations of the said Commission, it has become necessary to enact a Central Legislation in the form of a Code, namely the Occupational Safety, Health and Working Conditions Code, 2019 which incorporates the essential features of the thirteen enactments relating to factories, mines, dock workers, building and other construction workers, plantations labour, contract labour, Inter-State migrant workmen, working Journalist and other news paper employees, motor transport workers, sales promotion employees, beedi and cigar workers, cine workers and cinema theatre workers and to repeal the respective enactments. It provides broader legislative framework to secure just and humane conditions of work with flexibility and to provide enabling provisions for making rules and regulations in tune with the emerging technologies.

2. The Occupational Safety, Health and Working Conditions Code, 2019 simplifies, amalgamates and rationalises the provisions of thirteen enactments in the aforesaid areas and to comprise them in a concise volume with certain important changes. The salient features of the said Code, *inter alia*, provides for the following, namely:—

- (i) to impart flexibility in adapting dynamic factors and technological changes, in the matters relating to health, safety, welfare and working conditions of workers;
- (ii) to apply the provisions of the proposed Code for all establishments having ten or more workers, other than the establishments relating to mines and docks;
- (iii) to expand—
 - (a) the ambit of the provisions relating to working conditions of cine and theatre workers to include them in the digital audio-visual workers encompassing all forms of electronic media;
 - (b) the scope of journalists to include them in electronic media such as in e-paper establishment or in radio or in other media;
 - (c) the scope of Inter-State migrant workers to include therein the workers recruited or engaged by an employer directly, from one State to another State for employment in his establishment;
 - (d) the definition of “family” to include therein the dependent grandparents in order to take care of them in old age;
- (iv) to provide the concept of “one registration” for all establishments having ten or more employees;
- (v) to constitute “the National Occupational Safety and Health Advisory Board” to give recommendations to the Central Government on policy matters, relating to occupational safety, health and working conditions of workers;
- (vi) to constitute “the State Occupational Safety and Health Advisory Board” at the State level to advise the State Government on such matters arising out of the administration of the proposed Code;
- (vii) to make a provision for the constitution of “Safety Committee” by the appropriate Government in any establishment or class of establishments;
- (viii) to allow the women employees to work at night, that is, beyond 7 PM and before 6AM subject to the conditions relating to safety, holiday, working hours and their consent;

(ix) to make a provision of “common license” for factory, contract labour and beedi and cigar establishments and to introduce the concept of a single all India license for five years for engaging the contract labour;

(x) to enable the courts to give a portion of monetary penalties upto fifty per cent. to the worker who is a victim of accident or to the legal heirs of such victim in the case of his death; and

(xi) to make a provision for adjudging the penalties imposed under the Code.

3. The Notes on Clauses explain in detail the various provisions contained in the Code.

4. The Code seeks to achieve the aforesaid objectives.

NEW DELHI;
The 16th July, 2019.

SANTOSH KUMAR GANGWAR.

Notes on clauses

Clause 1 of the Bill relates to short title, extent, commencement and application of the Occupational Safety, Health and Working Conditions Code.

Clause 2 of the Code relates to the definition of certain expressions used in the proposed Code.

Clause 3 of the Code relates to the procedure for the registration of certain establishments.

Clause 4 of the Code relates to the provision of appeal against the order of the registering officer under clause 3.

Clause 5 of the Code relates to the notice by employer for the commencement and cessation of the operation of any industry, trade, business, manufacture or occupation in the concern establishment.

Clause 6 of the Code relates to the duties of employer.

Clause 7 of the Code relates to the duties and responsibilities of owner, agent and manager in relation to mine.

Clause 8 of the Code relates to the duties of manufacturers, designer, importers or suppliers.

Clause 9 of the Code relates to the duties of architects, project engineers and designers in respect of building or other construction work, project or part thereof.

Clause 10 of the Code relates to the notice of certain accidents at any place in an establishment by the employer or owner or agent or manager.

