

# Analysis of State Rules viz-a-viz Central Rules under various Labour Codes

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Dr. Sanjay Upadhyaya



**V.V. Giri National Labour Institute**



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Note: The analysis under the study is based on the State/UT rules as notified till November 9, 2022.



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## Preface

Labour law seeks to cater to the needs of industry and the workers which keep on changing, the law also needs to be amended, reviewed and rationalized accordingly. As per the scheme of the Indian Constitution, labour being in the 'Concurrent list' this exercise can be carried out by both, the Central as well as the State Governments. Accordingly, a number of amendments have been carried out both by Parliament and various State Legislatures in many Labour Legislations in the past.

However, a number of studies and the prevailing realities revealed that many of these laws have failed in benefiting both the workers and the employers. A substantial proportion of workers, especially those engaged in the informal sector felt deprived of most of their basic labour rights and social security entitlements provided under various labour legislations. Some of the important reasons responsible for the same included: various kinds of ceilings under the existing labour legislations; highly legalistic language, the obsolete nature of many of these laws and the non-deterrent nature of the penalties provided for various violations.

Taking into account the above and recognizing the long-felt need of industry and the workers and in order to duly meet the changing requirements of the employers (in terms of flexibility) and workers (in terms of core labour rights and social security) the present government initiated a comprehensive process of labour law reforms by undertaking the exercise of codification of a large number of existing labour legislations in 4 major Labour Codes by way of amalgamation and rationalization of the core features of total number of existing labour legislations in these codes.

These codes contain the substantive provisions concerning the various aspects covered therein. As regards, the procedural aspects, the same are taken care of by the rules concerning these laws. The exercise of framing of these rules by the central government has already been carried out. Similar exercise has also been carried by most of the states by way of drafting of the state rules as per their state specific local requirements. However, there should not be too much of divergence in these rules so as to go against the fundamentals and ethos of the codes and the rules need to be analysed and modified accordingly. For the purpose of venturing into this exercise there was a need to make an analytical assessment of these rules with a holistic view for the purpose of offering suggestions to various State Governments for their consideration in making further amendments in the draft rules. In this background and as per the behest of the Ministry of Labour & Employment the present study was undertaken by the Institute.

It is hoped that the study will be found useful and relevant by the various stakeholders in general and the State and UT Governments in particular.

**(Amit Nirmal)**

**Director General**

V.V. Giri National Labour Institute, Noida

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**Dr. Sanjay Upadhyaya**

V. V. Giri National Labour Institute



## Chapter 1: Introduction

### Context

Labour law seeks to cater to the needs of industry and the workers which keep on changing, the law also needs to be amended, reviewed and rationalized accordingly. As per the scheme of the Indian Constitution, labour being in the 'Concurrent list' this exercise can be carried out by both, the Central as well as the State Governments. Accordingly, a number of amendments have been carried out both by Parliament and various State Legislatures in many Labour Legislations in the past.

However, a number of studies and the realities prevailing at the grassroots level revealed that many of these laws benefit neither the workers nor the employers. A substantial proportion of workers, especially those engaged in the informal sector remain deprived of most of their legitimate dues in terms of basic labour rights and social security entitlements provided under various labour legislations. Some of the important reasons cited for the same included: various kinds of ceilings under the existing labour legislations either in terms of an upper limit of wages/salary or a minimum number of employees and minimum duration of employment from the viewpoint of coverage under these laws. In addition, most of the labour legislations existing so far have a very legalistic language making it virtually impossible for the intended beneficiaries to understand the same and assert for their rights and entitlements under these legislations. Some other reasons responsible for the lack of proper and effective implementation of various labour laws included a large number of labour legislations, the obsolete nature of many of these laws and the non-deterrent nature of the penalties provided for various violations.

Taking into account the above and recognizing the long-felt need of industry and the workers and in order to duly meet the changing requirements of the employers (in terms of flexibility) and workers (in terms of core labour rights and social security) the present government initiated a comprehensive process of labour law reforms by undertaking the exercise of codification of a large number of existing labour legislations (29 out of the 44 labour enactments)<sup>1</sup> in 4 major Labour Codes by way of amalgamation and rationalization of the core features of total number of existing labour legislations in these codes namely: (i) The Code on Wages, 2019; (ii) The Code on Industrial Relations, 2020; (iii) The Code on Social Security, 2020; and (iv) The Code on Occupational Safety, Health and Working Conditions, 2020.

These codes contain the substantive provisions concerning the various aspects covered therein. As regards, the procedural aspects, the same are taken care of by the rules concerning these laws. The exercise of framing of these rules by the central government has already been carried out. Similar exercise has also been carried by most of the states by way of drafting of the state rules as per their state specific local

<sup>1</sup> 12 out of these 44 enactments have been repealed on account of being outdated and 3 namely, the Bonded Labour System (Abolition) Act 1976, Child and Adolescent Labour (Prohibition and Regulation) Act 1986, The Labour Laws (Exemption from Furnishing Returns and Maintaining registers by certain Establishments) Act, 1988 have been kept out of the purview of codification.



requirements. However, there should not be too much of divergence in these rules so as to go against the fundamentals and ethos of the codes and the rules need to be analysed and modified accordingly. For the purpose of venturing into this exercise there is a need to make an analytical assessment of these rules with a holistic view for the purpose of offering suggestions to various State Governments for their consideration in making further amendments in the draft rules. In this background and as per the directives of the MoL&E, the Centre for Employment Relations and Regulations of VVGNNLI, undertook this analytical study.

### Objectives of the Study:

- i) To make a comparative Code wise analysis of the Draft Rules of the various States and the Centre with a focus on the major areas and aspects covered by these codes.
- ii) To delineate the code-wise powers of the appropriate and state governments to frame rules concerning various aspects.
- iii) Identification of the Code-wise divergence in the State Rules *viz-a-viz* the Central Rules and the rationale for the same.
- iv) To suggest the required modifications in the Central and the State Rules in order to bring uniformity to the extent possible as well as fulfilment of the basic objective of the Codes.
- v) To identify and suggest the steps to be undertaken by the State Governments for effective implementation of the Labour Codes.

### Scope and Methodology:

The study broadly covers within its scope a comprehensive analysis of the State Rules under various labour Codes *viz-a-viz* the Central Rules. The methodology adopted for the study primarily consists of a comprehensive review and analytical assessment of the State Rules *viz-a-viz* the Central Rules. In addition, detailed discussions with the labour Department Officials also form part of the methodology adopted (primarily to have perspective of the concerned state governments regarding the state rules) in order to have a holistic view.



## Chapter 2: Power of Government to make Rules under various Labour Codes

### I. The Code on Wages, 2019

**Section 67(2) of the Code empowers the appropriate government** to make rules pertaining to: manner of calculating the wages; the arduousness of work to be taken into account in addition to minimum rate of wages for certain category of workers; the cases and circumstances in which an employee employed for a period of less than the requisite number of hours shall not be entitled to receive wages for a full normal working day; the extent and conditions to be applied while fixing hours of work; the longer wage period for fixation of minimum rate of wages; the manner of deducting loans made from any fund constituted for the welfare of labour; the manner of recovery of excess of amount while making deductions from wages; the authority to provide approval for imposition of fine; the manner of exhibition of the acts and omissions to be specified in the notice; the procedure for the imposition of fines; the form of the register to record all fines and all realizations; the procedure for making deductions for absence from duty; the procedure for making deductions for damage or loss; the form of the register to record all deductions and all realizations thereof; conditions for recovery of advance of money given to an employee after the employment began; conditions for recovery of advances of wages to an employee not already earned; deductions for recovery of loans and the rate of interest payable thereon; the manner of regulating the procedure and term of office of members of the Central Advisory Board and the State Advisory Board, including that of the committees and sub-committees constituted by the State Advisory Board; the authority and manner of depositing with such authority, various undisbursed dues; the form of single application in respect of a number of employees; the form for making an appeal to the appellate authority; the manner of maintenance of a register by the employer; the form and manner of issuing wage slips; the other powers to be exercised by the Inspector-cum-Facilitator; the manner of imposing fine; the manner of composition of offence by a Gazetted Officer; any other matter which is required to be, or may be, prescribed under the provisions of this Code.

In exercise of the power under Section 67(2) of the Code, the draft rules by the Centre and 31 States and UTs out of 36 have already been notified<sup>2</sup> and yet to be notified by the remaining 5 States and UTs as per the details provided in Annexure I.

### II. The Industrial Relations Code, 2020

**Section 99(2) of the Code empowers the appropriate government** to make rules pertaining to: written agreement between the employer and worker arrived at otherwise than in the course of conciliation proceeding to arrive at a settlement; constitution of Works Committee and choosing of representatives of employer and workers engaged in the establishment; manner of choosing members from the employer and the workers for Grievance Redressal Committee; application in

<sup>2</sup> As on November 9, 2022



respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker; manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the Conciliation Officer; the payment of a subscription by members of the Trade Union and donation from such members and others; manner of annual audit; form of declaration to be made by an affidavit and the manner of making the same; general statement of the assets and liabilities of the Trade Union; the form of application for registration and the form of issuing certificate of registration to be issued by the Registrar to the applicant Trade Union; the form of entering the name and other particulars of Trade Union in a register maintained by the Registrar; verification of application of the Trade Union; period within which appeal is to be preferred by Trade Union to Tribunal; sending of communication and notices and the manner to inform the Registrar; matters on which negotiating union or negotiating council may negotiate with the employer of the industrial establishment; manner of verification of workers on the muster roll of the industrial establishment and the facilities to be provided by industrial establishment to a negotiating union or negotiating council; manner of making application for adjudication before the Tribunal; manner of amalgamation and the manner of sending signed amalgamation to the Registrar of a different State; distribution of funds of the Trade Union on dissolution by Registrar; the date before which a general statement shall be forwarded annually to the Registrar, the particulars to be contained in general statement and its form, the person by whom and the manner in which such general statement shall be audited; manner and purpose of recognition of a Trade Union or a federation of Trade Unions by the State Government as a State Trade Union at the State level and the authority and the manner of deciding dispute by it; the manner of forwarding information to the certifying officer and the period within which the amendment of standing orders is to be done as observed by the certifying officer; manner of choosing representatives of the workers of the industrial establishment or undertaking for issuing notice by certifying officer, where there is no Trade Union operating and the manner of authentication of certified standing orders; statement to be accompanied with draft standing orders; conditions for submission of draft standing orders by group of employers in similar establishment; manner of disposal of appeal by the appellate authority; the manner of sending copies of the order of the appellate authority and the language and the manner of maintaining standing orders; form of register for filing finally certified standing orders by the certifying officer and fee for furnishing certified copy of such orders; application for modification of standing orders to be made before certifying officer; the manner of giving of notice of the nature of the change; form of arbitration agreement and the manner to be signed by the parties; manner of issuance of notification where an industrial dispute has been referred to arbitration; manner of choosing representatives of the workers where there is no Trade Union; manner of filling up the vacancy; the procedure for selection, salaries and allowances and other terms and conditions of Judicial and Administrative Members of the National Industrial Tribunal; such other matters in respect of which a Conciliation Officer, Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908; manner of holding conciliation proceedings, form of full report, and the form of application and the manner of deciding such application; the number of persons by whom the notice of strike shall be given, the person or persons



to whom such notice shall be given, and the manner of giving such notice; manner of giving notice of lock-out; manner of serving notice before retrenchment of a worker employed in the industry who has been in continuous service for not less than one year by an employer on the appropriate Government or such authority as may be specified by the appropriate Government by notification; manner in which the employer shall give an opportunity to the retrenched workers to offer themselves for re-employment; manner in which the employer shall serve notice on the appropriate Government stating clearly the reasons for the intended closure of the undertaking; manner of making application by the employer stating clearly the reasons for the intended lay-off and the manner of serving copy of such application to workers; manner of applying to the appropriate Government for permission to continue the lay-off by the employer; time-limit for review; manner of making application by the employer stating clearly the reasons for the intended retrenchment and the manner of serving copy of such application to workers; manner of making application by the employer stating clearly the reasons for the intended closing down of an undertaking of an industrial establishment and the manner of serving copy of such application to the representatives of workers; contribution from such other sources to be made to the worker re-skilling fund; manner of utilization of fund; manner of composition of offence by a Gazetted Officer; manner of making application for the compounding of an offence; manner of making complaint by an aggrieved employee; manner of authorization of worker for representing in any proceeding; manner of authorization of employer for representing in any proceeding; any other matter which is required to be, or may be, prescribed under the provisions of this Code.

In exercise of the power under Section 99(2) of the Code, the draft rules by the Centre and 27 States and UTs out of 36 have already been notified<sup>3</sup> and yet to be notified by the remaining States and UTs as per the details provided in Annexure II.

### III. The Occupational Safety and Working Conditions Code, 2020

**Section 133 of the Code empowers the appropriate government** to make rules pertaining to: income from the sources as prescribed, the late fee in case of registration; the manner of submitting application and the form of such application and the particulars to be contained therein and the fees to be accompanied therewith in case of registration of certain establishments; 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; annual health examination or test free of costs, age of employees or class of employees or establishment or class of establishments; the information to be included in the letter of appointment and the form of such letter; the nature of bodily injury and the manner of notice and the time within which the notice shall be sent and the authority to which notice shall be sent; nature of dangerous occurrence and the form of notice, the time within which and the authority to which notice shall be sent; the form of notice related to certain diseases and the time within which the notice shall be sent and the authority to which the notice shall be sent; 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; manner of making report by employee and other duties of employees; manner of sending report of action;

<sup>3</sup> As on November 9, 2022

the manner of constituting a Safety Committee and the manner and the purpose for choosing the representative of the workers in the Safety Committee; the qualifications, duties and number of safety officers; conditions for exemption of workers from weekly and compensatory holidays; the total number of overtime; circumstances for exemption from restriction on double employment in factory and mine; the form of notice and manner of display of such notice and the manner in which such notice shall be sent to the Inspector-cum-Facilitator; the form of register and particulars of workers; the manner and form of displaying notices; return, manner of filing the return and periods of filing return to the Inspector-cum-Facilitator; the qualification and experience of Chief Inspector-cum-Facilitator; the manner of taking samples of any article or substance found in any premises and air of atmosphere; the specialized qualification and experience, duties and responsibilities of experts to be empaneled; the manner of providing alternative employment; the qualification for the appointment of medical practitioner; conditions relating to safety, holidays and working hours or any other condition to be observed by the employer; the manner of requiring the employer to provide the adequate safeguards; conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour; the form and manner of application and the particulars which such application shall contain regarding the number of contract labour, nature of work for which contract labour is to be employed and other particulars including the information relating to the employment of inter-State migrant workers; manner of applying for the renewal of licence and the manner of renewal of licence; responsibility of the contractor; the manner of intimation of work order and time-limit for such intimation; the manner of suspending or cancelling the licence; the period before which the wages shall be paid; the mode and manner of payment of wages; period of making report and the period of deciding the question in case of contract labour; minimum service for entitlement, class of travel and other matters; manner of providing facility of toll free helpline; manner of providing for study on inter-State migrant workers; authority to whom a copy of the agreement shall be forwarded by the producer, rules in respect of factory or class or description of factories; common facilities and services for joint liability of owner of premises and occupiers of the factories; the appellate authority for appeal against the order of Inspector-cum-Facilitator of factory and the manner of appeal; manner of holding enquiry; form and manner of preferring appeal and the fee to accompany such appeal; manner of compounding; other sources of fund; the manner of administering and expending the Fund; the form of application, manner of filing the application and the fee to be accompanied therewith including the information relating to the employment of inter-State migrant workers; actions, manner of taking actions and inquiry; the form of appeal, the fee to be accompanied therewith and the appellate authority; the manner of survey; any other matter which is required to be, or may be, prescribed under this Code.

**Section 135 of the Code empowers the state government** to make rules pertaining to: the constitution, procedure and other matters relating to State Advisory Board; the number of members and their qualifications; the form of application and the payment of fees; the manner of preparing the plan of the place or premises; the time of filing appeal and fees; the form of application by the employee and conditions; form of maintaining the record of the work; the manner of disclosing information by occupier of a factory; the interval of informing Chief Inspector-cum-Facilitator





and the local authority about the policy with respect to the health and safety of the workers; the form and manner of informing Chief Inspector-cum-Facilitator; the manner of publicizing among the workers and the general public living in the vicinity of the factory the measures and disposal; the conditions for accessibility to the record by the workers; the qualification and experience of persons handling hazardous substance and manner of providing necessary facilities for protecting the workers; the manner of providing for medical examination of a worker; the value of the maximum permissible limit of exposure of chemical and toxic substances in manufacturing process in any factory; requiring every employer to make in his plantation provisions- for prohibiting or, restricting employment of women or adolescents; manner of periodical medical examination of worker; the manner of providing facilities, clothing and equipment; precautionary notices; any other matter which is required to be, or may be, prescribed.

In exercise of the power under Section 133 of the Code, the draft rules by the Centre and 26 States and UTs out of 36 have already been notified<sup>4</sup> and yet to be notified by the remaining States and UTs as per the details provided in Annexure III.

#### IV. The Code on Social Security, 2020

**Section 154 of the Code empowers the appropriate government** to make rules pertaining to: the amount in connection with premium for Group Insurance Scheme of the beneficiaries, the educational schemes for the benefit of children of the beneficiaries and the medical expenses for treatment of major ailments of a beneficiary or, such dependent; manner and time within which second appeal may be filed to the Employees' Insurance Court by the Insured Person or the Corporation; the manner of commencement of proceedings before the Employees' Insurance Court, fees and procedure; bank or other financial institution in which the gratuity shall be invested for the benefit of minor; the time, form and manner of nomination by an employee, the time to make fresh nomination, the form and manner of modification of a nomination and the form for fresh nomination; time within which and the form in which a written application shall be made and the form of application to the competent authority; the manner of registration of an establishment by the employer and the manner of composition of the Board of Trustees of the approved gratuity fund and the manner in which the competent authority may recover the amount of the gratuity payable to an employee from the insurer; the qualifications and experience of the officer appointed as the competent authority; authority to whom an appeal may be preferred; class of employers and the form of notice-book; the manner of recording the memorandum in a register by the competent authority; such other experience and qualifications for appointment as a competent authority; time limit to pay the amount of cess; fees for appeal; conditions to acquire, hold, sell or otherwise transfer any movable or immovable property, conditions to invest moneys, re-invest or realise investments terms to raise loans and take measures for discharging such loans and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds; conditions and manner of writing off irrecoverable dues; other powers of Inspector-cum-Facilitator; form and manner for maintenance of records and registers and other particulars and details, manner and form for display of notices at the

4 As on November 9, 2022



work places of the employees and the manner and period of filing returns to the officers or authority; the form and manner of application for compounding of an offence; the manner and form for reporting vacancies and form for filing the return by the employer, to the concerned career centre; manner of determining the misuse of any benefit by an establishment or by any other person; any other matter which is required to be, or may be, prescribed by the appropriate Government under the provisions of this Code.

**Section 156 of the Code empowers the state government** to make rules pertaining to: the manner of exercising the powers and performance of functions by State Unorganized Workers' Board, the manner of nomination of members of the Board, their term of office and other conditions of service, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the Board, and the time, place and rules of procedure relating to the transaction of business at its meetings; the terms and conditions of appointment and the salaries and other allowances payable to the Chairperson and the other members of the Building Workers' Welfare Board and the manner of filling of casual vacancies of such members, the terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the said Board; procedure to be followed by the Employees' Insurance Court; the amount to be deposited towards the expenditure of the funeral of the employee with the competent authority by the employer; conditions when application for review is made without certificate of a medical practitioner; the manner of authentication of memorandum; any other matter which is required to be, or may be, prescribed by the State Government under the provisions of this Code.

In exercise of the power under Section 154 of the Code, the draft rules by the Centre and 26 States and UTs out of 36 have already been notified<sup>5</sup> and yet to be notified by the remaining States and UTs as per the details provided in Annexure IV.

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<sup>5</sup> As on November 9, 2022



## Chapter 3 : Code on Wages, 2019

The draft Central Rules under the Code on Wages, 2019 were notified in the Gazette of India on July 7, 2020<sup>6</sup>.