Clause 11 of the Code relates to the notice of certain dangerous occurrences by the employer to the authorities determined by the appropriate Government by rules.

Clause 12 of the Code relates to the notice of certain diseases specified in the third schedule to the Code.

Clause 13 of the Code relates to the duties of the employees at workplace.

Clause 14 of the Code relates to the rights of employee to obtain the information from the employer.

Clause 15 of the Code relates to the duty not to interfere with or misuse things which is provided in the interest of health, safety or welfare.

Clause 16 of the Code relates to the constitution of National Occupational Safety and Health Advisory Board and the constitution of technical committees or advisory committees to assist the National Board.

Clause 17 of the Code relates to the constitution of State Occupational Safety and Health Advisory Board and the committee to assist the Board.

Clause 18 of the Code empowers the Central Government to declare standards on occupational safety and health for work places.

Clause 19 of the Code relates to the research related activities in the area of occupational safety and health so as to conduct research, experiments and demonstrations.

Clause 20 of the Code relates to the safety and occupational health surveys by the Director General of Factory Advice Service, Director General of Mines Safety, Director General of Health Service and other officers authorised by the appropriate Government.

Clause 21 of the Code relates to the statistics.

Clause 22 of the Code relates to the constitution of Safety Committee and appointment of safety officers.

Clause 23 of the Code relates to the responsibility of employer for maintaining health and working conditions.

Clause 24 of the Code relates to impose responsibility on the employer to provide and maintain the welfare facilities.

Clause 25 of the Code relates to the weekly and daily working hours, leave, etc.

Clause 26 of the Code relates to the weekly and compensatory holidays to the workers.

Clause 27 of the Code relates to the extra wages for overtime.

Clause 28 of the Code relates to the provisions regarding night shifts.

Clause 29 of the Code relates to the prohibition of overlapping shifts and arrangement of the system of shifts.

Clause 30 of the Code relates to the restriction on double employment in factory and mine.

Clause 31 of the Code relates to the notice of periods of work.

Clause 32 of the Code relates to the provision of annual leave with wages in an establishment.

Clause 33 of the Code relates to maintenance of registers and records and filing of returns by the employer electronically or otherwise in accordance with the rules made by the appropriate Government.

Clause 34 of the Code relates to the appointment of Inspector-cum-Facilitators and Chief Inspector-cum-Facilitator.

Clause 35 of the Code relates to the powers of Inspector-cum-Facilitators which includes power to enter to work place, examine the premises, etc., inquire into any accident or dangerous occurrence, etc., with necessary details in this regard.

Clause 36 of the Code relates to the powers and duties of District Magistrate in respect of mines.

Clause 37 of the Code relates to the third party audit and certification by the empanel experts.

Clause 38 of the Code relates to the special powers of Inspector-cum-Facilitator in respect of factory, mines and dock work and building and other construction work.

Clause 39 of the Code relates to the secrecy of information by Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator, etc.

Clause 40 of the Code relates to the facilities to be afforded to the Inspector-cum-Facilitator. Such facilities shall be provided by the employer of the establishment.

Clause 41 of the Code relates to the powers of Special Officer to enter, measure, etc., in relation to mine.

Clause 42 of the Code relates to the appointment of the medical officer.

Clause 43 of the Code relates to the employment of women in night subject to the conditions to safety, holidays and working hours with the consent of such women before 6 a.m. and beyond 7 p.m.

Clause 44 of the Code relates to the prohibition of employment of women in dangerous operation.

Clause 45 of the Code relates to the details of the applicability of part I of chapter XI of the proposed Code.

Clause 46 of the Code relates to the appointment of licensing officers who shall be the Gazetted Officers of the appropriate Government for the purpose of part I, chapter XI of the proposed Code.

Clause 47 of the Code relates to the licensing of contractors.

Clause 48 of the Code relates to the grant of license.