### Broad Areas Covered under the Rules on Code on Wages, 2019

Section 44(1)(b) of the Code read with Rule 47(1)- Deposit of undisbursed dues; Chapter IX Rule 55-58 of the Central Rules- Miscellaneous Provisions; Section 6(6) (c) of the Code read with Rule 4- Norms for fixation of minimum rate of wage; Section 13(1)(a) of the Code read with Rule 6- Fixing hours of work for normal working day; Section 44(1)(b) of the Code read with Rule 48- Manner Of Payment Of Dues when no nomination has been made; Section 21(2) of the Code read with Rule 18- Procedure of Deduction for Damage or Loss Caused by the Employee; Section 13(2) of the Code read with Rule 9- Special Conditions in case of certain conditions; Section 42(11) of the Code read with Rule 39(1)- Term of Office of members of State Advisory Board; Rule 5 of the Central Rules- Time Interval for revision of Dearness Allowance; Section 56 of the Code read with Rule 54- Manner of imposing fine in case of composition of offence.

The following section of the chapter deals with the subject wise description of the Central Rules as well as State Rules under the Code on Wages, 2019 along with the analytical assessment of the same.



DEPOSIT OF UNDISBURSED DUES: Section 44(1)(b)		
1.	<b>Central Rule</b>	<b>Rule 47(1)</b> Where any amount payable to an employee under this Code remains undisbursed because either no nomination has been made by such employee or for any other reason, such amounts could not be paid to the nominee of employee until the expiry of six months from the date, the amount had become payable, all such amounts shall be <b>deposited by the employer with the</b> authority before the expiry of the fifteenth day after the last day of the said period of six months.
2.	<b>States and UTs having similar provision</b>	Andaman & Nicobar (R.34), Andhra Pradesh (R.46 (1)), Assam (R.46 (1)), Bihar (R.45 (1)), Chandigarh (R.38 (1)), Delhi (R.45 (1)), Goa (R.36 (1)), Gujarat (R.38 (1)), Haryana (R.46 (1)), Himachal Pradesh (R.38 (1)), Jammu & Kashmir (R.37 (1)), Jharkhand (R.45 (1)), Karnataka (R.34), Kerala (R.40 (1)), Ladakh (R.38 (1)), Madhya Pradesh (R.47(1)), Maharashtra (R.35 (1)), Manipur (Adopted Central Rule), Mizoram (R.37 (1)), Odisha (R.39 (1)), Puducherry (R.45 (1)), Punjab (R.38 (1)), Rajasthan (R.38(1)), Sikkim (R.39 (1)), Tamil Nadu (R.40 (1)), Telangana (R.47 (1)), Tripura (R.37 (1)), Uttar Pradesh (R.31), Uttarakhand (R.37 (1))



<sup>6</sup> Gazette Notification No. 329 dated July 7, 2020.

State having different provision		
3.	Chhattisgarh	 <b>R.32(1)</b> Amount to be deposited with the <b>Labour Officer or Assistant Labour Commissioner</b> having jurisdiction, who shall <b>disburse the amount by identifying whereabouts of the employee/worker</b> or person nominated by the employee/worker after ascertaining his identity <b>within two months</b> of the date on which the amount was so deposited with him.

**Analytical Observation-** There is not much difference in the Central and State rules in this regard with the only exception in the state of Chhattisgarh which additionally provides for the time limit (2 months) for disbursement of the amount by the authority to whom the amount has been deposited. Ideally, there has to be a time limit like this in Central as well as in all State/UT rules.


#### FIXING HOURS OF WORK FOR NORMAL WORKING DAY: Section 13(1)(a)

1.	Central Rule	<b>Rule 6</b> 1) The normal working day under clause (a) of sub-section (1) of section 13 shall be comprised of <b>eight hours of work and one or more intervals of rest which in total shall not exceed one hour.</b> (2) The working day of an employee shall be so arranged that inclusive of the intervals of rest, if any, it <b>shall not spread over more than twelve hours on any day.</b> (3) The provisions of sub-rules (1) and (2) shall, in the case of an employee employed in <b>agricultural employment</b> , be subject to such <b>modifications as may, from time to time</b> , be determined by the Central Government. (4) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948.
2.	States and UTs having similar provision	Andaman & Nicobar (R.6), Andhra Pradesh (R.6), Chandigarh (R.6), Delhi (R.6), Goa(R.6), Gujarat (R.6), Haryana (R.6), Himachal Pradesh (R.6), Jammu & Kashmir (R.6), Karnataka (R.6), Ladakh (R.6), Madhya Pradesh (R.6), Manipur (Adopted Central Rule), Mizoram(R.6), Odisha (R.6), Puducherry (R.6), Punjab (R.6), Sikkim (R.7), Tamil Nadu (R.6), Telangana (R.6), Tripura (R.6), Uttar Pradesh (R.6), Uttarakhand (R.6)
3.	States and UTs having different provision	
	Assam	 <b>R.7</b> 1 & 3 - No Change  <b>2. Spread over shall not be more than ten and a half hours on any day.</b> 4. No provision in this regard.

	Bihar	<p> <b>R.6</b></p> <p>In addition to this provision, when the rate of wages for a day is fixed, then, <b>such amount shall be divided by eight for fixing the rate of wages for an hour and multiplied by twenty six</b> for fixing the rate of wages for a month and in such division and multiplication the factors of one-half and more than one-half shall be rounded as next figure and the factors less than one-half shall be ignored.</p> <p>Where an employed person has <b>worked for less than a normal working day</b>, wages proportionate to the hours of work done by him shall be paid to him: Provided that if such person has <b>worked for more than three quarters of a normal working day</b>, he shall deemed to have worked for the full day.</p> <p>An employee shall not be entitled to receive wages for a full normal working day under section 10, if he is not entitled to receive such wage under any other law for the time being in force.</p>
	Chhattisgarh	<p> <b>R.6</b></p> <p>(1) No employee or worker shall be required or allowed to work in an establishment for <b>more than forty eight hours in a week</b>.</p> <p>(2) Spread over shall not be more than <b>ten and half hours per day</b>.</p> <p>(3) If the employee or worker works in the establishment for six days in a week, the period of work of an employee or worker shall be so arranged that inclusive of his interval for rest <b>shall not spread over for more than ten and half hours per day</b> and the <b>seventh day of the said week for the employee or worker, shall be a paid holiday</b>.</p> <p>(4) If the employee or worker <b>works in the establishment for less than six days in a week</b> arising due to provision of flexibility in working hours, the period of work of an employee or worker shall be so arranged that inclusive of his interval for rest <b>shall not spread over for more than twelve hours per day</b> and the remaining days of the said week for the employee shall be paid holidays.</p> <p>Provided that the flexibility in working hours shall be permitted with the consent of negotiating union/ negotiating council or with the consent of majority of employee and workers in the absence of negotiating union/ negotiating council, and prior consent of authorized authority by the state government.</p> <p>Provided that it shall be the responsibility of the principal employer that no employee or worker is '<b>doubly-employed</b>' and the sub-rule (1) is strictly adhered to.</p>



		<p>(5) No employee or worker shall be <b>allowed to work for more than five hours continuously</b> before he has had an <b>interval for rest of at least half an hour</b>.</p> <p>(6) <b>No child or adolescent</b> shall be employed or <b>permitted to work for more than 4 and half hours on any day</b>.</p> <p>(7) Employee or worker employed in agricultural employment, be subject to such modifications as may, from time to time, be determined by the State Government.</p>
	Jharkhand	<p>✓ R.6 (2-4)- No Change</p> <p>✗ 1. A normal working day shall be <b>nine hours</b>.</p>
	Kerala	<p>✓ R.6 (1,3,4)- No Change</p> <p>✗ 2. The spread over shall not be more than <b>ten and half hours</b> on any day. However, the <b>Labour Commissioner</b> may for the reasons to be <b>specified in writing</b> increases the <b>spread over up to twelve hours</b>.</p>
	Maharashtra	<p>✗ R.6</p> <p>(1) No employee shall be required or allowed to work in an establishment for <b>more than forty-eight hours in a week</b>.</p> <p>(2) If an employee works on daily basis in an establishment, the period of work of such employee, inclusive of his interval for rest, shall be so arranged that shall not <b>spread over for more than ten and half hours per day</b>.</p> <p>(3) If the employee works in the establishment for six days in a week, the period of work of an employee, inclusive of his interval for rest, shall be so arranged that it shall not spread over for more than ten and half hours per day and the seventh day of the said week for the employee shall be a paid holiday.</p> <p>(4) If the employee <b>works in the establishment for less than six days</b> in a week arising due to provision of flexibility in working hours, the period of work of an employee, inclusive of his interval for rest, shall be so arranged that it <b>shall not spread over for more than twelve hours per day</b> and the remaining days of the said week for the employee shall be paid holidays. The flexibility in working hours shall be permitted with the consent of negotiating union or negotiating council or with the consent of majority of employees in the absence of negotiating union or negotiating council.</p> <p>(5) No employee shall be allowed to work <b>for more than five hours continuously</b> before he has had an <b>interval for rest of at least half an hour</b>.</p>

	Rajasthan	 <b>R.6</b> <p>4. Nothing in this rule shall be deemed to affect the provisions of the OSH Code, 2020.          In addition to this, no woman shall be employed or <b>permitted to work beyond 6 p.m. and earlier than 6 a.m.</b> during 1st September to the end of February or <b>beyond 7 p.m. and earlier than 7 a.m.</b> from 1st March to 31st August, except those who is working in the establishment which is either exempted or relaxation has been given by the State Government.</p>
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#### Analytical Observations-

1. The central rule provides for the spread over of 12 hours a day while the states like Assam and Kerala restrict the spread over to ten and a half hours a day. However, the states like Chhattisgarh and Maharashtra, the provision of the spread over of ten and a half hours in case of employees working in an establishment with six days of working in a week and twelve hours in case of an establishments working five days in a week. In this context it is worth mentioning that in many areas, especially in Metropolitan Towns, the employees/workers have to spend substantial time on commutation to the place of work. In such kind of situations, the spread over of 12 hours in case of establishments with six days of working seems to be too long and require reconsideration.
2. Though the Child and Adolescent Labour (Prohibition & Regulation) Act, 1986 prohibits the employment of children (those below 14 years of age) in general, the rule in state of Chhattisgarh contains the provision permitting the employment of children in an establishment up to four and a half hours on a day. This kind of anomaly needs to be taken care of in order to protect the interest of children.

#### NORMS FOR FIXATION OF MINIMUM RATE OF WAGE: Section 6(6)(c)

1.	Central Rule	<b>Rule 4</b>
		While fixing the minimum rate of wages under section 6, the Central Government shall divide the concerned geographical area into <b>three categories</b> , that is to say the <b>metropolitan area, non-metropolitan area and the rural area</b> .
2.	<b>States and UTs having similar provision</b>	Andhra Pradesh (R.4(1)), Assam (R.4(1)), Bihar (R.4(1)), Chandigarh (R.4(1)), Gujarat (R.4(1)), Haryana (R.4(1)), Karnataka (R.4(1)), Ladakh (R.4(1)), Madhya Pradesh (R.4(1)), Manipur (Adopted the Central Rules), Puducherry (R.4(1)), Punjab (R.4(1)), Rajasthan (R.4(1)), Tamil Nadu (R.4(1)), Telangana (R.3A(1)), Uttarakhand (R.4(1)).
3.	<b>States/UTs having no provision in this regard.</b>	Delhi, Jharkhand, Mizoram, Odisha.

4. States/UTs having different provision		
	Andaman & Nicobar	✗ R.4(1)- The Administration shall fix the wages which is applicable within the territorial limits of the UT.
	Chhattisgarh	✗ R.4(1)- i. geographical area; ii. Experience in the area of employment; and iii. level of skill required for working under the categories of unskilled, semi-skilled, skilled and highly skilled; iv. Industry and/or clusters thereof;
	Goa	✗ R.4(1) provides for dividing the concerned geographical area into two categories, namely, 'Zone A' and 'Zone B'. For this purpose, "Zone A" means the area within the limits of the Corporation and Municipal limit and the establishments located in the Industrial Estates set up by the Industrial Development Corporation or Economic Development Corporation, Panaji or any other statutory organization/Corporation. "Zone B" means all other places in the State of Goa not covered under Zone A, Rule 2(s) & (t).
	Himachal Pradesh	✗ R.4(1) provides for dividing the concerned geographical area into <b>four</b> categories, that is to say the Municipal Corporation, Municipal Council, Nagar Panchayat areas notified by the Urban Development Department, Himachal Pradesh and Rural Areas.
	Jammu & Kashmir	✗ R.4(1) provides for dividing concerned geographical area into three categories, that is to say area under Municipal Corporations area under Municipal Committees/Municipal Councils and Rural area.
	Kerala	✗ R.4(1) provides for dividing the geographical area concerned into three categories, such as the municipal corporation, municipality and the rural area.
	Maharashtra	✗ R.4(1)(i) provides for dividing the geographical area into following zones:— (a) Zone I- It shall comprise of the areas falling within local limits of 'A' and 'B' grade municipal corporations and an area of ten kilometres from the boundaries thereof, cantonment areas and also includes areas notified as industrial areas under the Maharashtra Industrial Development Act, 1961; (b) Zone-II- It shall comprise of the areas falling within the limits of 'C' and 'D' grade municipal corporations, 'A' and 'B' grade municipal councils and also includes areas notified as industrial areas and all types of industrial estates under the Maharashtra Industrial Development Act, 1961 (Mah. III of 1962) which are not covered in Zone- I;

		(c) <i>Zone-III</i> - It shall comprise of all other areas in the State which are not included in Zone-I and Zone-II;
	<b>Sikkim</b>	✗ <b>R.4(1)</b> provides that the State Government shall divide the concerned geographical area into <b>four altitudes</b> , that is to say up to 8000 ft., from 8001 ft. to 12000 ft., from 12001 ft. to 16000 ft., from 16001 ft. and above.
	<b>Tripura</b>	✗ <b>R.4(1)</b> provides for dividing the geographical area concerned into three categories, such as the municipal corporation area, Municipal Committees/Councils/ Nagar Panchayat and the rural area.
	<b>Uttar Pradesh</b>	✗ <b>R.4</b> provides that while fixing or revising the wage payable to workers, engaged in the work of arduous nature performed by the worker like temperature or humidity normally difficult to bear, hazardous occupations or processes or underground work, the State government may constitute an expert committee as it deems necessary.

*Analytical Observation-* India being a vast country, the geographical situations vary from state to state and accordingly require the classification and categorization as per the state specific needs.

#### MANNER OF PAYMENT OF DUES WHEN NO NOMINATION HAS BEEN MADE: S/44(1)(b)

1.	Central Rule	Rule 48
		<p>(1) The amount referred to in sub rule (1) of rule 47 (hereinafter in this rule referred to as the amount) <b>deposited with the Deputy Chief Labour Commissioner (Central)</b> having jurisdiction shall remain with him and <b>be invested in the Central or State Government Securities or deposited as a fixed deposit in a scheduled bank.</b></p> <p>(2) The Deputy Chief Labour Commissioner (Central) having jurisdiction will exhibit, as soon as maybe possible, <b>a notice containing such particulars regarding the amount</b> as the Deputy Chief Labour Commissioner (Central) considers sufficient for information <b>at least for fifteen days on the notice board and also publish such notice in any two newspapers</b> being published in the language commonly understood in the area in which undisbursed wages were earned.</p> <p>(3) Subject to the provision of sub-rule (4), the Deputy Chief Labour Commissioner (Central) having jurisdiction shall release the amount to the nominee or to that person who has claimed such amount, as the case may be, in whose favour such Deputy Labour Commissioner (Central) has decided, <b>after giving the opportunity of being heard</b>, the amount to be paid.</p>

		(4) If the undisbursed amount <b>remains unclaimed for a period of seven years</b> , the same shall be dealt with in the manner as directed by the Central Government from time to time in this behalf.
2.	<b>States and UTs having similar provision</b>	Andaman & Nicobar(R.35), Assam(R.47), Bihar(R.46), Delhi(R.46), Gujarat(R.39), Himachal Pradesh(R.39), Jammu & Kashmir(R.38), Jharkhand(R.46), Karnataka(R.35), Maharashtra(R.36), Manipur( <i>Adopted the Central Rules</i> ), Mizoram(R.38), Odisha(R.40), Puducherry(R.46), Sikkim(R.40), Tamil Nadu(R.41), Telanagana(R.48), Tripura(R.38), Uttar Pradesh(R.33), Uttarakhand(R.38).
3.	<b>States/UTs having no provision</b>	Haryana
4.	<b>States/UTs having different provision</b>	
	<b>Andhra Pradesh</b>	✗ R.47- Deposited with the Assistant/Dy./Joint Commissioner. If the amount remains unclaimed for a period of <b>three years</b> , the same shall be dealt with in the manner as directed by the State Government from time to time in this behalf.
	<b>Chandigarh</b>	✗ R.39- Deposited <b>with the officer appointed through notification</b> by Chandigarh Administration for this purpose having jurisdiction <b>shall remain with him for three years and thereafter, shall be deposited in the Labour Welfare Fund.</b> The <b>Chandigarh Labour Welfare Board</b> shall publish <b>such notice</b> in any two newspapers being circulated in the language commonly understood in the area in which undisbursed wages were earned.
	<b>Chhattisgarh</b>	✗ R.32- Deposited with the Labour Officer or Assistant Labour Commissioner having jurisdiction. The authority <b>shall be nominated at each district level</b> by the State Government. If the amount remains <b>unclaimed for a period of three years</b> , the same shall be dealt with in the manner as directed by the State Government from administrative order time to time
	<b>Goa</b>	✗ R.37- Deposited by the employer with the Commissioner. If the undisbursed amount remains <b>unclaimed for a period of five years</b> , the same shall be <b>deposited with Goa Labour Welfare Board.</b>



Kerala	<p>✗ <b>R.41-</b> Deposited with the DLC having jurisdiction.</p> <p>If the undisbursed amount <b>remains unclaimed for a period of one year after publication</b>, the amount shall be <b>transferred to the Kerala Labour Welfare Fund Board</b> for promoting the welfare of Labour. If any <b>claim arises within the seven years from the date of such deposit</b>, notwithstanding anything contained in the sub-rule (3), <b>the DLC may decide and direct the Chief Executive Officer of Board to disburse the amount to the claimant.</b></p>
Ladakh	<p>✗ <b>R.39-</b> Deposited <b>with the officer appointed through notification</b> by Administration for this purpose having jurisdiction <b>shall remain with him for three years and thereafter, shall be deposited in the Labour Welfare Fund.</b></p> <p>The <b>Ladakh Labour Welfare Board shall publish such notice</b> in any two newspapers being circulated in the language commonly understood in the area in which undisbursed wages were earned.</p>
Madhya Pradesh	<p>✗ <b>R.48-</b> Deposited with the Labour Officer having jurisdiction.</p> <p>If the amount remains <b>unclaimed for a period of three years</b>, the same shall be dealt with in the manner as directed by the State Government</p>
Punjab	<p>✗ <b>R.39-</b> Deposited <b>with the ALC</b> having jurisdiction which <b>shall remain with him for three years and thereafter, shall be deposited in the Labour Welfare Fund.</b></p> <p>The <b>Punjab Labour Board shall publish such notice</b> in any two newspapers being circulated in the language commonly understood in the area in which undisbursed wages were earned.</p>
Rajasthan	<p>✗ <b>R.39-</b> Deposit the dues with <b>the Authority having jurisdiction</b> and it shall remain with the Authority and the same shall be invested in the State Government Securities or deposited as a fixed deposit in a scheduled bank.</p> <p>If the undisbursed amount remains <b>unclaimed for a period of three years</b>, the same shall be dealt with in the manner as directed by the State Government from time to time in this behalf.</p>

#### Analytical Observations-

1. The Central Rule pertaining to the manner of payment of dues when no nomination has been made, seems to be too idealistic from the view point of

providing relief to the worker. However, from the practical point of view, a period of three to five years seems to be reasonable.

2. The state of Haryana, which doesn't have any rule in this regard also needs to frame the same.
3. Since the unclaimed amount belongs to the labourers/employees hence this amount should logically and as a matter of policy be deposited with Labour Welfare Fund of respective states.