Clause 49 of the Code relates to the provisions that the contractor shall not charge directly or indirectly, in whole or in part, any fee or commission from the contract labour.

Clause 50 of the Code relates to the information regarding work order to be given to the appropriate Government.

Clause 51 of the Code relates to revocation, suspension and amendment of licence.

Clause 52 of the Code relates to the provisions of the appeal. Such appeal shall be made by the aggrieved person against the order made in respect of licensing of contractor, grant of licence and revocation, suspension and amendment of licence.

Clause 53 of the Code relates to the liability of principal employer for welfare facilities relating to providing of canteens, rest rooms, drinking water and first aid.

Clause 54 of the Code relates to the effect of employing contract labour from a non-licensed contractor. In case of employment of contract labour through such contractor shall be deemed to be employed by the principal employer.

Clause 55 of the Code relates to the responsibility for payment of wages.

Clause 56 of the Code relates to the experience certificate to be given by the concerned contractor or principal employer of the establishment concerned to the contract labour annually or as and when demanded giving details therein of the work performed by the contract labour.

Clause 57 of the Code relates to the prohibition of employment of contract labour. The appropriate Government is empowered under this clause to impose restriction in respect of the employment, after consultation with the National Board or a State Advisory Board.

Clause 58 of the Code relates to the power to exempt in special cases. Such exemption relating to provisions of the proposed Code or the rules made thereunder shall be made by the appropriate Government, in the case of an emergency as specified in the clause.

Clause 59 of the Code relates to the facilities to inter-State Migrant workers. Such facilities shall be provided by the employer of an establishment employing inter-State Migrant worker for the purposes as specified in the clause.

Clause 60 of the Code relates to displacement allowance. Such allowance shall be paid by the contractor to the inter-State Migrant worker at the time of recruitment which shall be equal to fifty per cent. of the monthly wages payable to the workers, and so paid amount shall not be refundable and shall be in addition to the wages or other amount payable to the worker.

Clause 61 of the Code relates to the journey allowance, etc. Such journey allowance shall be confined from the place of residence of the inter-State Migrant workers in his State to the place of work in the other State and *vice versa* and shall be payable by the contractor.

Clause 62 of the Code relates to the past liabilities. On the completion of the period of employment of the inter-State migrant worker, the past liabilities deemed to have been extinguished and shall not be recoverable by the principal employer or the contractor.

Clause 63 of the Code relates to the prohibition of employment of audio-visual worker without agreement. Such agreement shall be in writing and between the audio-visual

worker and the producer of audio-visual programme or between producers of the audio-visual programme with the contractor and shall be registered with the competent authority.

Clause 64 of the Code relates to the managers in mine. Subject to the rules made in this behalf, every mine shall be under the sole manager. The clause also provides the responsibility of a manager.

Clause 65 of the Code relates to non-applicability of the Code in certain cases such as excavation in mine being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale subject to the conditions specified in the clause and in case the mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand, etc., as specified in the Code.

Clause 66 of the Code relates to the exemption from provision of the Code regarding employment. Such exemptions or in case of emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as a result of breakdown of such machinery plant or equipment.

Clause 67 of the Code relates to the employment of persons below eighteen years of age. It provides that no person below eighteen years of age shall be allowed to work in any mine or part thereof but in case of apprentices and other trainees, such age limit is not below sixteen years.

Clause 68 of the Code relates to decision of question whether any excavation or working or premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on in a mine shall be decided by the Secretary to the Government of India and a certificate given by him in this behalf shall be conclusive.

Clause 69 of the Code relates to provide licence to industrial premises and person. Without licence no employer shall use or allow to use any place or premises.

Clause 70 of the Code relates to appeals. A person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence may, within the prescribed time and with prescribed fee, appeal to such authority notified by the State Government.

Clause 71 of the Code relates to permission to work by employees outside industrial premises. Such permission shall be granted by the State Government and the employer shall maintain the record of the work permitted to be carried on outside the industrial premises.

Clause 72 of the Code relates to non-applicability of part IV relating to beedi and cigar workers.

Clause 73 of the Code relates to prohibition of employment of certain persons in certain building or other construction work. The employer shall not allow the person who is deaf, of defective vision or has a tendency to giddiness to work in any operation of building or other construction work as specified in the clause.

Clause 74 of the Code relates to approval and licensing of factories. The registration and licensing shall be made in accordance with the rules framed by the appropriate Government.

Clause 75 of the Code relates to liability of owner of premises in certain circumstances. The owner of the premises and occupier of the factories utilising common facilities shall jointly and severally be responsible for provision and maintenance of the common facilities and services as specified in the clause.

Clause 76 of the Code relates to power to apply the proposed code certain premises. The provision of part VI of the proposed code shall apply to any place wherein manufacturing

process is carried on with or without the aid of power irrespective of the number of workers working in the factory by the appropriate government by notification.

Clause 77 of the Code relates to dangerous operation. In this respect, the appropriate government may make the rule relating to any factory or class or description of factories in which manufacturing process is carried on in which exposes any of the persons employed in it to a serious risk of bodily injury, poisoning or disease as specified in the clause.

Clause 78 of the Code relates to constitution of Site Appraisal Committee. The Site Appraisal Committee constituted under this clause shall make its recommendation within a period of ninety days of the receipt of the application for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of such factory, etc.

Clause 79 of the Code relates to compulsory disclosure of information by the occupier. The disclosure shall be in the manner provided by the State Government in the rules and as specified in the clause.

Clause 80 of the Code relates to the specific responsibility of the occupier in relation to hazardous process. Such responsibility of the occupier of a factory involving hazardous process relates to maintaining accurate and up-to-date health records.

Clause 81 of the Code relates to National Board to inquire into certain situations specified in the clause. In such situation, the Central Government may direct the National Board to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of the failure or neglect in the adoption of any measures or standards as per rules.

Clause 82 of the Code relates to emergency standards. The Central Government may direct the Directorate General Occupational Safety and Health formerly known as Directorate General of Factory Advice Service and Labour Institutes or any Institution authorised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of the hazardous processes.

Clause 83 of the Code relates to permissible limits of exposure of chemicals and toxic substances. The maximum permissible limits in any factory shall be of the value as may be in the rules by the State Government.

Clause 84 of the Code relates to right of workers to warn about imminent danger. In the case of reasonable apprehension of imminent danger, the workers may bring the same in the notice of the occupier, agent, manager, or any other person who is in charge of the factory or the person concerned directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

Clause 85 of the Code relates to appeal against the order of Inspector-cum-Facilitator in case of factory. The details regarding appeal shall be provided by the State Government in the rules.

Clause 86 of the Code relates to the power to make exempting rules and order. This clause provides for defining by rules made by the appropriate government defining the persons who hold positions of supervision or management or employed in a confidential position in a factory.

Clause 87 of the Code relates to the general penalty for offences. Such offences are those offences which are not expressly provided under the other provisions of the proposed Code.

Clause 88 of the Code relates to the punishment for causing obstruction to Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator etc.

Clause 89 of the Code relates to penalty for non-maintenance of register, records and non-filing of returns, etc.

Clause 90 of the Code relates to punishment for contravention of provisions of the proposed code or any rules, regulation, or bye-laws, etc. It also provides enhanced punishment in case of repetition of such offences after conviction.

Clause 91 of the Code relates to punishment for falsification of records, etc.

Clause 92 of the Code relates to penalty for omission to furnish plans, etc., without reasonable excuse and the burden of proof lies on the person making the omission.

Clause 93 of the Code relates to punishment for disclosure of information. The details regarding the information have been specified in the clause.

Clause 94 of the Code relates to penalty for wrongfully disclosing results of analysis. The details of the disclosure have been specified in the clause.