#### TERM OF OFFICE OF MEMBERS OF CENTRAL AND STATE ADVISORY BOARDS: Section 42(11)

1.	<b>Central Rule</b>	<b>Rule 39(1)</b> The term of office of the Chairperson or a member, as the case may be, of the Central Advisory Board shall be normally <b>two years</b> commencing from the date of his appointment or nomination, as the case may be, under sub-section (1) of section 42: Provided that such Chairperson or a member shall, notwithstanding the expiry of the said period of two years, continue to hold office until his successor is appointed or nominated, as the case may be.
2.	<b>States and UTs having similar provision</b>	Andaman & Nicobar (R.26(1)), Andhra Pradesh (R.38(1)), Assam (R.37(1)), Bihar (R.37(1)), Chandigarh (R.30(1)), Delhi (R.37(1)), Goa (R.28(1)), Gujarat (R.30(1)), Haryana (R.38(1)), Himachal Pradesh (R.30(1)), Jammu & Kashmir (R.29(1)), Jharkhand (R.38(1)), Karnataka (R.26(1)), Kerela (R.32(1)), Ladakh (R.30(1)), Madhya Pradesh (R.39(1)), Maharashtra (R.27(1)), Manipur (Adopted the Central Rules), Odisha (R.31(1)), Puducherry (R.37(1)), Punjab (R.30(1)), Rajasthan (R.30(1)), Sikkim (R.31(1)), Tamil Nadu (R.32(2)), Telangana (R.31(1)), Tripura (R.29(1)), Uttarakhand (R.29(1))
3.	<b>States and Uts having different provision</b>	
	<b>Chhattisgarh</b>	✗ R.29(3) Term of office shall be <b>normally three years</b> .
	<b>Mizoram</b>	✗ R.30(1) Term of office shall be <b>normally three years</b> .
	<b>Uttar Pradesh</b>	✗ R.20(1) Term of office shall be <b>normally three years</b> .

*Analytical Observation-* There is no material difference in this regard.

TIME INTERVAL FOR REVISION OF DEARNESS ALLOWANCE		
1.	<b>Central Rule</b>	<p><b>Rule 5</b></p> <p>Endeavour shall be made so that the cost of living allowance and the cash value of the concession in respect of essential commodities at <b>concession rate shall be computed once before 1<sup>st</sup> April and then before 1<sup>st</sup> October in every year</b> to revise the dearness allowance payable to the employees on the minimum wages.</p>
2.	<b>States and UTs having similar provision</b>	<p>Assam (R.5), Bihar (R.5), Chandigarh (R.5), Chhattisgarh (R.5), Chhattisgarh (R.5), Delhi (R.5), Goa (R.5), Gujarat (R.5), Haryana (R.5), Himachal Pradesh (R.5), Jammu &amp; Kashmir (R.5), Jharkhand (R.5), Karnataka (R.5), Ladakh (R.5), Madhya Pradesh (R.5), Maharashtra (R.5), Manipur (Adopted the Central rules), Mizoram (R.5), Odisha (R.5), Puducherry (R.5), Punjab (R.5), Sikkim (R.6), Tamil Nadu (R.5), Telangana (R.5), Tripura (R.5), Uttarakhand (R.5)</p>
3.	<b>States and UTs having different provision</b>	
	<b>Andaman &amp; Nicobar</b>	<p>✗ R.4(5)</p> <p>Shall be <b>computed twice in a year, i.e. 1<sup>st</sup> January and 1<sup>st</sup> July</b> to revise the DA.</p>
	<b>Andhra Pradesh</b>	<p>✗ R.5</p> <p>Shall be computed before 1<sup>st</sup> April every year.</p>
	<b>Kerala</b>	<p>✗ R.5</p> <p>Shall be revised in every April and October on the basis of cost of living allowance and cash value of concession in respect of essential commodities of the <b>preceding six months</b>.</p> <p>DA payable from every April to September shall be computed in accordance with the average of consumer price index for the previous October to March and that from every October to March shall be computed in accordance with the average of Consumer Price Index for the previous April to September.</p>
	<b>Rajasthan</b>	<p>✗ R.5</p> <p>The revision of DA shall be <b>made twice in a year</b> i.e. on 1<sup>st</sup> April and 1<sup>st</sup> October on the basis of price index <b>prepared by the Labour Bureau</b>.</p>
	<b>Uttar Pradesh</b>	No provision in this regard.

*Analytical Observation-* While both the Central Rules as well as the State Rules of most of the states in this regard provide for revision of DA twice in a year, the State of Andhra Pradesh provides for the same only once a year and the State of Uttar Pradesh does not have any rule in this regard.

### SPREAD OVER AND HOURS OF WORK IN SPECIAL SPECIFIED CONDITIONS: Section 13(2)

1.	<b>Central Rule</b>	<b>Rule 9</b> (i) the spread over of the hours of work of the employee shall <b>not exceed 16 hours</b> in any day; and (ii) the actual hours of work excluding the intervals of rest and the periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attendance shall <b>not exceed 9 hours</b> in any day.
2.	<b>States and UTs having similar provision</b>	Andaman & Nicobar (R.9), Andhra Pradesh (R.10), Assam (R.10), Bihar (R.9), Chandigarh (R.9), Delhi (R.9), Goa (R.9), Gujarat (R.9), Himachal Pradesh (R.9), Jammu & Kashmir (R.9), Jharkhand (R.9), Karnataka (R.9), Ladakh (R.9), Madhya Pradesh (R.10), Manipur (Adopted Central Rules), Mizoram (R.9), Puducherry (R.9), Rajasthan (R.9), Sikkim (R.10), Telangana (R.9), Tripura (R.9), Uttar Pradesh (R.9), Uttarakhand (R.9)
3.	<b>States/UTs having no provision</b>	Haryana, Maharashtra
	<b>States/UTs having different provision</b>	
	<b>Chhattisgarh</b>	✗ R.9 Spread over shall <b>not exceed 12 hours</b> .
	<b>Kerala</b>	✗ R.9 Spread over shall not exceed <b>12 hours</b> and actual work of hours shall not exceed <b>8 hours</b> .
	<b>Odisha</b>	✗ R.9(2) Spread over shall <b>not exceed 12 hours</b> .
	<b>Punjab</b>	✗ R.9 Spread over shall <b>not exceed 12 hours</b> .
	<b>Tamil Nadu</b>	✗ R.9 Spread over shall <b>not exceed 14 hours</b> .

#### Analytical Observations-

1. The spread over of 16 hours seems to be on higher side and the Central and State Rule having this limit in this regard needs reconsideration.
2. The situations contemplated under Section 13(2) of the Code on Wages, 2019 are not confined to any particular state. However, the States of Maharashtra and Haryana do not have any provision to take care of such situations.



## PROCEDURE OF DEDUCTION FOR DAMAGE OR LOSS CAUSED BY THE EMPLOYEE: Section 21(2)




1.	<b>Central Rule</b>	<p><b>Rule 18</b></p> <p>Any employer desiring to make deduction for damages or loss under sub-section (1) of section 21 of the code from the wages of an employee shall,-</p> <p>(i) <b>explain to the employee personally and also in writing</b> the damage or loss of goods expressly entrusted to the employee for custody or for loss of money for which he is required to account and how such damages or loss is directly attributable to the neglect or default of the employee; and</p> <p>(ii) Thereafter, <b>give the employee an opportunity to offer any explanation</b> and deduction for any damages or loss, if made, shall be <b>intimated to the employee within fifteen days</b> from the date of such deduction.</p>
2.	<b>States and UTs having similar provision</b>	<p>Andaman &amp; Nicobar Islands (R.16), Andhra Pradesh (R.18), Assam (R.17), Bihar (R.17), Chandigarh (R.16), Delhi (R.17), Goa (R.16), Gujarat (R.16), Haryana (R.17), Himachal Pradesh (R.16), Jammu &amp; Kashmir (R.16), Jharkhand (R.17), Karnataka (R.16), Kerala (R.19), Ladakh (R.16), Madhya Pradesh (R.18), Maharashtra (R.17), Manipur (Adopted Central Rules), Mizoram (R.17), Odisha (R.18), Puducherry (R.16), Punjab (R.16), Rajasthan (R.17), Sikkim (R.18), Tamil Nadu (R.19), Telangana (R.18), Tripura (R.16), Uttarakhand (R.16)</p>
3.	<b>States and UTs having different provision</b>	
	<b>Chhattisgarh</b>	<p><b>✗ R.15</b></p> <p>Before imposing any fine or deduction upon an employee or worker, the employer shall, <b>provide copy of show cause notice in the language which is understood by the employee</b> or worker explaining the value of damage or loss of goods expressly, providing reasons in details for the same, and <b>provide an opportunity to the employee or worker to respond</b>. The employee or worker must be provided <b>at least fifteen days to respond</b> to the show cause notice.</p> <p>The employee or worker shall be granted <b>adequate opportunity for hearing</b> and is granted adequate opportunity to rectify the erroneous act or omission.</p> <p>In case the employee or worker rectifies or undertakes steps to rectify the erroneous act or omission so committed, the employer <b>shall not impose fine exceeding 50% of the amount</b> which the employee or worker would have otherwise been liable for.</p>

		<p>No fine or deduction shall be imposed without providing the employee or worker a written order to the same effect, in the language understood by the employee or worker.</p> <p>In case the fine or deduction is sought to be <b>imposed upon more than one employee or worker, the show cause notice</b>, the written order and any other communication whatsoever, <b>must be provided</b> to each employee or worker, <b>separately</b>.</p> <p>The aggrieved party may <b>file an appeal before Authority</b>, authorised by the State Government.</p>
	Uttar Pradesh	<p><b>✗ R.16</b></p> <p>Employer shall <b>issue a show cause notice in writing</b> to employee personally explaining the damage or loss of goods expressly entrusted to the employee.</p> <p>After providing reasonable opportunity of hearing to the employee concerned, any order making deduction shall be communicated to the employee concerned <b>at least seven days before making such deduction</b>.</p>





*Analytical Observation-* The rule of the state of Chhattisgarh in this regard seems to be more elaborated and reasonable as it provides an additional opportunity to the employee/worker to furnish his/her explanation before the actual deduction by the employer.

#### MANNER OF IMPOSING FINE IN CASE OF COMPOSITION OF OFFENCE: SECTION 56

1.	Central Rule	Rule 54
		<p>1) An accused person desirous of making composition of offence under sub-section (1) of section 56 may make an application (Form VI) electronically or otherwise to the Gazetted Officer notified under said sub-section (1).</p> <p>2) The Gazetted Officer referred to in sub-rule (1), shall, on receipt of such application, satisfy himself as to whether the offence is compoundable or not under the Code and if the offence is compoundable and the accused person agrees for the composition, compromise the offence for <b>a sum of fifty per cent of the maximum fine</b> provided for such offence under the Code, to be paid by the accused within the time specified in the order of composition issued by such officer.</p> <p>3) Where the offence has been compromised under sub-rule (2) after the institution of the prosecution, then, the officer shall send a copy of such order made by him for intimation to the officer referred to in sub-section (1) of section 53 for needful action under sub-section (6) of section 56.</p>

2.	<b>States/UTs having similar provision</b>	Andaman & Nicobar (R.41), Andhra Pradesh (R.54), Assam (R.54), Bihar (R.52), Chandigarh (R.51), Chhattisgarh (R.44), Delhi (R.52), Goa (R.42), Gujarat (R.44), Haryana (R.65), Jammu & Kashmir (R.44), Jharkhand (R.52), Ladakh (R.50), Madhya Pradesh (R.55), Manipur ( <i>Adopted Central Rules</i> ), Mizoram (R.44), Odisha (R.45), Puducherry (R.52), Rajasthan (R.44), Sikkim (R.46), Telangana (R.54), Tripura (R.44), Uttarakhand (R.44)
3.	<b>States/UTs having different/additional provision</b>	
	<b>Himachal Pradesh</b>	 <b>R.44</b> 3. There is no provision with regard to intimating the officer regarding compromise.
	<b>Karnataka</b>	 <b>R.41</b> 3. There is no provision with regard to intimating the officer regarding compromise.
	<b>Kerala</b>	 <b>R.52</b> (1) The accused person if intends to compound the offence alleged against him may submit an application (Form VII) to the officer notified by the Government for the purpose of compounding of offences (officers not below the rank of District Labour Officer). (2) If prosecution is pending before the Judicial First Class Magistrate Court or enquiry commissioner appointed under the code, the compounding officer shall send an intimation of the receipt of application for composition to the court concerned or the enquiry officer. (3) The Compounding officer, after due enquiry, if found that the offence is compoundable, issue an order of composition directing to deposit the amount within fifteen days from the date of receipt of order. (4) On receipt of the amount of composition the compounding officer shall issue intimation in writing to the Judicial First Class Magistrate Court or the officer for, as the case may be where the prosecution or enquiry is pending to discharge the accused. (5) In case, if the accused person failed to deposit the compounding amount within the time prescribed, he is liable for a fine. (6) In case, if the accused person failed to deposit the composition amount, the compounding officer shall issue a certificate for that amount to the District Collector concerned who shall recover the same as arrears of land revenue.



Maharashtra	 <b>R.42</b> Accused has to pay the fine within thirty days of the order of composition issued by the officer.
Punjab	 <b>R.46</b> Accused has to pay the fine within thirty days of the order of composition issued by the officer.
Tamil Nadu	 <b>R.46</b> However, there is no provision with regard to intimating the officer regarding compromise.
Uttar Pradesh	 <b>R.38</b> (1) If the officer notified by the State Government for the purposes of compounding of offences, is of the opinion that the offence under the Code is compoundable the he shall send a notice manually or electronically <b>to employer</b> (Form III). (2) An accused person desirous of making composition of offence may make an application in Form IV, personally or electronically or otherwise to the Compounding Officer. (3) If the accused complies with the requirement of sub-rule (2), the compounding officer shall compound the offence for the amount of money deposited by the accused and if the prosecution has not been instituted against the accused, no complaint for prosecution shall be instituted against the accused. (4) If the offence is compounded after the institution of prosecution, the compounding officer shall inform the authority appointed or the competent Court in which the prosecution is pending and after receiving such intimation, the officer or Court shall discharge the accused and close the prosecution. (5) The compounding officer shall exercise the powers to compound the offence under this rule, subject to the direction, control and supervision of the State Government.

#### Analytical Observations-

1. The provisions in this regard in most of the States/UTs are similar to the Central rule.
2. The rule in the states of Himachal Pradesh, Karnataka and Tamil Nadu does not contain the provision with regard to intimating the officer regarding compromise before whom the prosecution is pending.
3. The rule only in the states of Kerala, Maharashtra and Punjab provides for the time limit for depositing the composition fees within a period of 15 days and 30 days from the passing of the composition order.



## Chapter 4 : Code on Industrial Relations, 2021

The draft central rules under the Code on Industrial Relations, 2021 have been notified in four installments i.e. (i) the general rules pertaining to the various matters/aspects under the IR code, October 29, 2020<sup>7</sup>; (ii) the rules pertaining to standing orders for Service Sector, December 31, 2020<sup>8</sup>; (iii) rules pertaining to Standing Orders for Manufacturing Sectors and Mines, December 31, 2020<sup>9</sup>; and (iv) rules pertaining to Recognition of Negotiating Union or Negotiating Council and Adjudication of disputes of Trade Union, May 4, 2021<sup>10</sup>.

### Broad Areas Covered under the Rules:

The key subject areas covered by the Draft Rules notified in the above-mentioned four installments include:

Facilities to be provided to Negotiating Union (*Section 14(2) of the Code read with Rule 9 of the rules notified as per the Gazette Notification No. 251*); Manner of choosing Representatives of workers where no trade union is operating for the purpose of seeking comments on Standing Order (*Section 30(5) of the Code read with Rule 8 of the rules notified as per the Gazette Notification No. 560*); Prescribed manner for the intended layoff of workers from an establishment where not less than three hundred workers are employed (*Section 78 of the Code read with Rule 28 of the rules notified as per the Gazette Notification No. 560*); Manner of making complaint by an aggrieved employee during the pendency of Conciliation/ Arbitration or Adjudication proceedings (*Section 91 of the Code read with Rule 38 of the rules notified as per the Gazette Notification No. 560*); Manner of proceeding and sending report when no Settlement is arrived by the Conciliation Officer (*Section 53(4) of the Code read with Rule 22(2) of the rules notified as per the Gazette Notification No. 560*); Matters on which Trade Union can negotiate with employer (*Section 14(1) of the Code read with Rule 3(1)*); Notice for Change (*Section 40 of the Code read with Rule 16(1) of the rules notified as per the Gazette Notification No. 560*); Notice for Closure (*Section 74 of the Code read with Rule 27 of the rules notified as per the Gazette Notification No. 560*); Notice of Strike (*Section 62(4) of the Code read with Rule 23 of the rules notified as per the Gazette Notification No. 560*); Criteria for Recognizing a Single Registered Trade Union of Workers as Sole Negotiating Union of Workers (*Section 14(2) of the Code read with Rule 4 of the rules notified as per the Gazette Notification No. 251*); Re-employment (*Section 72 of the Code read with Rule 26 of the rules notified as per the Gazette Notification No. 560*).

<sup>7</sup> Gazette Notification No. 560 dated October 29, 2020.

<sup>8</sup> Gazette Notification No. 679 dated December 31, 2020.

<sup>9</sup> Gazette Notification No. 680 dated December 31, 2020.

<sup>10</sup> Gazette Notification No. 251 dated May 4, 2021.

## FACILITIES TO BE PROVIDED TO NEGOTIATING UNION: SECTION 14(2)

1.	Central Rule	<p style="text-align: center;"><b>Rule 9</b></p> <p>In an industrial establishment, where there is a negotiating union or negotiating council, as the case may be, the employer of such industrial establishment shall provide the following facilities to the negotiating union or negotiating council, as the case may be, namely:-</p> <p>(i) <b>notice board</b> for the purpose of displaying the information relating to activities of negotiating union or negotiating council, as the case may be;</p> <p>(ii) <b>venue and necessary facilities for holding discussions</b> by the negotiating union or negotiating council, as the case may be, as per schedule and agenda to be settled <b>between employer</b> of the industrial establishment and the negotiating union or constituents of negotiating council, as the case may be;</p> <p>(iii) <b>venue and necessary facilities for holding discussions amongst the members</b> of the negotiating union or constituents of negotiating council, as the case may be;</p> <p>(iv) <b>facility for entrance of the office bearers</b> of the negotiating union or constituents of negotiating council, as the case may be, in the industrial establishment for the purposes of ascertaining the matters which are relating to working conditions of the workers;</p> <p>(v) <b>employer to deduct subscription of the members</b> of the Trade Unions on the basis of the written consent of the worker;</p> <p>(vi) <b>treating on duty of the employed office bearers</b> of the negotiating union or constituents of negotiating council, as the case may be, when the office bearers are holding meetings or discussing with the employer as per agreed schedule between employer and such office bearers; and</p> <p>(vii) Employer of an industrial establishment, <b>having three hundred or more workers</b>, shall provide <b>suitable office accommodation</b> with necessary facilities to the negotiating union or negotiating council, as the case may be.</p>
2.	States & UTs having similar provision.	Chhattisgarh(R.13(7)), Manipur( <i>Adopted Central Rules</i> ), Odisha(R.24), Tamil Nadu(R.21), Telangana(R.78).
3.	States & UTs having no provision	Goa, Himachal Pradesh, Kerala, Puducherry, Punjab.