Clause 95 of the Code relates to penalty for contravention of the provisions of duties relating to hazardous processes as specified in the clause.

Clause 96 of the Code relates to penalty for contravention of the provisions of duties relating to safety provisions resulting in an accident.

Clause 97 of the Code relates to punishment for working in contravention of any general or special order issued under the provisions of clause 38.

Clause 98 of the Code relates to punishment for failure to appoint manager in contravention of the provision of the clause 64.

Clause 99 of the Code relates to offences by employees.

Clause 100 of the Code relates to prosecution of owner, agent or manager of a mine as specified in the clause.

Clause 101 of the Code relates to exemption of owner, agent or manager of a mine or occupier of a factory from liability in certain cases. Such cases are that the owner, agent or manager or occupier proves to the satisfaction of the court that he has exercised due diligence to enforce execution of the proposed code or that the other person committed the offence in question without his knowledge, consent or connivance.

Clause 102 of the Code relates to offences by companies, etc., under the circumstances specified in the clause every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Clause 103 of the Code relates to limitation of prosecution and cognizance of offence under the proposed Code.

Clause 104 of the Code relates to power of officers of appropriate Government to impose penalty in certain cases. Such cases are offences under the proposed Code in which only fine is the penalty.

Clause 105 of the Code relates to jurisdiction of a court for entertaining proceedings, etc., for offence. The jurisdiction of the court shall be the place where the establishment is for the time being situated.

Clause 106 of the Code relates to the power of court to make order. Such order relates to the awarding punishment requiring the offender within a period specified in the order.

Clause 107 of the Code relates to compounding of offences. Under the provision, the offences in which only fine is punishment, are compoundable.

Clause 108 of the Code relates to delegation of powers. In delegation, the conditions subject to which the delegation would be made, may be specified.

Clause 109 of the Code relates to onus as to age. The burden of onus is on the accused to prove that such person is not under such age.

Clause 110 of the Code relates to onus of proving limits of what is practicable, etc. This relates to the failure to comply with the duty to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or all practicable measures were taken to satisfy the duty or requirement.

Clause 111 of the Code relates to common licence for contractor, factories and to industrial premises and person.

Clause 112 of the Code relates to effect of law and agreements inconsistent with the proposed Code.

Clause 113 of the Code relates to power of the appropriate Government to direct inquiry in certain cases. Such cases relate to event of the occurrence of an accident in an establishment which has caused or had the potentiality to cause serious danger to employees and other persons within, and in the vicinity of the workplace or whether immediate or delayed, or any occupational disease as specified in the Third Schedule.

Clause 114 of the Code relates to publication of reports. Such reports are the reports, submitted to the appropriate Government by the National Board or State Advisory Board or any extracts from any report submitted to it under the proposed Code.

Clause 115 of the Code relates to powers of Central Government to give directions to State Government for the implementation of the provisions of the proposed Code.

Clause 116 of the Code relates to general restriction on disclosure of information.

Clause 117 of the Code relates to barring of the jurisdiction of civil courts in respect of the matters to which any provision of the proposed Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under the proposed Code.

Clause 118 of the Code relates to protection to the person from legal proceeding if action is taken in good faith in pursuance of the proposed Code.

Clause 119 of the Code relates to power to exempt in special cases as specified in the clause.

Clause 120 of the Code relates to power to exempt during public emergency.

Clause 121 of the Code relates to power to exempt public institution. Such institution, workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training, research or information, from all or any of the provisions of the proposed Code.

Clause 122 of the Code relates to persons required to give notice, etc., legally, bound to do so within the meaning of section 176 of the Indian Penal Code.

Clause 123 of the Code relates to power of Central Government to amend the Schedule by way of addition, alteration or omission therein.

Clause 124 of the Code relates to power of Central Government to remove difficulties by the order published in the Official Gazette.