4. States & UTs having different provision	
Andhra Pradesh	<p>✗ <b>R.66</b>-Facilities to be provided shall be mutually decided by the industrial establishment and a negotiating council or union.</p>
Assam	<p>✗ <b>R.21</b></p> <ul style="list-style-type: none"> <li>Negotiating union shall be provided with an office room with a toilet, drinking water and electricity by the employer.</li> <li>Right of holding discussions on the premises.</li> <li>Collection of sums on the premises of the undertakings by certain members of negotiating union.</li> <li>Put up notice board or electronic notice board at conspicuous place mutually agreed by employer and union.</li> </ul>
Bihar	<p>✗ <b>R.16(2)</b>-The employer of the industrial establishment shall provide reasonable space for negotiation to the recognized negotiating union or negotiating council, as the case may be.</p>
Chandigarh	<p>✗ <b>R.18(4)</b></p> <ul style="list-style-type: none"> <li>Office accommodation either inside or outside the company premises.</li> <li>May declare the executive members of the negotiating Trade Union and members of the negotiating Council as protected workers.</li> </ul>
Gujarat	<p>✗ <b>R.64</b>- Facilities to be provided shall be mutually decided by the industrial establishment and a negotiating council or union.</p>
Haryana	<p>✗ <b>R.28</b></p> <ul style="list-style-type: none"> <li>The employer shall provide accommodation to the negotiation union or negotiating council for holding meetings. Provided that prior intimation has been given electronically or in writing to the employer by the negotiating union or negotiating council in this regard.</li> <li>The negotiating union or negotiating council shall ordinarily meet during working hours of the industrial establishment concerned on any working day and the members thereof shall be deemed to be on duty while attending the meeting.</li> </ul>

Jammu & Kashmir	<p>✗ R.17(4)</p> <ul style="list-style-type: none"> <li>Office accommodation,</li> <li>Secretariat assistance,</li> <li>May declare the executive members of the negotiating Trade Union and members of the negotiating council as protected workman.</li> </ul>
Jharkhand	<p>✗ R.15(3)(e)</p> <ul style="list-style-type: none"> <li>Notice board for the purpose of displaying information relating to activities of negotiating union.</li> <li>Minimum space with required facilities for office.</li> <li>Venue and necessary facilities for holding meetings by the negotiating union.</li> <li>Facilities for entrance of office bearers of the negotiating union in the industrial establishment for the purpose of ascertaining the matters relating to working conditions of the workers.</li> <li>The day of meeting for negotiation shall be treated as on duty.</li> <li>Other facilities may be mutually decided.</li> </ul>
Karnataka	<p>✗ R.15</p> <ul style="list-style-type: none"> <li>Right of holding discussions on the premises, union shall intimate in advance to the employer about the names of office bearers taking part in discussion and the same shall not interfere with the working of the undertaking.</li> <li>Right to meet the employer to discuss with him the grievances of the employees.</li> <li>Put up notice board outside the time-keeper's office or at any other conspicuous place mutually agreed by employer and union.</li> </ul>
Ladakh	<p>✗ R.18(3)</p> <ul style="list-style-type: none"> <li>Office accommodation either inside or outside the company premises.</li> <li>May declare the executive members of the negotiating Trade Union and members of the negotiating Council as protected workers.</li> </ul>
Madhya Pradesh	<p>✗ R.13(6)</p> <ul style="list-style-type: none"> <li>Right of holding discussions on the premises with the employees.</li> <li>Collection of sum on the premises by certain officers of the union.</li> <li>Putting up the notice board or electronic notice board outside the time-keeper's office or at any other conspicuous place mutually agreed by employer and union.</li> </ul>

<b>Maharashtra</b>	<b>✗ R.15</b> <ul style="list-style-type: none"> <li>• Right of holding discussions on the premises with the employees.</li> <li>• Collection of sum on the premises by certain officers of the union.</li> <li>• Putting up the notice board or electronic notice board outside the time-keeper's office or at any other conspicuous place mutually agreed by employer and union.</li> </ul>
<b>Tripura</b>	<b>✗ R.17(4)</b> <ul style="list-style-type: none"> <li>• Office accommodation,</li> <li>• Secretariat assistance,</li> <li>• May declare the executive members of the negotiating Trade Union and members of the negotiating council as protected workman.</li> </ul>
<b>Uttar Pradesh</b>	<b>✗ R.22-</b> Provide such facilities as required by the State Government by general or special order.
<b>Uttarakhand</b>	<b>✗ R.16(7)-</b> The industrial establishment shall provide sufficient space to the representatives during the course of negotiation.

*Analytical Observations:*

1. This is one of the vital aspects relating to and affecting industrial relations in the establishment. However, there are states like Goa, Himachal Pradesh, Kerala, Puducherry and Punjab which have not framed rule in this regard.
2. The Central Rule<sup>11</sup> and State Rules of some states provide that the employer has to provide office space/accommodation to the Negotiating Union/Council, only if the establishment has got three hundred or more workers. However, the rules in the states/UTs like Assam, Bihar, Chandigarh, Haryana, Jammu & Kashmir, Jharkhand, Ladakh, Tripura and Uttarakhand have no such threshold for this purpose. The rules in the State of Karnataka, Madhya Pradesh and Maharashtra, though give the right to workers to hold discussions on the premises but are silent about office space/accommodation even though the number of workers may be three hundred or more.
3. The rules in the state of Andhra Pradesh and Gujarat provide that the facilities to be provided would be mutually decided by the employers and workers.
4. The rules in the state of Uttar Pradesh in this regard are too general in nature and provide that the employer would be bound to provide such facilities to the Negotiating union/council as required by the State Government by general or special order.

<sup>11</sup> Rule - 9(vii)-Industrial Relations (Central) Recognition of Negotiating Union or Negotiating Council and Adjudication of Disputes of trade Union Rules, dated May 4, 2021



## MANNER OF CHOOSING REPRESENTATIVES OF WORKERS WHERE NO TRADE UNION IS OPERATING FOR THE PURPOSE OF SEEKING COMMENTS ON STANDING ORDERS: SECTION 30(5)

1.	Central Rule	<b>Rule 8</b> Where there is no such Trade Union as is referred to in clause then, the certifying officer shall call a meeting of the workers to <b>choose three representatives</b> , to whom he shall, upon their being chosen, forward a copy of the standing orders requiring <b>objections, if any</b> , which the workers may desire to make to the draft standing order <b>to be submitted within fifteen days</b> from the receipt of the notice.
2.	States & UTs having similar provision	Bihar (R.24), Chandigarh (R.27), Goa (R.22), Gujarat (R.9), Haryana (R.36), Himachal Pradesh (R.24), Jammu & Kashmir (R.27), Jharkhand (R.32), Karnataka (R.25), Kerala (R.68), Ladakh (R.27), Maharashtra (R.23), Manipur (Adopted Central Rules), Odisha (R.32), Puducherry (R.9), Punjab (R.24), Tamil Nadu (R.30), Telangana (R.9), Tripura (R.27), Uttarakhand (R.31).
3.	States & UTs having different provision	
	Andhra Pradesh	✗ R.8- Choose the three representatives <b>within ten days</b> from the date of order.
	Assam	✗ R.30- Objections to be submitted <b>within 30 days</b> .
	Chhattisgarh	✗ R.21- Choose representatives within <b>fifteen days</b> and objections to be submitted within <b>ten days</b> .
	Madhya Pradesh	✗ R.21- Choose representatives within <b>ten days</b> and names of whom to be sent to Conciliation Officer. Objections to be submitted within <b>ten days</b> .
	Uttar Pradesh	✗ R.32- Representatives to be <b>elected through Inspector-cum-facilitator</b> .

### Analytical Observations:

- Central rule does not provide for any time limit for choosing the representatives, while the states like Andhra Pradesh, Chhattisgarh and Madhya Pradesh provide for a time limit of 10-15 days to the workers for choosing their representatives. Further, the relevant rule in the *state of Uttar Pradesh mentions that the representatives would be elected through Inspector-cum-facilitator*.
- The central rule and rule in most of the States/UTs provides for a time limit of fifteen days to the workers' representatives for submitting their objections to the Standing Order(s) to the Certifying Officer, while relevant rule in the states like Chhattisgarh and Madhya Pradesh provide for the time limit of ten days and that of the *state of Assam, 30 days*.

**PRESCRIBED MANNER FOR THE INTENDED LAY-OFF OF WORKERS FROM AN ESTABLISHMENT WHERE NOT LESS THAN THREE HUNDRED WORKERS ARE EMPLOYED: SECTION 78**

1.	<b>Central Rule</b>	<b>Rule 28</b>  An application for permission shall be made by the employer in <b>Form- X</b> to the Secretary, Ministry of Labour & Employment stating clearly therein the reasons for the intended lay off <b>before 15 days</b> and a copy of such application shall be served simultaneously to the worker concerned electronically and by registered post or speed post. Such application shall also be displayed conspicuously by the employer on a notice board or on electronic board at the main entrance of the industrial establishment.
2.	<b>States &amp; UTs having similar provision</b>	Assam (R.50), Bihar (R.44), Chandigarh (R.48), Goa (R.42), Gujarat (R.29), Jammu & Kashmir (R.46), Jharkhand (R.52), Kerala (R.103), Ladakh (R.48), Maharashtra (R.42), Manipur ( <i>Adopted Central Rules</i> ), Odisha (R.54), Puducherry (R.29), Punjab (R.44), Telangana (R.31), Tripura (R.47), Uttarakhand (R.51).
3.	<b>States &amp; UTs having different provision</b>	
	<b>Andhra Pradesh</b>	✗ <b>R.28-</b> No time period prescribed for making the prior application.
	<b>Chhattisgarh</b>	✗ <b>R.40-</b> Application to <b>State Government</b> before 15 days with a copy to Conciliation officer.
	<b>Haryana</b>	✗ <b>R.59-</b> Application to <b>State Government or any other authority</b> having powers u/s 100.
	<b>Himachal Pradesh</b>	✗ <b>R.44-</b> Application <b>before 20 days</b> .
	<b>Karnataka</b>	✗ <b>R.45-</b> Application to <b>State Government or officer authorised</b> before 15 days and a copy to Conciliation Officer.
	<b>Madhya Pradesh</b>	✗ <b>R.41-</b> Application to <b>State Government or officer authorised</b> before 15 days and a copy to Conciliation Officer.
	<b>Tamil Nadu</b>	✗ <b>R.51-</b> Application to <b>Labour Welfare and Skill Development Department</b> and with a copy to Trade Union concerned before 15 days and Conciliation officer along with worker.
	<b>Uttar Pradesh</b>	✗ <b>R.52-</b> Application to <b>State Government</b> before 15 days and also stating any measures taken to avoid lay-off.

*Analytical Observations:*

1. The rule in this regard is almost similar in almost all the states. *However, in the State of Andhra Pradesh there is no stipulated time period mentioned for the purpose of advance submission of application to the government.*
2. The State rule in Chhattisgarh, Karnataka, Madhya Pradesh and Tamil Nadu also additionally put the requirement of serving the copy of application of the intended lay-off to the Conciliation Officer of the area. Further, the rule in the State of Tamil Nadu, in addition also puts the requirement of submitting the copy of the application to the Trade Union.
3. The rule in the State of Uttar Pradesh also mentions about the requirement of any measures taken to avoid lay-off by the employer. The Central and the State governments may also consider incorporating this aspect in their respective rule.

#### MANNER WHEN NO SETTLEMENT IS ARRIVED: SECTION 53(4)

1.	<b>Central Rule</b>	<b>Rule 22(2)</b> If no such settlement is arrived at in the conciliation proceeding referred to in sub-rule (1), the Conciliation Officer shall <b>submit a report on Samadhan Portal</b> of the Ministry of Labour and Employment <b>within seven days</b> from the date on which the conciliation proceedings are concluded and made available on the said Samadhan Portal.
2.	<b>States &amp; UTs having similar provision</b>	Andhra Pradesh (R.22(2)), Bihar (R.38(2)), Chandigarh (R.42(2)), Chhattisgarh (R.35(2)), Gujarat (R.23(2)), Haryana (R.51(4)), Himachal Pradesh (R.38(2)), Jammu & Kashmir (R.40(2)), Karnataka (R.39(2)), Kerala (R.84(4)), Ladakh (R.42(2)), Madhya Pradesh (R.35(2)), Manipur (Adapted Central Rules), Puducherry (R.23(2)), Punjab (R.38(2)), Telangana (R.23(4)), Tripura (R.40(2)).
3.	<b>States &amp; UTs having different provision</b>	
	<b>Assam</b>	✗ R.44(4)- Submit a report to <b>State Government within fourteen days.</b>
	<b>Goa</b>	✗ R.36(2)- Report on designated online portal. (No time period mentioned)
	<b>Jharkhand</b>	✗ R.46(4)- Submit a report to state government <b>within thirty days.</b>
	<b>Maharashtra</b>	✗ R.36(2)- Submit a report to <b>State Government within fourteen days.</b>
	<b>Odisha</b>	✗ R.46(4)- Submit a report to the State Government <b>electronically or by Registered Post or by Speed Post or on the designated portal</b> of the Labour & ESI Department, Government of Odisha within seven days.

Tamil Nadu	✗ R. 44(4)- Submit a report to the Government electronically or by registered post or by speed post or on the designated portal of the Labour Welfare and Skill Development Department of the Government within seven days.
Uttar Pradesh	✗ R.45 (5)- Submit a report electronically or in any other form or as mentioned by general or special order to the concerned parties and the State Government within seven days.
Uttarakhand	✗ R.45(2)- Submit report electronically or by registered post to the Labour Commissioner and to the State Government or the authority notified on behalf of the State Government <b>within thirty days of the commencement of conciliation proceedings and not later than seven days from the date on which the conciliation proceedings are concluded.</b>

*Analytical Observation- Though, the rule position in this regard in most of the cases is by and large similar, however, there is a variation of seven days to thirty days for the purpose of submission of the report by the Conciliation Officer to the government. Further, the Government of Uttarakhand has incorporated the requirement of submitting a copy of the report to the Labour Commissioner also.*

#### MATTERS ON WHICH TRADE UNION CAN NEGOTIATE WITH EMPLOYER: SECTION 14(1)

1.	Central Rule	Rule 3(1)
		(i) classification of grades and categories of workers; (ii) order passed by an employer under the standing orders applicable in the industrial establishment; (iii) wages of the workers including their wage period, dearness allowance, bonus, increment, customary concession or privileges, compensatory and other allowances; (iv) hours of work of the workers their rest days, number of working days in a week, rest intervals, working of shifts; (v) leave with wages and holidays; (vi) promotion and transfer policy and disciplinary procedures;

		<p>(vii) quarter allotment policy for workers;</p> <p>(viii) safety, health and working conditions related standards;</p> <p>(ix) such other matter pertaining to conditions of service, terms of employment which are not covered in the foregoing clauses; and</p> <p>(x) any other matter which is agreed between employer of the industrial establishment and negotiating union or council.</p>
2.	<b>States/UTs having similar provision</b>	Andhra Pradesh (R.62(1)), Assam (R.18(1)), Bihar (R.15(1)), Chandigarh (R.16), Chhattisgarh (R.13(1)), Gujarat (R.60(1)), Haryana (R.25), Jammu & Kashmir (R.17(1)), Jharkhand (R.15(1)), Karnataka (R.14(1)), Kerala (R.84(24)), Ladakh (R.18(1)), Madhya Pradesh (R.13(1)), Manipur ( <i>Adopted Central Rules</i> ), Odisha (R.21), Tamil Nadu (R.15), Telangana (R.72), Tripura (R.17).
3.	<b>States/UTs having no provision</b>	Goa, Himachal Pradesh, Puducherry, Punjab.
4.	<b>States/UTs having different provision</b>	
	<b>Maharashtra</b>	✗ <b>R.13 (1)</b> - Any matter w.r.t demands, counter-demands, disputes or disagreement over any industrial matter or any other matter as State Government may notify.
	<b>Uttar Pradesh</b>	✗ <b>R.21-</b> Any matter of industrial dispute affecting more than one worker.
	<b>Uttarakhand</b>	✗ <b>R.16 (1)-</b> All matters pertaining to service conditions and charter of demands of workers that have been signed by at least 20% of the total workforce.

#### Analytical Observations-

1. The Central rule and the State Rule in most of the states is by and large similar. However, the scope of the rule in this regard in the states of Maharashtra and Uttar Pradesh is quite wide.
2. The rule in the state of Uttarakhand is slightly restrictive in nature as it puts the requirement of charter of demands of workers to have been signed by at least 20% of the total workforce.
3. The states of Goa, Himachal Pradesh, Punjab and the Union Territory of Puducherry have no rule in this regard.

NOTICE FOR CHANGE: SECTION 40		
1.	Central Rule	<b>Rule 16(1)</b> Any employer intending to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule to the Code, shall give notice in <b>Form-II</b> to such worker affected by such change, with a copy to the Secretary of registered Trade Union, if any and concerned Deputy Chief Labour Commissioner.
2.	States/ UTs having similar provision	Bihar(R.32), Chandigarh(R.36), Chhattisgarh(R.29), Goa(R.30(2)), Himachal Pradesh(R.32), Jammu & Kashmir(R.35), Jharkhand(R.40), Karnataka(R.33), Kerala(R.78), Madhya Pradesh(R.29), Maharashtra(R.31), Mnaipur( <i>Adopted Central Rules</i> ), Puducherry(R.17), Punjab(R.32(2)), Tripura(R.35), Uttarakhand(R.39).
3.	States/UTs having different provision	
	Andhra Pradesh	❌ <b>R.16 (1)-</b> Copy to such worker affected by such change and to Secretary(s) of Trade union, if any.
	Assam	❌ <b>R.38 (1)- Before 30 days</b> of making such change and notice to Labour Commissioner.
	Gujarat	❌ <b>R.17-</b> Notice to worker and also displaying the same on the notice board at the main entrance and office of manager of the establishment and copy of the notice to Secretary(s) of the registered Trade union(s).
	Haryana	❌ <b>R.44 (1)-</b> Notice shall be given electronically and posted on designated portal of establishment.
	Odisha	❌ <b>R.40-</b> Notice to worker by posting on designated portal of the establishment and to Secretary of every Trade Union or negotiating Council.
	Telangana	❌ <b>R.17-</b> Notice to worker by posting on designated portal of the establishment and to Secretary of every Trade Union or negotiating Council and a copy to Conciliation Officer.
	Uttar Pradesh	❌ <b>R.40 (1)-</b> If a change is required to implement legal agreement or judgment or order then <b>no notice</b> is required. Also a copy to Regional Additional/ Deputy Labour Commissioner and Labour Commissioner.

*Analytical Observation-* The rule in this regard in the Centre and most of the States and UTs is almost similar with an exception of the states, Andhra Pradesh, Gujarat, Haryana and Odisha where there is no requirement of serving copy of the notice to the Labour Department.



## RECOGNITION OF A SINGLE REGISTERED TRADE UNION AS SOLE NEGOTIATING UNION OF WORKERS: SECTION 14(2)

1.	Central Rule	<p style="text-align: center;"><b>Rule 4</b></p> <p>Where there is only one registered Trade Union operating in an industrial establishment having its members <b>not less than thirty percent</b> of the total workers employed in the industrial establishment, then, the employer of such industrial establishment shall recognize such Trade Union as sole negotiating union of the workers.</p>
2.	States/UTs having similar provision.	Chhattisgarh(R.13(2)), Manipur( <i>Adopted central rules</i> ), Tamil Nadu(R.16), Telangana(R.73)
3.	States/UTs having no provision	Goa, Himachal Pradesh, Puducherry, Punjab.
4.	States/UTs having different provision	
	Andhra Pradesh	<p>✗ <b>R.63-</b> A Trade Union claiming as sole negotiating union of the workers or for inclusion in a Negotiating Council shall <b>apply to the industrial establishment along with list of its members</b> of that particular establishment. On receiving the claim, the verification of the same shall be carried out by industrial establishment.</p>
	Assam	<p>✗ <b>R.18 (2)-</b> Not less than <b>twenty percent</b>.</p>
	Bihar	<p>✗ <b>R.15 (2)-</b> More than <b>twenty-five percent</b>.</p>
	Chandigarh	<p>✗ <b>R.18 (2)-</b> Should have <b>fifty-one percent</b> or more workers of the total employees of the industrial establishments as its member as verified by a committee consisting of equal number of members from the management of establishment and the members of the registered Trade Unions functioning in that establishment, supporting that Trade Union shall be recognised by the employer of the industrial establishment. As sole negotiating union of the workers.</p>
	Gujarat	<p>✗ <b>R.61(1)-</b> A Trade Union claiming as sole negotiating union of the workers or for inclusion in a negotiating council shall <b>apply to the industrial establishment along with list of its members</b> of that particular establishment.</p>
	Haryana	<p>✗ <b>R.26-</b> Registered Trade Union shall submit an application for recognition to the employer. The application and objections, if any, have to be disposed of <b>within thirty days of receipt of the application</b>.</p>

Jammu & Kashmir	✗ R.17(2)- At all times continue to have not less than <b>ten per cent of the workers or one hundred workers</b> , whichever is less, subject to a minimum of seven, engaged or employed in an industrial establishment or industry with which it is connected, as its members.
Jharkhand	✗ R.15 (2)- The employer shall recognize trade union as a sole negotiating union after being satisfied that concerned union has <b>been functioning in accordance with the rules of the union.</b>
Karnataka	✗ R.14 (2)- Having <b>twenty percent</b> or more.
Kerala	✗ R.33- Having not less than <b>one third of the total workers employed.</b>
Ladakh	✗ R.18(2)- Having <b>fifty-one percent</b> or more workers.
Madhya Pradesh	✗ R.13 (2)- Having <b>twenty percent</b> or more.
Maharashtra	✗ R.13(2)- Having <b>fifty-one percent</b> or more workers on the muster roll of the establishment as members of the said union, shall make an application in Form IX to the area conciliation officer for recognition of a sole negotiating union. The application shall be made along with the statement of object and resolution passed and signed by the majority of members of the union employed in the establishment.
Odisha	✗ R.22 - Where only one registered Trade Union of workers is functioning in an industrial establishment for <b>at least a period of one year after its registration.</b> It shall apply to the Verification Officer for granting recognition.
Tripura	✗ R.17(2)- Not less than twenty-five percent.
Uttar Pradesh	✗ R.19- Employer shall recognise the sole functioning Trade union provided the election of the executive body is conduction within the time prescribed in bye-laws.
Uttarakhand	✗ R.16 (2)- Employer shall recognise the sole functioning Trade union.