Clause 125 of the Code relates to power of appropriate Government to make rules subject to condition of previous publication and by notification, for carrying out the purposes of the proposed Code.

Clause 126 of the Code relates to power of the Central Government to make rules subject to condition of previous publication and by notification, for carrying out the purposes of the proposed Code.

Clause 127 of the Code relates to power of the State Government to make rules subject to condition of previous publication and by notification, for carrying out the purposes of the proposed Code.

Clause 128 of the Code relates to power of Central Government to make regulations in relation to mines and dock work by notification in the Official Gazette which shall be consistent with the proposed Code.

Clause 129 of the Code relates to prior publication of rules, etc. The power to make rules, regulations, and bye-laws under the proposed Code shall be subject to the condition of the previous publication.

Clause 130 of the Code relates to power to make regulation without previous publication. The matters in which regulations shall be made are specified in the clause.

Clause 131 of the Code relates to frame bye-laws. The employer of a mine is empowered to made bye-laws as specified in the clause.

Clause 132 of the Code relates to laying of regulations, rules and bye-laws, etc., before Parliament.

Clause 133 of the Code relates to laying of rules made by State Government before the State Legislature.

Clause 134 of the Code relates to repeal and savings. The enactments which are being repealed are enumerated in the clause. Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed for the purposes under any of the provisions of the enactments repealed by the proposed Code, shall be deemed to have been appointed under the proposed Code for such purposes under the proposed Code. Certain actions under the repealed enactments have also been saved.

FINANCIAL MEMORANDUM

The provisions of the Occupational Safety, Health and Working Conditions Code, 2019 does not involve any expenditure, either recurring or non-recurring, from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 125 of the Code seeks to empower the appropriate Government, by notification and subject to condition of previous publication, to make rules for carrying out the provisions of this Code. In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—(a) income from the sources under *Explanation* to clause (x) of sub-section (1) of section 2; (b) to prescribe the substance as hazardous substance under clause (za) of sub-section (1) of section 2; (c) the late fee under the proviso to sub-section (1) of section 3; (e) the form and manner of sending the notice and the authority to whom the notice shall be sent and the manner of intimating the authority under sub-section (1) of section 5; (f) test free of cost to such employees of such age or such class of establishments under clause (c) of sub-section (1) of section 6; (g) the information to be included in the letter of appointment under clause (f) sub-section (1) of section 6; (h) the nature of bodily injury and the form of notice and the time within which the notice shall be sent under sub-section (1) of section 10; (i) nature of dangerous occurrence and the form of notice, the time within which and the authority to which notice shall be given under section 11; (j) the form of notice related to certain diseases and the time within which the notice shall be sent to the authority under sub-section (1) of section 12; (m) the manner of constituting a safety committee and the manner and the purpose for choosing the representative of the employer and the workers in the Safety Committee under sub-section (1) of section 22; (o) condition for exemption of workers from weekly and compensatory holidays under sub-section (2) of section 26; (q) the form and manner of display of such notice and the manner in which such notice is sent to the Inspector-cum-Facilitator under sub-section (2) of section 31; (t) the manner of filing return to the Inspector-cum-Facilitator under clause (d) of section 33; (u) the manner of conducting inspection including web based inspection under sub-section (2) of section 34; (v) the qualification and experience of Chief Inspector-cum-Facilitator under sub-section (3) of section 34; (y) the qualification, experience, duties and responsibilities of experts to be empanelled under section 37; (za) the qualification for the appointment of medical practitioner and other establishment under sub-section (1) of section 42; (zd) examination and certification of adolescent for his fitness for employment and any other establishment under clause (1) of sub-section (2) of section 42; (zf) conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour under clause (a) of sub-section (3) of section 47.