#### Analytical Observations-

1. The minimum requirement of membership for the purpose of recognition in the states of Chhattisgarh, Manipur, Tamil Nadu, Telangana is at par with Central Rule i.e. 30%.
2. In many states and UTs the condition in this regard is quite liberal as compare to Central Rule in the sense of having lower proportion (Assam-20%, Bihar-25%, Jammu and Kashmir-10%, Karnataka-20%, Madhya Pradesh-20% and Tripura-25%) in the range of 10% - 25%.

3. In the state of Kerala the requirement is one-third.
4. There are some states including Chandigarh, Ladakh and Maharashtra in which the requirement is 51%, which seems to be quite stringent.
5. There is one more category of states including Andhra Pradesh, Gujarat, Haryana, Jharkhand, Uttar Pradesh and Uttarakhand having the rule stipulating that by and large the employer shall recognize trade union as a sole negotiating union after being satisfied that concerned union has been functioning in accordance with the rules of the union. Thus, this rule leaves scope for the employer to recognise or not to recognise the union.
6. The states of Goa, Himachal Pradesh, Punjab and the UT of Puducherry have not framed any rule in this regard.

### MANNER OF GIVING AN OPPORTUNITY FOR RE-EMPLOYMENT TO THE RETRENCHED WORKERS: SECTION 72

1.	Central Rule	<b>Rule 26</b> The employer shall offer an opportunity by giving notice to the retrenched workers, of at least 10 days before filling up vacancy.
2.	States/UTs having similar provision	Andhra Pradesh (R.26), Bihar (R.42), Chandigarh (R.46), Chhattisgarh (R.29), Goa (R.40), Gujarat (R.27), Himachal Pradesh (R.42), Jammu & Kashmir (R.44), Jharkhand (R.50), Maharashtra (R.40), Manipur (Adopted Central Rules), Puducherry (R.27), Punjab (R.42), Tripura (R.45), Uttarakhand (R.49).
3.	States/UTs having different provision	
	Assam	✗ R.55- Notice <b>15 days</b> before filling up a vacancy
	Haryana	✗ R.57 (2)- At least <b>fifteen days</b> before the date on which the vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post or speed post or through email to every one of all.
	Karnataka	✗ R.43- <b>10 days</b> , With a copy to Conciliation Officer and the Labour Commissioner.
	Kerala	✗ R.101(2)- <b>10 Days</b> , Immediately after complying with the provisions of sub-rule (1) <b>the employer shall also inform the trade unions connected with the industrial establishment</b> of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule: Provided that the provisions of this sub-rule need not be complied with by the employer in any case where intimation is sent to every one of the workmen mentioned in the list prepared under rule 99.



Ladakh	✗ R.46- 10 Days, Through a registered post or speed post and through email to such retrenched workers who are citizens of India.
Madhya Pradesh	✗ R.46- 10 days, With a copy to conciliation Officer and the Labour Commissioner.
Odisha	✗ R.52- At least <b>fifteen days</b> before the date on which the vacancies are to be filled, the employer shall arrange for the <b>display on a notice board</b> .
Tamil Nadu	✗ R.49- 10 Days, Through a registered post or speed post and through email to such retrenched workers who are citizens of India.
Telangana	✗ R.29(2)- At least <b>fifteen days'</b> notice
Uttar Pradesh	✗ R.50- At least <b>thirty days'</b> notice.

#### Analytical Observations-

1. In most of the states the rule in this regard is quite similar to the Central Rule. However, the rule in the state of Uttar Pradesh provides for 30 days advance notice to the workers.
2. In the states of Karnataka and Madhya Pradesh, the rule in this regard provides for giving a copy of the intimation to the concerned Conciliation Officer/ Labour Department also.
3. As per the rule in this regard in Kerala, the employer is required to also inform the trade unions connected with the industrial establishment of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent.

#### MANNER OF COMPOUNDING OF OFFENCES: SECTION 89

1. Central Rule	Rule 36
	1) The officer notified by the Central Government for the purposes of compounding of offences under sub-section (1) of section 89 (hereinafter referred to as the compounding officer), shall in case of the offences in which prosecution is not instituted, if the compounding officer is of the opinion that any offence under the Code for which the compounding is permissible under section 89, he shall send a notice through Samadhan Portal to the accused in <b>Form XI</b> consisting of three parts. In part I of such Form, the compounding officer shall <i>inter-alia</i> specify the name of the offender and his other particulars, the details of the offence and in which section the offence has been committed, the compounding amount required to be paid towards the composition of the offence. Part II of the Form shall specify the consequences if the offence is not compounded and part III of the Form shall contain the application to be filed by the accused if he desires to compound the offence.

		<p>Each notice shall have a continuous unique number containing alphabets or numeric and other details such as officer sending notice, year, place, type of inspection for the purpose of easy identification.</p> <p>2) The accused to whom the notice referred to in sub-rule (1) is served, may send the part III of the Form duly filled by him to the compounding officer electronically and deposit the compounding amount electronically or otherwise, within fifteen days of the receipt of the notice, in the account specified by the compounding officer in the notice.</p> <p>3) Where the prosecution has already been instituted against the accused in the competent Court, he may make an application to the Court to compound the offence against him and the Court, after considering the application, may allow composition of the offence by the compounding officer in accordance with provisions of section 89.</p> <p>4) If the accused complies with the requirement of sub-rule (2), the compounding officer shall compound the offence for the amount of money deposited by the accused and-</p> <p>a) if the offence is compounded before the prosecution, then no complaint for prosecution shall be instituted against the accused; and</p> <p>b) if the offence is compounded after institution of prosecution under sub-rule (3) with the permission of the Court, then, the compounding officer shall treat the case as closed as if no prosecution had been launched and will proceed in accordance with composition as under clause (a) and intimate the composition of offence to the competent Court in which the prosecution is pending and after receiving such intimation, the Court shall discharge the accused and close the prosecution.</p> <p>5) The compounding officer shall exercise the powers to compound the offence under this rule, subject to the direction, control and supervision of the Central Government.</p>
2.	<b>States/ UTs having similar provision</b>	<p>Andhra Pradesh (R.37), Assam (R.59), Bihar (R.53), Chandigarh (R.57), Chhattisgarh (R.49), Goa (R.15), Gujarat (R.36), Haryana (R.66), Himachal Pradesh (R.52), Karnataka (R.54), Kerala (R.113), Madhya Pradesh (R.49), Maharashtra (R.51), Manipur (Adopted Central Rules), Mizoram (R.55), Odisha (R.62), Puducherry (R.37), Punjab (R.52), Tamil Nadu (R.59), Telangana (R.39), Tripura (R.56), Uttar Pradesh (R.60), Uttarakhand (R.58)</p>

*Analytical Observation-* The provision in this regard in all the states/UTs which have framed the rules under the IR Code, 2020 is by and large similar. However, there is a difference in this provision as compared to the compounding provision under the other three Codes. The difference is in the sense that in case of the offences in which the prosecution has already been launched in the court, the accused opting for compounding of the offence has to submit the application for the same before the court and only after the court's permission he can make further application to the compounding officer.



## Chapter 5: Code on Occupational, Safety, Health and Working Conditions, 2020

The Central Rules under Code on Occupational, Safety, Health and Working Conditions (OSH & WC), 2020 were notified in the Gazette of India on November 19, 2020<sup>12</sup>.

### Broad Areas Covered under the Rules

Free of cost annual health examination of employees (*Section 6(10)(c) of the Code read with Rule 6*); Mandatory issuance of appointment letter to the employees (*Section 6(1)(f) of the Code read with Rule 7*); Spread Over in each day (*Section 25(1)(b) of the Code read with Rule 28(2)*); Consent of Women Employees, Provision of CCTV, Dedicated telephone numbers (*Section 43(1) of the Code read with Rule 67(a), Rule 67(c), Rule 67(g)*); Journey allowance to inter-state migrant worker (*Section 61 of the Code read with Rule 85*); Manner of compounding of offences (*Section 114(1) of the Code read with Rule 167*); Minimum number of women to be employed (*Section 43 of the Code read with Rule 67*); Qualification of contractor & conditions of licence (*Section 47(1) of the Code read with Rule 69 & Rule 70*); Revocation or suspension of licence (*Section 51 of the Code read with Rule 79*); Study of inter-state migrant workers (*Section 64 of the Code read with Rule 87*).

ANNUAL HEALTH CHECK- UP OF WORKER: SECTION 6(1)(c)		
1.	Central Rule	<p><b>Rule 6</b></p> <p>To conduct free of cost, medical examination for every worker working in an establishment and drawing wages equal to or less than ceiling specified under the Social Security Code, 2020 to become the member of ESIC who has completed <b>40 years of age</b>. <b>Detailed Form-V</b></p> <p>Provided that in case of mines additional tests and conditions of annual medical examinations of employees shall be governed under rule 92.</p>
2.	States/UTs having similar provision	Haryana (R.8), Manipur ( <i>Adopted Central Rules</i> ), Odisha (R.7).
3.	States/UTs having different provision	
	Andhra Pradesh	<p>❌ <b>R.8</b>-Every employer of Factories, Motor Transport undertakings, Plantations, Beedi and Cigar, Sales Promotion, Working Journalist and Building and Other Construction Works shall arrange to conduct free of cost, medical examination for every employee who has completed <b>45 years</b> of age, at the time of joining for the first time and thereafter <b>annually i.e. within 120 days from the commencement of the every calendar year</b>. The medical examination shall be conducted by a qualified medical practitioner as per proforma given in the rules (Form V).</p>

<sup>12</sup> Gazette Notification No. 598 dated November 19, 2020.



		The Medical Certificate shall be submitted by the qualified medical practitioner to the concerned employer and employee.
Assam	✗ R.5-	Every worker working in a factory, plantation, engaged as contract worker, motor transport work, inter-state migrant worker and building , who has completed <b>45 years</b> of age. In case of <b>hazardous establishment</b> , a worker who has completed <b>40 years</b> of age.
Bihar	✗ R.6-	Every employee of factory and building or other construction work who has completed <b>45 years</b> of age.
Andhra Pradesh	✗ R.8-	Every employer of Factories, Motor Transport undertakings, Plantations, Beedi and Cigar, Sales Promotion, Working Journalist and Building and Other Construction Works shall arrange to conduct free of cost, medical examination for every employee who has completed <b>45 years</b> of age, at the time of joining for the first time and thereafter <b>annually i.e. within 120 days from the commencement of the every calendar year</b> . The medical examination shall be conducted by a qualified medical practitioner as per proforma given in the rules (Form V). The Medical Certificate shall be submitted by the qualified medical practitioner to the concerned employer and employee.
Assam	✗ R.5-	Every worker working in a factory, plantation, engaged as contract worker, motor transport work, inter-state migrant worker and building , who has completed <b>45 years</b> of age. In case of <b>hazardous establishment</b> , a worker who has completed <b>40 years</b> of age.
Bihar	✗ R.6-	Every employee of factory and building or other construction work who has completed <b>45 years</b> of age.
Chandigarh	✗ R.12-	Every employer of a factory, beedi or cigar work and building or construction work shall arrange to conduct free of cost medical examination for all the employees above the age of <b>45 years</b> . The employees <b>irrespective of age or type of establishment</b> , engaged in <b>handling of hazardous substance</b> or hazardous process or dangerous operations shall be medically <b>examined bi-annually within thirty days from the 1<sup>st</sup> day of January and July</b> .
Chhattisgarh	✗ R.19-	For Every Worker Annually



Gujarat	✗ R.9 (a)- Employee who has completed <b>45 years of age</b> .
Himachal Pradesh	✗ R.6- Every employee who has <b>completed 45 years of age</b> , at least once in every twelve months. The employee who had met an accident resulting in a serious bodily injury shall also be so examined. The employees shall also be <b>medically examined within 15 days of their induction</b> or prior to employment. The expense of such examination shall be borne by the employer. The employees <b>engaged in hazardous process</b> or dangerous operations shall be examined after <b>every six month</b> or earlier in accordance with the provisions.
Jammu & Kashmir	✗ R.9- Employee who has completed <b>45 years of age</b> .
Jharkhand	✗ R.6- Employee who has completed <b>45 years of age</b> .
Karnataka	✗ R.19- Every employee of factory, building and other construction work, beedi and cigar work, plantation, motor transport who has <b>completed 45 years of age</b> .
Kerala	✗ R.6- For every worker annually
Ladakh	✗ R.12- Every employee of a factory, beedi or cigar work and building or construction work who has <b>completed 45 years of age</b> . All the employees irrespective of age or type of establishment, engaged in <b>handling of hazardous substance</b> or hazardous process or dangerous operations shall be <b>medically examined bi-annually within thirty days from the 1<sup>st</sup> day of January and July</b> .
Madhya Pradesh	✗ R.19- Every worker of a factory, beedi or cigar work and building or construction who has completed <b>30 years of age</b> .
Maharashtra	✗ No provision in this regard.
Punjab	✗ R.12(1)- For every worker annually within 120 days from the commencement of the year.
Tamil Nadu	✗ R.6- Every worker who has completed <b>45 years of age</b> within 120 days from the commencement of every calendar year.
Telangana	✗ R.6- Every employee who has completed <b>45 years of age</b> within 120 days from the commencement of every calendar year. The State Government by notification can exempt any factory or class of factories from this rule

	<b>Uttar Pradesh</b>	<p>✗ <b>R.5-</b> All the employees above the age of 40 years, all persons before employing them, and of all the employees who have met a serious accident in the establishment or have fallen ill during course of employment. Employees employed in hazardous processes shall be examined medically every year or as per provision.</p>
	<b>Uttarakhand</b>	<p>✗ <b>R.6-</b> Every employee who has completed <b>45 years</b> of age, at least once in every 12 months. The employee who had met an accident resulting in a serious bodily injury shall also be examined. The employees shall also be medically examined within 15 days of their induction or prior to employment. The expense of such examination shall be borne by the employer. The employees engaged in hazardous process or dangerous operations shall be examined after every six month or earlier in accordance with the provisions specifically provided in the code or rule for the same. Maintaining the Health Register and Certificate of Fitness.</p>

#### *Analytical Observations-*

1. The central rule prescribes that every worker who has completed 40 years of age and is working in an establishment and drawing wages equal to or less than ceiling specified under the Social Security Code, 2020 to become the member of ESIC shall be eligible to get free annual health check-up. The state rules of Haryana, Manipur and Odisha have similar provision. The rule in the state of Uttar Pradesh additionally also requires conducting medical check-up before employing any person.
2. The state rule in Madhya Pradesh mandates conducting of medical examination for every worker above 30 years of age and is slightly more employee centric as compared to the Central rule and state rule of Haryana, Manipur, Odisha and Uttar Pradesh.
3. The rule in the states of Chhattisgarh, Kerala and Punjab does not have any such limit in terms of minimum age and seems to be more progressive and welfare centric as it would help in detecting any serious health problem at its initial stage itself.
4. On the contrary, the rule in the States/Uts of Assam, Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Ladakh, Tamil Nadu, Telangana and Uttarakhand prescribes the age limit to be 45 years, which seems to be slightly on higher side and requires reconsideration by the respective States/Uts.
5. The state of Maharashtra does not seem to have any rule in this regard and therefore need to cover this important aspect.

APPOINTMENT LETTER: SECTION 6(1)(f)		
1.	<b>Central Rule</b>	<b>Rule 7</b> No employee shall be employed in any establishment unless he has been issued a letter of appointment in the prescribed format (containing the details including: Name of employee, Father's name, Aadhar number, Labour Identification Number (LIN) of the establishment, Universal Account Number (UAN)/ Insurance Number (ESIC), Designation, Category of skill, Date of joining, Wages, Basic Pay & Dearness Allowance, Other allowance including accommodation whichever is/are applicable, Avenue for achieving higher wages/higher position, EPFO and ESIC benefits applicable, Health check-up, Broad Nature of duties to be performed, Any other information, Signature of the Occupier/employer/owner/agent/manager)
2.	<b>States &amp; Uts having similar provision</b>	Andhra Pradesh(R.9), Assam(R.6(1)), Chandigarh(R.13), Chhattisgarh(R.20), Gujarat(R.10), Himachal Pradesh(R.7), Jammu & Kashmir(R.10), Karnataka(R.20), Kerala(R.7), Ladakh(R.13), Madhya Pradesh(R.20), Manipur(Adopted Central Rules), Odisha(R.8), Punjab(R.13), Tamil Nadu(R.7), Telangana(R.7), Uttar Pradesh(R.6).
3.	<b>States &amp; Uts having different provision</b>	
	<b>Bihar</b>	❌ <b>R.7 (i)-</b> Appointment Letter also to include: Nature of Employment.
	<b>Haryana</b>	❌ <b>R.9-</b> Appointment Letter also to include: Haryana Employment Exchange (HREX) Registration Number.
	<b>Jharkhand</b>	❌ <b>R.7-</b> Appointment Letter also to include: Nature of Employment.
	<b>Uttarakhand</b>	❌ <b>R.7-</b> Systematic allotment of distinct number or code for every employee in appointment letter.

*Analytical Observations-*

1. Most of the States/UTs rule is similar to the Central rule and the format of the appointment letter is also quite similar.
2. The rule in the states of Bihar and Jharkhand also provides for including the nature of employment in the appointment letter.
3. The rule in the states of Haryana and Uttarakhand additionally provides for including Registration Number/Distinct Number along with the appointment letter.

## SPECIAL CONDITIONS AND FACILITIES FOR WOMEN EMPLOYEES: SECTION 43(1):

1.	Central Rules	<p style="text-align: center;"><b>Chapter VII</b></p> <p>i. <b>Rule 67 (a)-</b> The consent of women employee <b>in writing</b> shall be taken if employer wishes to make them work in night shift.</p> <p>ii. <b>Rule 67(c)-</b> The toilet, washroom and drinking facilities should be near the workplace where such women employee are employed and <b>suitable provisions of Closed-circuit television (CCTV) Surveillance</b> on the way to these facilities shall be provided.</p> <p>iii. <b>Rule 67(g)- Dedicated telephone numbers</b> of the establishment shall be displayed at conspicuous places both at the establishment as well as inside the vehicles, so that any women employee can utilize them, in case of any exigency or emergency.</p>
2.	States/UTs having similar provision	Manipur ( <i>Adopted Central Rules</i> ), Odisha ( <i>R.38(a), R.38(c), R.38(g)</i> ), Telangana ( <i>R.68(a), R.68(c), R.68(g)</i> ).
3.	States/UTs having different provision	
	Andhra Pradesh	<p>✗ i. <b>R.29(i)-</b> Manner of taking consent not specified.</p> <p>ii. <b>R.29(iv)-</b> No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
	Assam	<p>✗ i. <b>R.29-</b> Manner of taking consent not specified.</p> <p>ii. <b>R.29(9)-</b> Install CCTV at crucial areas with proper lightning both inside and outside the factory.</p> <p>iii. <b>R.29(15)-</b> No provision in this regard, however mandates to install CCTV and GPS System in the vehicles.</p>
	Bihar	<p>✓ i. <b>R.41</b></p> <p>✗ ii. <b>R.41©-</b> No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
	Chandigarh	<p>✗ i. <b>R.60(a)-</b> Manner of taking consent not specified.</p> <p>ii. <b>R.60(c)-</b> No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
	Chhattisgarh	<p>✓ i. <b>R.76(1)(a)-</b> Consent Form</p> <p>✗ ii. <b>R.76(1)(d)-</b> No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>

Gujarat	<p>✗ i. R.45(a)- Manner of taking consent not specified.</p> <p>ii. R.45(c)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
Haryana	<p>✗ i. R.74 - Consent required for employment in all establishments for all type of work if employer wishes to employ women.</p> <p>ii. No provision with regard to CCTV inside the establishment.</p> <p>iii. R.74(n)- Instead the rule mandates, the employer to provide transportation facility to the women workers from their residence and back (for the night shift) and security guards (including female security guard) and each transportation vehicle shall also be equipped with CCTV cameras.</p>
Himachal Pradesh	<p>✗ i. R.29- Manner of taking consent not specified.</p> <p>ii. R.29(12)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
Jammu & Kashmir	<p>✗ i. R.35- Manner of taking consent not specified.</p> <p>ii. R.35(4)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
Jharkhand	<p>✓ i. R.41(1)(a)</p> <p>✗ ii. R.41(d)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard</p>
Karnataka	<p>✗ i. R.69(a)- Manner of taking consent not specified.</p> <p>ii. R.69(d)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
Kerala	<p>✗ R.44(1)(a)- Manner of taking consent not specified.</p> <p>ii. R.44(1)(d)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
Ladakh	<p>✗ i. R.60(a)- Manner of taking consent not specified.</p> <p>ii. R.60©- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
Madhya Pradesh	<p>✗ i. R.76(1)(a)- Manner of taking consent not specified.</p> <p>ii. R.76(1)(d)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>
Maharashtra	<p>✗ i. No provision in this regard.</p> <p>ii. R.22(b)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard.</p>



Punjab	<p>✗ i. R.60- Manner of taking consent not specified.</p> <p>ii. R.60(i)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard</p>
Tamil Nadu	<p>✗ i. R.42(1)- Manner of taking consent not specified.</p> <p>ii. R.42(4)- No provision with regard to CCTV.</p> <p>iii. No provision in this regard</p>
Uttar Pradesh	<p>✗ i. R.33- Manner of taking consent not specified.</p> <p>ii. No provision in this regard.</p> <p>iii. R.33(2)- No provision in this regard</p>
Uttarakhand	<p>✗ i. R.37(4)- Manner of taking consent not specified.</p> <p>ii. R.37(6)- No provision in this regard.</p> <p>iii. No provision in this regard</p>

#### Analytical Observations-

1. The rules in the states of Manipur, Odisha and Telangana are similar to the Central rules.
2. Majority of the States/UTs (Assam, Chandigarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Ladakh, Madhya Pradesh, Punjab, Tamil Nadu, Uttar Pradesh and Uttarakhand) do not specify the manner of taking consent.
3. The rule in Haryana in this regard seems to be quite stringent and unreasonable as it puts the requirement of taking consent for employing women for any type of work in all establishment irrespective of the fact whether they are going to be engaged during day or night.
4. Unlike, the Central Rules and rules of some States/UTs, most of the states/UTs have made no rules regarding installation of CCTV and dedicated telephone numbers in case of emergency. Though, the rule in the state of Haryana provides that the employer shall provide transportation facility to the women workers from their residence and back (for the night shift) and security guards (including female security guard) and each transportation vehicle shall also be equipped with CCTV cameras.
5. The state of Maharashtra does not have any rules in this regard.

## JOURNEY ALLOWANCE TO INTER-STATE MIGRANT WORKER: SECTION 61

1.	<b>Central Rule</b>	<b>Rule 85</b>
		<p>The employer shall pay a lump sum amount on account of fare for <b>to &amp; fro journey</b> to inter-state migrant worker by train (not less than II Class Sleeper) or by bus or any other mode of passenger transport from the place of employment to the place of residence in the home state in the event of the following, namely:</p> <p>if he has <b>worked for a period of not less than 180 days</b> in the concerned establishment(s) in preceding twelve months;</p> <p>Provided that the journey allowance shall be given to an inter-state migrant worker <b>once in twelve months</b>. In the event of change of employer by the inter-state migrant worker during the middle of the employment period and has not availed the journey allowance from his previous employer, then on the basis of a certificate to be given by inter-state migrant worker, the employer where the inter-state migrant worker is now working and the such worker has completed one hundred and eighty days in preceding twelve months including the period spent with the previous employer, then the employer shall give journey allowance.</p>
2.	<b>States/ UTs having similar provision</b>	<p>Andhra Pradesh (R.47), Assam (R.42), Bihar (R.57), Gujarat (R.59), Himachal Pradesh (R.44), Jammu &amp; Kashmir (R.50), Jharkhand (R.58), Karnataka (R.85(2)), Kerala (R.60), Madhya Pradesh (R.93), Manipur (<i>Adopted Central Rules</i>), Odisha (R.55), Punjab (R.76(4)), Telangana (R.89).</p>
3.	<b>States/UTs having different provision</b>	
	<b>Chandigarh</b>	<p>✗ <b>R.76-</b> Employer shall pay a <b>reasonable lump sum amount</b> if the employee has worked for 180 days. The employer shall pay a <b>lump sum amount of Rs. 100 per family member</b> per day for the period of travel of the worker (if family is staying with him at the location of his workplace) <b>for food</b> during the journey. The employer shall maintain a register of journey allowance in Form-33 electronically or otherwise.</p>
	<b>Chhattisgarh</b>	<p>✗ <b>R.93-</b> Employer shall pay a <b>reasonable lump sum amount at the time of recruitment</b> for the journey. No Minimum period of work required.</p>
	<b>Haryana</b>	<p>✗ <b>R.88-</b> Worked for a period not less than <b>60 days</b>.</p>

Ladakh	<p>✗ <b>R.76-</b> Employer shall pay a <b>reasonable lump sum amount</b> if the employee has worked for 180 days. The employer shall pay a <b>lump sum amount of Rs. 100 per family member</b> per day for the period of travel of the worker (if family is staying with him at the location of his workplace) <b>for food</b> during the journey. The employer shall maintain a register of journey allowance in Form-33 electronically or otherwise.</p>
Tamil Nadu	<p>✗ <b>R.59-</b> Employer shall pay a <b>reasonable lump sum amount</b> if the employee has worked for at least 180 days. The journey allowance shall be provided for minimum sleeper fare by train. The employer shall pay a <b>lump sum amount of Rs. 100 per family member</b> per day for the period of travel of the worker (if family is staying with him at the location of his workplace) <b>for food</b> during the journey.</p>
Uttar Pradesh	<p>✗ <b>R.43-</b> Employer to pay return fare to workman on expiry of employment and also in case of termination of employment before the term of employment due to any reason or on account of illness or injury, or cessation of work not due to fault of worker or worker resigned. If the worker is employed for more than six months, he/she will be entitled to receive to and fro journey allowance.</p>
Uttarakhand	<p>✗ <b>R.47-</b> Employer to pay return fare to workman on expiry of employment and also in case of termination of employment before the term of employment due to any reason or on account of illness or injury, or cessation of work not due to fault of worker or worker resigned. If the worker is employed for more than six months, he/she will be entitled to receive to and fro journey allowance. The fare should not be less than Second class sleeper railway ticket.</p>

#### Analytical Observations-


1. The provision in most of the states/UTs in this regard is similar to the Central Rule.
2. The rule in the states of Chandigarh and Tamil Nadu and UT of Ladakh along with the journey allowance also provides for the payment of a lump sum amount of Rs. 100 per family member per day for the period of travel of the worker (if family is staying with him at the location of his workplace) for food during the journey by the employer.
3. The rule in the state of Haryana provides for the payment of journey allowance even if the worker has worked only for 60 days in the establishment. The rule in the state of Chhattisgarh seems to be more liberal from workers point of









view, as there is no minimum time period required for the employee to claim journey allowance.

4. The rule in Uttar Pradesh and Uttarakhand also makes the provision for payment of return fare to workman on expiry of employment and also in case of termination of employment before the term of employment due to any reason or on account of illness or injury, or cessation of work not due to fault of worker or worker resigned.




#### MANNER OF COMPOUNDING OF OFFENCES BY THE AUTHORIZED OFFICER: SECTION 114(1)

1.	Central Rule	Rule 167
		<p>1) The officer notified by the Central Government for the purposes of compounding of offences under section 114(1) shall issue electronically a compounding notice to the concerned alleged accused person for the offence which is compoundable.</p> <p>(2) The person so noticed may apply to the officer electronically and <b>deposit the entire compounding amount</b> by electronic transfer or otherwise, <b>within fifteen days of the receipt of the notice</b>.</p> <p>(3) The Officer shall <b>issue a composition certificate within ten days</b> of receipt of the composition amount, to such person from whom such amount has been received in satisfaction of the composition notice.</p> <p>(4) If a person so noticed fails to deposit the composition amount <b>within one month</b> of the order of composition, the prosecution shall be proceeded in the competent Court.</p> <p>(5) No prosecution shall be instituted without giving an opportunity to the employer to comply with such provisions subjected to proviso of sub-section (1) of section 110 and compounding as under Section 114.</p>
2.	States & Uts having similar provision	Andhra Pradesh (R.130), Bihar (R.90), Chhattisgarh (R.149), Gujarat (R.84), Himachal Pradesh (R.69), Karnataka (R.158), Manipur ( <i>Adopted Central Rules</i> ), Telangana (R.120).
3.	States & Uts having no provision	Jharkhand, Madhya Pradesh.
4.	States & Uts having different provision	
	Assam	<p> <b>R.80</b></p> <p>1. The officer shall not be below the rank of ALC in case of other establishments and not below the rank of Addl. Chief Inspector of Factories in case of factories.</p> <p>2. Amount to be deposited within <b>30 days</b> of receipt of notice.</p>

		<p>3. Issue a composition certificate within <b>20 days</b> of receipt of the composition amount.</p> <p> 4 &amp; 5- No change.</p>
	Chandigarh	<p> <b>R.145</b></p> <p>Government shall appoint an officer of labour department posted at district level not below the equivalent rank of Under-Secretary to Government of India. The officer upon acquiring the knowledge of an offence shall serve a notice, within seven days of such knowledge, on the person who is alleged to have committed an offence.</p> <p>The person on whom notice has been served shall submit his reply within the period specified in the notice. The officer may call any person to appear before him along with any record or document required for the purpose of enquiry he is holding and <b>shall complete enquiry within sixty days</b> from the start of such enquiry and pass a speaking order.</p> <p>The <b>amount of penalty</b> imposed and received under section 111 shall be <b>credited to the fund</b> (i.e. the Social Security Fund) established under section 115(1) and record of such receipt shall be maintained.</p>
	Haryana	<p> <b>R.142</b></p> <p>The State Government may appoint by notification an Officer or Officers. The officer shall <b>finalize the compounding amount within 7 days</b> and send a notice electronically for depositing the compounded amount, to the person seeking composition. The person so noticed shall deposit the entire compounding amount by electronic transfer or otherwise, <b>within fifteen days</b> of the receipt of the notice.</p> <p>No time limit mentioned for issuance a composition certificate. Amount of composition received shall be transferred every month to the Social Security Fund and shall be recorded in register to be maintained.</p> <p> 4 &amp; 5- No change.</p>
	Jammu & Kashmir	<p> <b>R.72</b></p> <p>1. Officer shall be notified by the Government of J&amp;K.</p> <p>2. Amount to be deposited within <b>30 days</b> of receipt of notice.</p> <p>3. Issue a composition certificate within <b>20 days</b> of receipt of the composition amount.</p> <p> 4 &amp; 5- No change.</p>

	Kerala	<p><b>✗ R.151</b></p> <p>The accused person if intends to compound the offence may submit an application to the officer notified by the Government for the purpose of compounding of offences.</p> <p>If prosecution is pending before the Judicial First Class Magistrate Court or officer, the compounding officer shall send an intimation of the receipt of application for composition to the court concerned or the officer.</p> <p>If the Compounding officer, after due enquiry, finds that the offence is compoundable, issue an order of composition directing to deposit the amount <b>within fifteen days</b> from the date of receipt of order.</p> <p>On receipt of the amount of composition, the compounding officer shall <b>issue an intimation notice in writing to the Judicial First Class Magistrate Court</b> or the officer where the prosecution or enquiry is pending to discharge the accused.</p> <p>If the accused person fails to remit the compounding amount within the time prescribed shall be liable for fine. If the accused person <b>fails to remit the composition amount</b>, the Compounding Officer shall issue a certificate for that amount to the <b>District Collector</b> concerned who <b>shall recover the same as arrears of land revenue</b>.</p> <p>The amount of composition received and credited shall be recorded in a register to be maintained electronically.</p>
	Ladakh	<p><b>✗ R.147</b></p> <p>Administration may notify any senior-most officer preferably equivalent to the rank of Joint Secretary to Government of India. Any person seeking composition of penalty or offence shall file an application to the concerned officer.</p> <p>The officer <b>shall take decision within seven days</b> from receipt of application. The officer may authorize any officer of the Labour Department to submit copy of decision of composition before the officer who imposed penalty or the court where prosecution is instituted. The amount of composition received during the month shall be credited to the fund for the unorganized workers, before the 7<sup>th</sup> day of the succeeding month. The amount of composition received and credited shall be recorded in a register to be maintained.</p>
	Odisha	<p><b>✗ R.85</b></p> <ol style="list-style-type: none"> <li>1. The officer shall be notified by the State Government.</li> <li>2. Amount to be deposited within <b>30 days</b> of receipt of notice.</li> </ol>



		<p>3. Issue a composition certificate within <b>20 days</b> of receipt of the composition amount.</p> <p> 4 &amp; 5- No change.</p>
	Punjab	<p> <b>R.147</b></p> <p>The officer appointed shall be Additional Director Factories and Deputy Director of Factories. Any person seeking composition of penalty or offence shall file an application in the prescribed form (Form 55) to the concerned officer.</p> <p>The concerned officer shall <b>take decision within seven days</b> from receipt of application. The concerned officer may authorize any officer of factory wing of the Labour Department to submit copy of decision of composition before the officer who imposed penalty or the court where prosecution is instituted.</p> <p>The <b>amount of composition received</b> during the month shall be <b>credited to the fund</b> for the unorganized workers, before the 7<sup>th</sup> day of the succeeding month. The amount of composition received and credited shall be recorded in a register to be maintained.</p>
	Tamil Nadu	<p> <b>R.148</b></p> <p>The officer shall be notified by the Government for the purposes of compounding of offences. Any person seeking composition of penalty or offence shall file an application. The concerned officer shall take decision and issue notice within fifteen days from receipt of application. The person applied shall deposit the entire compounding amount by electronic transfer or otherwise, within fifteen days of the receipt of the notice.</p> <p>The Compounding Officer shall issue a composition certificate within seven days of receipt of the composition amount, to such person from whom such amount has been received in satisfaction of the composition notice.</p> <p>The concerned officer shall duly send the copy of composition certificate to the officer who imposed penalty or the court where prosecution is instituted.</p> <p>If a person so noticed fails to deposit the composition amount within one month, the prosecution shall be proceeded with before the competent Court. The amount of composition received during the month shall be credited to the fund for the unorganized workers, before the 7<sup>th</sup> day of the succeeding month.</p>

	<b>Uttar Pradesh</b>	<p><b>✗ R.95</b></p> <p>If the officer notified by the State Government is of the opinion that the offence under the Code is compoundable, he shall send a notice manually or electronically to employer.</p> <p>If the employer so desires, he shall make an application to the Compounding Officer manually or electronically and shall deposit the amount electronically within fifteen days from the date of receipt of notice.</p> <p>If the accused complies with the requirements, the Compounding Officer shall compound the offence for the amount of money deposited by the accused and if the prosecution has not been instituted against the accused, no complaint for prosecution shall be instituted against the accused.</p> <p>If the offence is compounded after the institution of prosecution, the Compounding Officer shall inform about the same to the Authority or the competent Court in which the prosecution is pending. After receiving such intimation, the concerned officer or Court shall discharge the accused and close the prosecution.</p> <p>The Compounding Officer shall exercise powers to compound the offence, subject to the direction, control and supervision of the State Government.</p>
	<b>Uttarakhand</b>	<p><b>✗ R.103</b></p> <p>The inspector of factories of the region will first ensure for the compliance of the violation indicated during inspection for which a period of one month will be given to the employer, Only notice shall be sent to the employer to comply the provisions. If the employer fails to comply, the compounding process will be initiated.</p> <p>Firstly a notice will be served to the employer to opt for compounding. If after notice he opts for compounding the inspector of the region in the capacity of recommending officer will forward the matter for compounding to the Dy. Chief Inspector-cum-Facilitator of factories of his zone.</p> <p>The Dy. Chief Inspector-cum-Facilitator of the zone in the capacity of examining officer will examine the matter and will forward to The Labour Commissioner with the endorsement, whether compounding is to be done or not.</p> <p>The Labour Commissioner in the capacity of compounding authority shall impose the penalty in a manner as mentioned in the notification to be issued by the Government of Uttarakhand.</p>

### Analytical Observations-

1. The provision in this regard in the states of Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, Manipur and Telangana are by and large similar to the Central rule.
2. The state of Jharkhand and Madhya Pradesh does not have rule in this regard.

MINIMUM NUMBER OF WOMEN TO BE EMPLOYED IN CASE OF BELOW GROUND MINE: SECTION 43		
1.	Central Rule	Rule 67
		In case of below ground mine not less than <b>3 women</b> employees shall be on duty at any place.
2.	States/UTs having similar provision	Chandigarh (R.60(g)), Jammu & Kashmir (R.35), Jharkhand (R.41(g)), Ladakh (R.60(g)), Manipur (Adopted Central Rules), Telangana(R.68(h)).
3.	States/UTs having no provision or where no threshold limit is prescribed.	Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Odisha, Tamil Nadu, Uttar Pradesh, Uttarakhand.
4.	States/UTs having different provision	
	Bihar	✗ R.41 (g)- Not less than 2 women employees shall be on duty at any work place at the same time.
	Haryana	✗ R.74 (j)-The employer shall see that the women workers are employed in a batch of not less than ten and the total of the women workers employed in a night shift shall not be less than 2/3 <sup>rd</sup> of the total strength.
	Kerala	✗ R.44 (q)-The employer shall make sure that the women workers are employed in a batch of not less than five and the total number of women workers employed in a night shift shall not be less than two.
	Punjab	✗ R.60 (j)- The employer shall see that the women workers are employed in a batch of not less than ten and the total of the women workers employed in a night shift shall not be less than 2/3 <sup>rd</sup> of the total strength.

### Analytical Observations-

1. The rule in some of the States/Uts namely Chandigarh, Jammu & Kashmir, Jharkhand, Ladakh, Manipur and Telangana is similar to the Central rule and mentions of employing at least 3 women in a below ground mine.

2. The rule in the States/Uts of Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Odisha, Tamil Nadu, Uttar Pradesh and Uttarakhand have either no provision or prescribed no threshold limit.
3. The rule in the states of Bihar and Punjab prescribes for the employer to see that the women workers are employed in a batch of not less than ten and the total of the women workers employed in a night shift shall not be less than 2/3<sup>rd</sup> of the total strength. While in the state of Kerala, the employer shall make sure that the women workers are employed in a batch of not less than five and the total number of women workers employed in a night shift shall not be less than two.