Clause 126 of the Code seeks to empower the Central Government, by notification and subject to condition of previous publication, to make rules for carrying out the provisions of this Code. In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—(a) the authority under sub-clause (iii) of clause (zo) of sub-section (1) of section 2; (b) to define the occupier in case of owner of dock under proviso of clause (zo) of sub-section (1) of section 2; (c) form of certificate of registration, the time within which and the conditions subject to which such certificates shall be issued under sub-section (3) of section 3; (d) other particulars and form under sub-section (4) of section 3; (e) the manner of informing closing of establishment and certifying payment to the registering officer; (f) procedure for constitution of the National Board and the officers and staff thereof and the number of members, qualifications and terms and conditions of service, members of technical committees or advisory committees and their qualifications; (i) health and working conditions under sub-section (1) of section 23; (j) welfare facilities for the workers under sub-section (1) of section 24; (m) the hours of work for working journalist under sub-section (3) of section 25; (n) other kinds of leave under clause (i) of sub-section (4) of section 25; (o) the maximum period of accumulating leave under clause (ii) sub-section (4) of section 25; (q) conditions and restrictions for entitlement of cash compensation under clause (iv) of sub-section (4) of section 25; (r) powers and duties

of District Magistrate under section 36; (*u*) the form and manner for issuing a licence and such other particulars under sub-section (*1*) of section 48; (*w*) application for renewal of the licence and procedure of renewal of licence by the licensing officer under sub-section (*3*) of section 48; (*y*) authority to whom the information relating to audio-visual programme by the producer under sub-section (*3*) of section 63; (*z*) the matter which may be save and the qualifications of sole manager under sub-section (*1*) of section 64.

Clause 127 of the Code seeks to empower the State Government, by notification and subject to condition of previous publication, to make rules for carrying out the provisions of this Code. In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—(*a*) the constitution, procedure and other matters relating to State Advisory Board under sub-section (*2*) of section 17; (*d*) the manner of preparing the plan of the place of premises under sub-section (*3*) of section 69; (*g*) the time of filing appeal, fees and the appellate authority under section 70; (*j*) rules for manner and approval, licensing of factories under sub-section (*1*) of section 74; (*m*) form of application for establishment of factory involving hazardous process under sub-section (*1*) of section 78; (*n*) the manner of disclosing information by occupier of a factory under sub-section (*1*) of section 79; (*r*) maintain health and medical records of the workers and the conditions for accessibility by workers engaged in hazardous process under clause (*a*) of section 80; (*u*) the maximum permissible limit of exposure of chemical and toxic substances in manufacturing process in any factory under section 83; (*v*) rules relating to the persons who hold position of supervision or management or employed in confidential position in a factory under sub-section (*1*) of section 86.

Clause 128 of the Code seeks to empower the Central Government, by notification and subject to condition of previous publication, to make regulations in relation to Mines and dock work. In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for—(*a*) for prescribing the qualifications required for appointment as Chief Inspector-cum-Facilitator or Inspector-cum-Facilitator; (*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them, and for prescribing the qualifications (including age) of agents and managers of mines and of persons acting under them; (*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates; (*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mines to be under a manager not having the prescribed qualifications; (*h*) for providing for inquiries to be made under this Code including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Code and for the suspension or cancellation of any such certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; (*q*) “for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads and for restricting the use of certain classes of locomotives underground; (*u*) for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for prescribing the plans and sections and field notes connected there with to be kept by them and the manner and places in which such plans, sections and field notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector-cum-Facilitator, and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue; (*zi*) for providing for the safety in opencast mines and associated operations and machineries used therein; (*zk*) for specifying the forms of returns which shall be filed by the establishments or the class of establishments under this Code; (*zy*) providing for the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in the dock work; (*zzb*)

providing for the handling of dangerous substances and working in dangerous or harmful environments and the precautions to be taken in connection with such handling; (zzk) providing for the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers.

2. The matters in respect of which the said rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Code itself. The delegation of legislative power is, therefore, of a normal character.

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

*[Shri Santosh Kumar Gangwar, Minister of State for Labour and Employment,
(Independent Charge)]*