QUALIFICATION OF CONTRACTOR & CONDITIONS OF LICENSE: SECTION 47(1)		
1.	Central Rules	<p style="text-align: center;"><b>Chapter VIII</b></p> <p>i. <b>Rule 69 Qualification and Criteria of the Contractor under sub-section (1) of Section 47.</b>-For the purposes of obtaining license, the contractor as an entity or as an individual shall not be an un-discharged insolvent or convicted at any time during the last two years, of an offence which is liable for punishment for more than three months of imprisonment.</p> <p>ii. <b>Rule 70 Conditions of License- (1).</b>The contractor shall ensure that:</p> <p>(a) The <b>hours of work</b> shall conform to the rules made under the OSH &amp; WC Code, 2020.</p> <p>(b) The <b>wages</b> shall be paid in accordance with the Code on Wages, 2019.</p> <p>(c) If the contract worker of the contractor is working at the premises of the principal employer then it shall be the <b>responsibility of the principal employer to provide the facilities or amenities</b> such as toilet, washroom, drinking water, bathing facilities if required, changing room, first aid box, Canteen and Crèche and</p> <p>(d) <b>All other facilities</b> and entitlements shall be provided <b>by the contractor.</b></p> <p>(c) In case the <b>contractor fails to make payment</b> of minimum wages to the contract labour, then the <b>Chief Labour Commissioner (Central) or his representative, who shall cause such payment</b> to be made to the contract workers who have not been paid out of the security deposit maintained under rule 76 including by invoking the bank guarantee; and</p>

		(f) He shall <b>intimate within fifteen days</b> of the receipt of a contract work order about the details the contract work order.
2.	States & Uts having similar provision	i. Andhra Pradesh (R.31), Manipur ( <i>Adopted Central Rules</i> ) ii. Assam (R.31), Bihar (R.43(1)(d)), Chandigarh (R.61 & 73), Chhattisgarh (R.79(1)), Gujarat (R.46), Himachal Pradesh (R.31), Jammu & Kashmir (R.37), Jharkhand (R.43), Karnataka (R.72), Kerala (R.46), Ladakh (R.61 & 73), Madhya Pradesh (R.79), Manipur ( <i>Adopted Central Rules</i> ), Odisha (R.40), Tamil Nadu (R.46), Telangana (R.71).
3.	States & Uts having no provision	i. Andhra Pradesh, Assam, Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Ladakh, Odisha, Punjab, Tamil Nadu, Uttar Pradesh, Uttarakhand. ii. Uttarakhand
4.	States & Uts having different provision	
	Chhattisgarh	✗ R.78- Offence which is criminal in nature.
	Haryana	✗ i. R.76 (2)- In addition to Central Rules, Contractor cannot be a minor person and has been convicted of an offence, in the <b>last five years</b> , involving moral turpitude.  ii. R. 76- (1) Application to be made electronically on the website of Labour Department in <b>Form-19</b> which includes details like Name of establishment, Details of Employer, Particulars of Contract Labour, Signature of Contractor etc. to the Licensing Authority.
	Karnataka	✗ R.71-An offence which is criminal in nature
	Madhya Pradesh	✗ R.78- An offence which is criminal in nature.
	Punjab	✗ R.61- The licence issued shall be non-transferable and the fees paid shall be non-refundable. The wages of the workers employed by contractor and employer shall be same. Also, if the <b>number of contract labour is fifty</b> , there shall be provided the facility of crèche. The licensee shall notify any change in the number of workers or the conditions of work to the designated authority. A copy of the licence shall be displayed prominently at the premises where the contract work is being carried on.
	Telangana	✗ R.70- An offence which is criminal in nature.

	<b>Uttar Pradesh</b>	<p>✗ <b>R.38-</b> The licence issued shall be non-transferable and the fees paid shall be non-refundable. The wages of the workers employed by contractor and employer shall be same. The licensee shall notify any change in the number of workers or the conditions of work to the designated authority. A copy of the licence shall be displayed prominently at the premises where the contract work is being carried on. Also, The number of workmen employed as contract labour in the establishment shall not, on any day, exceed the maximum number specified in the licence.</p>
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#### *Analytical Observations-*

1. The rule in the state of Manipur regarding the qualification and criteria of the contractor for the purpose of granting of licence is similar to the Central rule. A substantial majority of the States/Uts including Andhra Pradesh, Assam, Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Ladakh, Odisha, Punjab, Tamil Nadu, Uttar Pradesh and Uttarakhand does not have any rule in this regard.
2. As regards the rule concerning the conditions of licence, the states/Uts of Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Ladakh, Madhya Pradesh, Manipur, Odisha, Tamil Nadu and Telangana have the provision quite similar to the Central rule, while the state of Uttarakhand does not have any rule in this regard.
3. The Central rule debars a person convicted any time during the last two years, of an offence liable for punishment for more than three months of imprisonment and is thus quite broad in its scope while some states such as Chhattisgarh, Karnataka, Madhya Pradesh and Telangana is quite restricted in its scope in terms of debarring only those persons from obtaining the licence who have been engaged in offence of criminal nature only.
4. The rule in the state of Haryana additionally debars a person from obtaining licence contractor in case of being a minor or having been convicted of an offence, in the **last five years**, involving moral turpitude.

<b>REVOCATION OR SUSPENSION OF LICENSE: SECTION 51</b>		
1.	<b>Central Rule</b>	<p style="text-align: center;"><b>Rule 79</b></p> <p>1. If the authority is satisfied that the licence has been <b>obtained by misrepresentation or suppression of any material fact or if the contractor has failed to comply with the conditions subject to which licence was granted or the contractor has contravened any provision of Part-I of Chapter-XI (dealing with Contract Labour Issues) of the OSH &amp; WC Code or rules made there under</b>, the Authority shall <b>issue a show cause notice of 15</b></p>



		<p><b>days</b> to the contractor electronically. On receipt of the <b>reply if any</b>, from the contractor <b>within 15 days</b> of the receipt of the notice, the Licensing Authority shall examine the same and in case the licensing authority feels that the continuation of contract business by the contractor is going to lead to grave harm to the contract labours, he may <b>pass a speaking order recording the reasons for revocation or suspension</b> or otherwise and communicate the order to the contractor electronically or by registered post or speed post. <b>A copy of the Order shall also be endorsed to the Chief Labour Commissioner (Central) ©, concerned Labour Enforcement Officer © and concerned State Authorities.</b></p> <p>2. If the contractor has <b>complied with the concerned provisions</b> of the Code and rules made there under within the stipulated time period, the Licensing Authority shall <b>revoke the suspension</b> giving a speaking order or else the suspension may be continued.</p> <p>3. If the contractor fails to comply with the order in sub-rule (1), the authority may forthwith pass an order of revocation of license, recording the reasons thereof and communicate to the contractor electronically or by registered post or speed post. The copy of the order shall be endorsed electronically to Chief Labour Commissioner (Central), concerned Labour Enforcement Officer (Central) and the concerned State Authority.</p>
2.	States & Uts having similar provision	Andhra Pradesh (R.39), Chhattisgarh (R.87), Haryana (R.87), Karnataka (R.80), Madhya Pradesh (R.87), Manipur ( <i>Adopted Central Rules</i> ), Telangana (R.80).
3.	States & Uts having no provision	Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Ladakh, Odisha, Punjab, Tamil Nadu, Uttar Pradesh, Uttarakhand.
4.	States & Uts having different provision	
	Assam	<p>✗ R.37</p> <p>The time limit for issuing the notice and reply is <b>30 days</b> respectively.</p>
	Jammu & Kashmir	<p>✗ R.43</p> <p>The time limit for issuing the notice and reply is <b>30 days</b> respectively.</p>



### Analytical Observations-

1. The rule in states of Andhra Pradesh, Chhattisgarh, Haryana, Karnataka, Madhya Pradesh, Manipur and Telangana is similar to the rule in Centre in this regard.
2. Some states and Uts including Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jharkhand, Kerela, Ladakh, Odisha, Punjab, Tamil Nadu, Uttar Pradesh and Uttarakhand do not have rule in this regard.
3. The rule in the state of Assam and Union Territory of Jammu & Kashmir prescribes the time limit of 30 days for issuing of the notice and reply as compared to the limit of 15 days in case of Centre.

SPREAD OVERS IN EACH DAY: SECTION 25 (1)(b)		
1.	Central Rule	<b>Rule 28(2)</b> If a worker <b>works on daily basis</b> in an establishment, the period of work of such worker shall be so arranged that inclusive of his interval for rest shall not spread over for more than <b>ten and half hours per day</b> .
2.	States/UTs having similar provision	Andhra Pradesh (R.18(2)), Haryana (R.28(ii)), Himachal Pradesh (R.17(4)), Karnataka (R.43(2)), Kerela (R.30(2)), Manipur (Adopted Central Rules), Odisha (R.19(2)), Uttarakhand (R.20(4)).
3.	States/UTs having no provision	Gujarat, Uttar Pradesh
4.	States/UTs having different provision	
	Assam	✗ R.16 (4)- Spread over shall <b>not exceed 12 hours</b> in one day.
	Bihar	✗ R.22 (2)- Spread over shall <b>not exceed 12 hours</b> in one day.
	Chandigarh	✗ R.36 (4)- Spread over shall <b>not exceed 12 hours</b> in one day except those covered as factories.
	Chhattisgarh	✗ R.35 (2)- Spread over shall <b>not exceed 12 hours</b> in one day inclusive of rest.
	Jammu & Kashmir	✗ R.19 (4)- Spread over shall <b>not exceed 12 hours</b> in any one day.
	Jharkhand	✗ R.22 (2)- Spread over shall <b>not exceed 12 hours</b> in any one day.
	Ladakh	✗ R.36(4)- Spread over shall <b>not exceed 12 hours</b> in any one day except in case of urgent repairs, work in the nature of preparatory or complimentary work, irregular action of natural forces etc.

Madhya Pradesh	✗ R.35 (2)- Spread over shall <b>not exceed 12 hours</b> in one day inclusive of rest.
Maharashtra	✗ R.11 (2)- Spread over shall <b>not exceed 12 hours</b> in one day inclusive of intervals of rest.
Punjab	✗ R.36 (4)- Spread over shall <b>not exceed 12 hours</b> in any one day except in case of urgent repairs, work in the nature of preparatory or complimentary work, irregular action of natural forces etc.
Tamil Nadu	✗ R.27 (2)- Spread over shall <b>not exceed 12 hours</b> in one day inclusive of rest.
Telangana	✗ R.24 (2)- Spread over shall <b>not exceed 12 hours</b> in one day inclusive of rest.

*Analytical Observations:*

1. The states of Andhra Pradesh, Haryana, Himachal Pradesh, Karnataka, Kerela, Manipur, Odisha and Uttarakhand provide for the maximum spread over of ten and a half hours in a day, which is similar to Central Rule.
2. The remaining states provide for the maximum spread over of twelve half hours in a day, except the states of Gujarat and Uttar Pradesh which do not have any rule in this regard.



## Chapter 6 : Code on Social Security, 2020

The Central Rules under Code on Social Security, 2020 were notified in two installments: (i) Social Security (Central) Rules, 2020 on November 13, 2020<sup>13</sup>; and (ii) Code on Social Security (Employee's Compensation) (Central) Rules, 2021 on June 3, 2021<sup>14</sup>.


### Broad Areas Covered under the Rules on Code on Social Security

Authority whom to appeal under a complaint made for maternity benefit (*Section 72(3) of the Code read with Rule 41 under Gazette Notification No. 582 dated November 13, 2020*); Crèche facilities (*Section 67 of the Code read with Rule 39 under Gazette Notification No. 582 dated November 13, 2020*); Funeral expenses (*Section 76(7) of the Code*); Time limit for disposal of application to pay compensation (*Section 93(4) of the Code*); Time limit to pay the amount of cess and rate of interest (*Section 101 of the Code read with Rule 44 under Gazette Notification No. 582 dated November 13, 2020*); Manner of compounding of offences (*Section 138 of the code read with Rule 56 under Gazette Notification No. 582 dated November 13, 2020*).

AUTHORITY TO APPEAL UNDER A COMPLAINT MADE FOR MATERNITY BENEFIT: SECTION 72(3)		
1.	Central Rule	<p><b>R. 41</b></p> <p><b>Authority to whom an appeal may be preferred under sub-section (3) of section 72–</b></p> <p><b>(1) Complaint under section 72 –</b></p> <p>(a) A complaint under sub-section (1) of section 72 shall be <b>made in writing</b> in <b>Form-XII</b> as the case may be.</p> <p>(b) When a complaint referred to in section 72 is received by an Inspector-cum-Facilitator, he shall examine the relevant records maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 63, as the case may be, immediately or within a specified period.</p> <p><b>(2) Appeal under section 72 –</b></p> <p>(a) An appeal against the decision of the Inspector-cum-Facilitator under sub-section (2) of section 72 shall lie to the Competent Authority.</p> <p>(b) The aggrieved person shall prefer an appeal in writing to the prescribed Authority in <b>Form-XIII</b> and file other supporting documents.</p>

<sup>13</sup> Gazette Notification No. 582 dated November 13, 2020


<sup>14</sup> Gazette Notification No. 307 dated June 3, 2021.

		<p>(c) When an appeal is received, the prescribed Authority shall call from the Inspector-cum-Facilitator before a fixed date, the record of the case. The prescribed Authority shall, if necessary, also record the statements of the aggrieved person and of the Inspector-cum-Facilitator and seek clarification if any is required.</p> <p>(d) Taking into account the documents, the evidence produced before him and the facts presented to him or ascertained by him, the prescribed Authority shall give his decision.</p>
2.	<b>States/UTs having similar provision</b>	Assam (R.34&35), Bihar (R.11), Chandigarh (R.23), Chhattisgarh (R.13), Gujarat (R.7), Haryana (R.13), Himachal Pradesh (R.12), Jammu & Kashmir (R.49), Ladakh (R.23), Madhya Pradesh (R.13), Maharashtra (R.36 & 37), Manipur (Adopted Central Rules), Odisha (R.47), Puducherry (R.47), Punjab (R.47), Telangana (R.10), Uttarakhand (R.17).
3.	<b>States/UTs having different provision</b>	
	Goa	✗ No provision in this regard.
	Jharkhand	✗ i. <b>Silent about period for disposal of a complaint.</b> ii. <b>R. 25-</b> Appeal to Deputy Labour Commissioner of the State Government.
	Karnataka	✗ i. <b>Silent about period for disposal of a complaint.</b> ii. <b>R.17-</b> Appeal made to the respective jurisdictional Labour Officer of the State Labour Department.
	Tripura	✗ i. <b>Silent about the period for disposal of a complaint.</b>  ii. <b>R.32-</b> Appeal made to the competent authority of the concerned jurisdiction.
	Uttar Pradesh	✗ <b>R. 32-</b> May appeal to Regional Additional/Deputy Labour Commissioner of the State Government. However, no mention about maximum period for disposal of appeal.


#### Analytical Observations-

1. The rule in this regard in most of the States/UTs is similar to the Central Rule. However, the rule is silent with regard to the time period for disposal of the complaint to pay the maternity benefit.
2. The state of Goa has no rule in this regard.
3. The states like Jharkhand, Karnataka and Tripura do not have any rule with regard to the manner of disposal of complaint in this regard.

4. The Central rule and the rules of most of the States/UTs do not specify the authority to whom appeal would be preferred against the order of Inspector-cum-Facilitator.

NUMBER OF EMPLOYEES AND DISTANCE FOR CRÈCHE FACILITY: SECTION 67		
1.	Central Rule	<p><b>Rule 39</b></p> <p>(1) In every establishment where fifty or more women employees are ordinarily employed, there shall be provided and maintained a crèche for the use of children under the age of six years of such women.</p> <p>(2) Such crèche shall provide adequate accommodation with lighting, ventilation and shall be maintained in a clean and sanitary condition. The crèche shall be under the charge of women trained in the care of children and infants.</p> <p>(3) The crèche facility shall be located within the establishment or at an appropriate distance from the establishment such that it is easily accessible to the women employees including a woman employee working from home.</p>
2.	States/UTs having no provision in this regard.	Andaman & Nicobar, Assam, Bihar, Chandigarh, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Ladakh, Madhya Pradesh, Maharashtra, Manipur, Odisha, Puducherry, Punjab, Telangana, Tripura, Uttar Pradesh.
3.	Haryana	 <p><b>R. 11,</b> In addition to this,</p> <ul style="list-style-type: none"> <li>• A crèche shall be located <b>within one kilometre</b> of the establishment.</li> <li>• Creche shall be maintained in safe and rain proof building.</li> <li>• Accommodation in the creche shall be on a scale of at least ten square feet of floor area per child.</li> <li>• There shall be playground suitably fenced for children.</li> <li>• The working hours of creche shall correspond to the working hours of the employees. While the Creche works in shifts, different staff should be employed to work in different shifts.</li> </ul>



		<ul style="list-style-type: none"> <li>Every Creche shall be in the charge of a woman with midwifery qualification or training as Creche attendant. Where the number of children exceeds ten, the Creche attendant shall be assisted by female ayahs at the rate of one ayah for every ten children up to six years.</li> <li>The Creche shall have sufficient number of cots, beds, cotton sheets, rubber sheets, blankets, pillows, toys, etc. for children.</li> </ul>
4.	Uttarakhand	 R. 15

*Analytical Observation-* Though Section 155 of the Social Security Code, 2020 empowers only Central Government to make rules on the number of employees and distance for crèche facility however, states like Haryana and Uttarakhand have formulated the rules in this regard. However, the rule of the state of Haryana seems more elaborate on the subject.

FUNERAL EXPENSES: SECTION 76(7)		
1.	Central Law	<p><b>Section 76(7)</b></p> <p>If the injury of the employee results in his death, the employer shall, in addition to the compensation under sub-section (1), <b>deposit with the competent authority a sum of not less than fifteen thousand rupees or such amount as may be prescribed by the State Government</b>, for payment of the same to the eldest surviving dependant of the employee towards the expenditure of the funeral of such employee or where the employee did not have a dependant or was not living with his dependant at the time of his death, to the person who actually incurred such expenditure:</p> <p>Provided that the Central Government may, by notification from time to time, enhance the amount specified in this sub-section.</p> <p><i>(This provision is mentioned under the code of social security, 2020; however the states have formed rules on the same.)</i></p>
2.	States & UTs having similar provision.	Assam(R.36), Bihar(R.12), Chandigarh(R.24), Chhattisgarh(R.14), Goa(R.33), Himachal Pradesh(R.13), Jammu & Kashmir(R.50), Jharkhand(R.26), Ladakh(R.24), Madhya Pradesh(R.14), Odisha(R.48), Puducherry(R.48), Punjab(R.24), Tripura(R.33), Uttar Pradesh(R.33).
3.	States & UTs having no provision in this regard	Gujarat, Kerela, Maharashtra, Manipur, Uttarakhand.

Andaman & Nicobar	✗ R.18- Deposit a sum not less than <b>rupees twenty five thousand</b> .
Haryana	✗ R.16- Deposit an amount which shall not be less than <b>twenty thousand rupees</b> .
Karnataka	✗ R.18- Deposit a sum not less than <b>rupees twenty five thousand</b> .
Telangana	✗ R.11- Deposit a sum not less than <b>25 thousand rupees, within 12 hours of such incident</b> . Also, the competent authority shall calculate the actual <b>transport charges</b> from the place of death/accident/hospital to the native place of the deceased worker or to the place of dependents to perform the ritual and pass an order and the employer shall deposit the same with the competent authority <b>within twelve hours</b> .

*Analytical Observations-*





1. The states like Gujarat, Kerela, Maharashtra, Manipur, Uttarakhand have not made any rule in this regard.
2. The Central law provides for an amount of Rs. 15000 by way of expenditure towards the funeral of such employee however in several other states the amount ranges from Rs. 20000 to 25000.
3. The state of Telangana provides for additional payment of transport charges to be calculated by competent authority within twelve hours and paid to the dependent of the employee by the employer.


TIME LIMIT FOR DISPOSAL OF APPLICATION TO PAY COMPENSATION IN CASE OF ACCIDENT: SECTION 93(4)		
1.	Central Law	<b>Section 93(4)</b> The <b>time-limit for the disposal of applications</b> and the costs incidental to the proceedings to be imposed by the competent authority shall be such as may be <b>prescribed by the State Government</b> .
2.	States/UTs have provided for a time limit ranging from 3 to 12 months	Assam (R.43(1)), Bihar (R.20(1)), Chandigarh (R.32(1)), Chhattisgarh (R.22), Goa (R.42), Haryana (R.41(3)), Himachal Pradesh (R.21(1)), Jammu & Kashmir (R.59), Ladakh (R.32(1)), Manipur (R.24), Odisha (R.56(1)), Puducherry (R.56(1)), Punjab (R.32(1)), Tripura (R.42).
3.	States/UTs having no provision in this regard	Andaman & Nicobar, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Telangana, Uttar Pradesh, Uttarakhand.






### Analytical Observations-










1. Under Section 93(4) of the SS Code, 2020 the power to prescribe the time limit for this purpose has been given to the States/UTs. The rules framed by the States/UTs mentioned in Row 2 above, have provided for a time-limit in the range of three to twelve months.
2. The states/UTs including Andaman & Nicobar, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Telangana, Uttar Pradesh and Uttarakhand have formulated no rule in this regard.
3. Ideally, there has to be a time limit and reasonably the maximum time limit be six months.

### TIME LIMIT TO PAY THE AMOUNT OF CESS AND RATE OF INTEREST: SECTION 101





1.	Central Rule	Rule 44
		<ol style="list-style-type: none"> <li>1. Date of payment of cess shall be the date on which the <b>amount is deposited with the Cess Collector</b> under clauses (a) and (b) of sub-rule (2) of rule 43, or the <b>date of deduction at source</b> under clause (d) of sub-rule (2) of rule 43, or the date on which the <b>amount has been deposited with the local authority</b> under clause (c) of sub-rule (3) of rule 43, as the case may be.</li> <li>2. If any employer <b>fails to pay any amount of cess</b> payable under section 100 of the Code, within such time as may be specified in the assessment order, such employer shall be liable to pay interest on the amount of cess, to be paid, <b>at the rate of one per cent for every month or part of a month</b> comprised in the period from the date on which such payment was due till such amount is actually paid.</li> </ol>
2.	States/UTs having similar provision	Haryana(R.65), Odisha(R.67), Puducherry(R.67), Telangana (R.21), Uttarakhand(R.20).
3.	Andaman & Nicobar	 1. R.26  2. No provision in this regard.
	Assam	 1. R.45- The cess levied shall be paid by the employer within thirty days from the date of issue of assessment order or within 30 days of completion of construction project, whichever is earlier.  2. R.45

	Bihar	<p>✗ <b>1. R.22-</b> The cess shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable is finished</b>, whichever is earlier, to the cess collector.</p> <p>Where the <b>duration of the project</b> or construction work <b>exceeds one year</b>, cess shall be paid <b>within thirty days of completion of one year</b> from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.</p> <p>2. No provision in this regard.</p>
	Chandigarh	<p>✗ <b>1. R.34-</b> The cess shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable is finished</b>, whichever is earlier, to the cess collector.</p> <p>Where the <b>duration of the project</b> or construction work <b>exceeds one year</b>, cess shall be paid <b>within thirty days of completion of one year</b> from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.</p> <p>2. No provision in this regard.</p>
	Chhattisgarh	<p>✗ <b>1. R.24-</b> The cess levied shall be paid by the employer within such time as specified in the assessment order or within 30 days from date of issue of assessment whichever is earlier.</p> <p> <b>2. R.24</b></p>
	Goa	<p>✗ <b>1. R.43-</b> The cess shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable is finished</b>, whichever is earlier, to the cess collector.</p> <p>Where the <b>duration of the project</b> or construction work <b>exceeds one year</b>, cess shall be paid <b>within thirty days of completion of one year</b> from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.</p> <p>Where the cess pertains to a building and other construction work of Government or of a PSU, such Govt. or the PSU shall deduct or cause to be deducted the cess payable at the notified rate from the bill paid for such work.</p>

		<p>Where the construction work requires the approval of local authority, every such application for approval shall be accompanied by a cross demand draft in favour of board and payable at the station at which the board is located for an amount of cess payable at the notified rate on the estimated cost of construction work. The employer can also pay the cess in advance on the basis of estimated cost of construction work.</p> <p>2. No provision in this regard.</p>
	Gujarat	<p> <b>1. R.64-</b> The cess levied shall be paid electronically by the employer in advance or before the commencement of work to the cess collector.</p> <p>With the exception of construction of houses less than Rs. 50 Lacs for personal use, the owner of the house of more than or equal to Rs. 50 Lacs, shall pay cess electronically as per the existing legal provision and they will be required to pay construction cess at the time of plan approval. For the construction work by private builders/developers/contractors, the amount has to be paid electronically at the time the plan is submitted to authority for approval.</p> <p>The cess collected electronically or otherwise shall be monitored by Comm. of Labour/Director of Labour.</p> <p>2. No provision in this regard.</p>
	Himachal Pradesh	<p> <b>1. R.23-</b> The cess shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable</b> is finished; whichever is earlier, to the cess collector.</p> <p>Where the <b>duration of the project</b> or construction work <b>exceeds one year</b>, cess shall be paid <b>within thirty days of completion of one year</b> from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.</p> <p>2. No provision in this regard.</p>
	Jammu & Kashmir	<p> <b>1. R.61</b></p> <p> <b>2.</b> No provision in this regard.</p>
	Jharkhand	<p> <b>1. R.47-</b> The cess levied under shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable</b> is finished; whichever is earlier, to the cess collector.</p>


		<p>Where the <b>duration of the project</b> or construction work <b>exceeds one year</b>, cess shall be paid <b>within thirty days of completion of one year</b> from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.</p> <p>2. No provision in this regard.</p>
	Karnataka	<p> 1. R.26</p> <p> 2. No provision in this regard.</p>
	Kerala	<p> 1. R.100- Every employer shall pay cess payable within thirty days from the date of receipt of the assessment order.</p> <p>2. No provision in this regard.</p>
	Ladakh	<p> 1. R.34- The cess levied under shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable</b> is finished; whichever is earlier, to the cess collector.</p> <p>Where the <b>duration of the project</b> or construction work <b>exceeds one year</b>, cess shall be paid <b>within thirty days of completion of one year</b> from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.</p> <p>2. No provision in this regard.</p>
	Madhya Pradesh	<p> 1. R.24- The cess levied shall be paid by the employer within such time as specified in the assessment order or within 30 days from date of issue of assessment order, whichever is earlier.</p> <p> 2. R.24</p>
	Maharashtra	<p> 1. R.38</p> <p> 2. No provision in this regard.</p>
	Manipur	<p> 1. R.25- The cess levied under shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable</b> is finalised, whichever is earlier to the State Building and Other Construction Workers' Welfare Board.</p>




		<p>The cess may be paid in advance on the basis of self-assessment duly certified by a Chartered Engineer at the time of approval or before the commencement of work subject to the final payment on the completion of work on the basis of assessment made by the Assessing Officer.</p> <p>2. No provision in this regard.</p>
	Punjab	<p> <b>1. R.34-</b> The cess levied under shall be paid by an employer, <b>within thirty days of the completion of the construction project or within thirty days of the date on which assessment of cess payable is finished;</b> whichever is earlier, to the cess collector.</p> <p>Where the <b>duration of the project</b> or construction work <b>exceeds one year</b>, cess shall be paid <b>within thirty days of completion of one year</b> from the date of commencement of work and every year thereafter at the notified rates on the cost of construction incurred during the relevant period.</p> <p>2. No provision in this regard.</p>
	Tripura	<p> <b>1. R.44-</b> The cess levied shall be paid by the employer within such time as specified in the assessment order or within 30 days from date of issue of assessment order, whichever is earlier.</p> <p> <b>2. R.44</b></p>
	Uttar Pradesh	<p> No provision in this regard.</p>

### Analytical Observations-

1. Cess on building and construction work levied by the State Governments/ UTs in exercise of their powers under the Building and Other Construction Workers' Welfare Cess Act, 1996, is one of the important sources of fund for extending various social security benefits and measures to millions of workers engaged in the construction sector. The similar kind of provision has now also been incorporated in the SS Code, 2020 and the State Rules in this regard. The states and UTs of Haryana, Odisha, Puducherry, Telangana and Uttarakhand have rule similar to Central rule in this regard.
2. It is important to mention here that the provisions under most of the state rules the provision with regard to the time period for payment of the cess is similar. Further, the rules of most of the states/UTs in this regard also provide for payment of interest by way of penalty to ensure the timely payment of cess. However, Andaman & Nicobar, Bihar, Chandigarh, Goa, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Ladakh, Maharashtra, Manipur, Punjab and Uttar Pradesh have no penal provision to ensure timely payment of cess.

MANNER OF COMPOUNDING OF OFFENCES: SECTION 138		
1.	Central Rule	<p><b>Rule 56</b></p> <p>(1) The officer authorized by the Central Government by notification for the purposes of compounding of offences shall issue electronically a compounding notice (Form-XXIV) for the offences which are compoundable.</p> <p>(2) The person so noticed may apply (Part III of the Form-XXIV) to the officer electronically and deposit the entire compounding amount by electronic transfer or otherwise, within fifteen days of the receipt of the notice.</p> <p>(3) The Compounding Officer shall issue a composition certificate (Part IV of Form-XXIV) within ten days of receipt of the composition amount, to such person from whom such amount has been received in satisfaction of the composition notice.</p> <p>(4) If a person so noticed fails to deposit the composition amount within the prescribed time, the prosecution shall be instituted before the competent Court for the offence in respect of which the compounding notice was issued, against such person.</p> <p>(5) Composition after institution of prosecution. – (a) The Court may compound any compoundable offence at any time after filing of a complaint under section 138 of the Code.</p> <p>(b) The provisions of section 320 of the Code of Criminal Procedure, 1973 shall apply to such compositions.</p>
2.	States/UTs having similar provision	Andaman & Nicobar (R.34), Andhra Pradesh (R.27), Assam (R.49), Bihar (R.28), Chandigarh (R.40), Chhattisgarh (R.30), Goa (R.47), Gujarat (R.81), Haryana (R.73), Himachal Pradesh (R.29), Jammu & Kashmir (R.67), Jharkhand (R.53), Karnataka (R.34), Ladakh (R.40), Madhya Pradesh (R.30), Maharashtra (R.42), Mizoram (R.28), Odisha (R.73), Puducherry (R.73), Punjab (R.40), Telangana (R.33), Tripura (R.50), Uttar Pradesh (R.54), Uttarakhand (R.32).
3.	States/UTs having different/additional provision	
	Kerala	 <p><b>R.106</b></p> <p>The competent court is of Judicial First Class Magistrate.</p>



	<b>Manipur</b>	 <b>R.34</b> Application for compounding of offence shall be made by offending person (Form XVI) in duplicate to the officer authorized by the State Government. The Application shall be made within one month of receipt of the memorandum of inspection of the Inspector-cum-Facilitator alleging the offence. The application shall be accompanied by one self-attested copy of memorandum of inspection on the basis of which application is made.
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*Analytical Observations-*

1. The provision in most of the states/UTs is by and large similar to the provision contained in the Central Rule under this code which also contains the stipulation with regard to the time limit within which the composition fees has to be deposited as well as for issuing the composition certificate.
2. Further, the state rule of Manipur in this regard also provides the maximum time-limit (within one month of receipt of the memorandum of inspection of the Inspector-cum-Facilitator alleging the offence) for making application for composition.

## Chapter 7 : Conclusions and Recommendations

The preceding chapters have delineated and discussed the Central and State/UT Rules under various Codes. An analysis of the same reveals that these rules cover almost all the areas and procedural aspects required for an effective implementation of the various Codes both in terms of their letter and spirit. However, an objective analysis of these rules also indicates that in respect of many of the aspects, there is too much of divergence not only between the Central and State/UT Rules but also among the State rules. The same needs to be minimised in order to bring the required uniformity. Similarly, many of the State/UT rules under these Codes have left some of the vital aspects uncovered. Further, the rules of some of the States/UTs prima facie seem to go against the basic ethos and spirit of the Codes and may defeat the objective sought to be achieved by these Codes. All these aspects require the attention and a re-look by the concerned governments. Accordingly, the following Chapter focuses on these analytical observations and recommendations in a code-wise manner under various sections.

### Rules on Code on Wages, 2019

**Deposit of Undisbursed Dues (Section 44(1)(b) , Rule 47(1)):** There is not much difference in the Central and State rules in this regard with the only exception in case of the state of Chhattisgarh which additionally provides for the time limit (2 months) for disbursement of the amount by the authority to whom the amount has been deposited. Ideally, there has to be a time limit like this in Central as well as in all State/UT rules.

**Fixing Hours of work for Normal Working Day (Section 13(1)(a) , Rule 6):** The central rule provides for the spread over of 12 hours a day while the states like Assam and Kerala restrict the spread over to ten and a half hours a day. However, the states like Chhattisgarh and Maharashtra, have the provision of the spread over of ten and a half hours in case of employees working in an establishment with six days of working in a week and twelve hours in case of an establishments working five days in a week. In this context, it is worth mentioning that in many areas, especially in Metropolitan Towns, the employees/workers have to spend substantial time on commuting to the place of work. Therefore, the spread over of 12 hours seems to be too long and require reconsideration.

Though the Child and Adolescent Labour (Prohibition & Regulation) Act, 1986 prohibits the employment of children (those below 14 years of age) in general, the rule in state of Chhattisgarh contains the provision permitting the employment of children in an establishment up to four and a half hours on a day. This kind of anomaly needs to be taken care of in order to protect the interest of children.

**Manner of Payment of Dues when no nomination has been made (Section 44(1)(b), Rule 48):** The Central Rule pertaining to the manner of payment of dues when no nomination has been made (R.48), seems to be too idealistic from the view point of providing relief to the worker. However, from the practical point of view, a period of three to five years seems to be reasonable. The state of Haryana, which



doesn't have any rule in this regard. Since the unclaimed amount belongs to the labourers/employees, this amount should logically and as a matter of policy be deposited with Labour Welfare Fund of respective states.

**Time Interval for Revision of Dearness Allowance (Rule 5):** While both the Central Rules as well as the State Rules of most of the states in this regard provide for revision of DA twice in a year, the State of Andhra Pradesh provides for the same only once a year and the State of Uttar Pradesh does not have any rule in this regard.

**Spread Over and Hours of work in special specified conditions (Section 13(2), Rule 9):** The spread over of 16 hours (R.9 of the Central Rules) seems to be on higher side and the Central and State Rule having this limit in this regard needs reconsideration. The situations contemplated under Section 13(2) of the Code on Wages, 2019 are not confined to any particular state. The States of Maharashtra and Haryana do not have any provision to take care of such situations.

### Rules on Code on Industrial Relations. 2022

**Facilities to be provided to Negotiating Union (Section 14(2), Rule 9):** This is one of the vital aspects relating to and affecting industrial relations in the establishment. However, there are states like Goa, Himachal Pradesh, Kerala, Puducherry and Punjab which have not framed any rule in this regard. The Central Rule and State Rules of some states provide that the employer has to provide office space/accommodation to the Negotiating Union/Council, only if the establishment has got three hundred or more workers. However, the rules in the States/UTs like Assam, Bihar, Chandigarh, Haryana, Jammu & Kashmir, Jharkhand, Ladakh, Tripura and Uttarakhand have no such threshold for this purpose. The rules in the State of Karnataka, Madhya Pradesh and Maharashtra, though give the right to workers to hold discussions on the premises but are silent about office space/accommodation even though the number of workers may be three hundred or more. The rules in the state of Andhra Pradesh and Gujarat provide that the facilities to be provided would be mutually decided by the employers and workers. The rules in the state of Uttar Pradesh in this regard are too general in nature and provide that the employer would be bound to provide such facilities to the Negotiating union/council as required by the State Government by general or special order.

**Manner of choosing representatives of workers where no union is operating for the purpose of seeking comments on Standing Orders (Section 30(5), Rule 8):** Central rule does not provide for any time limit for choosing the representatives, while the states like Andhra Pradesh, Chhattisgarh and Madhya Pradesh provide for a time limit of 10-15 days to the workers for choosing their representatives. Further, the relevant rule in the state of Uttar Pradesh mentions that the representatives would be elected through Inspector-cum-facilitator. The central rule and rule in most of the States/UTs provides for a time limit of fifteen days to the workers' representatives for submitting their objections to the Standing Order(s) to the Certifying Officer, while relevant rule in the states like Chhattisgarh and Madhya Pradesh provide for the time limit of ten days and that of the state of Assam, 30 days. Ideally, there has to be time-limit for choosing the representatives by the workers for the purpose of giving comments on the Standing Orders as well



as a reasonable time limit for the purpose of raising objections/giving comments.

**Prescribed manner for the intended Layoff of workers from an establishment where not less than 300 workers are employed (Section 78, Rule 28):** The rule in this regard is almost similar in almost all the states. *However, in the State of Andhra Pradesh there is no stipulated time period* mentioned for the purpose of advance submission of application to the government. The State rule in Chhattisgarh, Karnataka, Madhya Pradesh and Tamil Nadu also additionally put the requirement of serving the copy of application of the intended lay-off to the Conciliation Officer of the area. Further, the rule in the State of Tamil Nadu, in addition also puts the requirement of submitting the copy of the application to the Trade Union. The rule in the State of Uttar Pradesh also mentions about the requirement of any measures taken to avoid lay-off by the employer. The Central and the State governments may also consider incorporating this aspect in their respective rule.

**Matters on which trade union can negotiate with employer (Section 14(1), Rule 3(1)):** The Central rule and the State Rule in most of the states is by and large similar. However, the scope of the rule in this regard in the states of Maharashtra and Uttar Pradesh is quite wide. The rule in the state of Uttarakhand is slightly restrictive in nature as it puts the requirement of charter of demands of workers to have been signed by at least 20% of the total workforce. The states of Goa, Himachal Pradesh, Punjab and the Union Territory of Puducherry have no rule in this regard.

**Notice for Change:** The rule in this regard in the Centre and most of the States and UTs is almost similar with an exception of the states, Andhra Pradesh, Gujarat, Haryana and Odisha where there is no requirement of serving copy of the notice to the Labour Department. Ideally, the provision has also to be there for serving the copy of notice of change simultaneously to the Labour Department also.

**Recognition of a single registered trade union as sole negotiating union of workers (Section 14(2), Rule 4):** The minimum requirement of membership for the purpose of recognition in the states of Chhattisgarh, Manipur, Tamil Nadu, and Telangana is at par with Central Rule i.e. 30%. In many states and UTs the condition in this regard is quite liberal as compared to Central Rule in the sense of having lower proportion (Assam-20%, Bihar-25%, Jammu and Kashmir-10%, Karnataka-20%, Madhya Pradesh-20% and Tripura-25%) in the range of 10% - 25%. In the state of Kerala the requirement is one-third.

There are some states including Chandigarh, Ladakh and Maharashtra in which the requirement is 51%, which seems to be quite stringent. There is one more category of states including Andhra Pradesh, Gujarat, Haryana, Jharkhand, Uttar Pradesh and Uttarakhand having the rule stipulating that by and large the employer shall recognize trade union as a sole negotiating union after being satisfied that concerned union has been functioning in accordance with the rules of the union. Thus, this rule leaves scope for the employer to recognise or not to recognise the union. The states of Goa, Himachal Pradesh, Punjab and the UT of Puducherry have not framed any rule in this regard as yet.

This particular aspect is one of the vital aspects concerning collective bargaining which is one of the fundamental and basic labour rights. Hence, needs a re-





look by all the concerned governments in order to ensure that the same is not diluted.

**Manner of giving an opportunity for employment to the retrenched workers (Section 72, Rule 26):** In most of the states, the rule in this regard is quite similar to the Central Rule (which provides that the employer shall offer an opportunity by giving notice to the retrenched workers of at least 10 days before filling up the vacancy). However, the rule in the state of Uttar Pradesh provides for 30 days advance notice to the workers. In the states of Karnataka and Madhya Pradesh, the rule in this regard provides for giving a copy of the intimation to the concerned Conciliation Officer/ Labour Department also. As per the rule in this regard in Kerala, the employer is required to also inform the trade unions connected with the industrial establishment of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent. The rule of Kerala seems to be more worker centric and may be considered to be incorporated by other governments also.

**Manner of Compounding of Offences (Section 89, Rule 36):** The provision in this regard in all the states/UTs which have framed the rules under the IR Code, 2020 is by and large similar. However, there is a difference in this provision as compared to the compounding provision under the other three Codes. The difference is in the sense that in case of the offences in which the prosecution has already been launched in the court, the accused opting for compounding of the offence has to submit the application for the same before the court and only after the court's permission s/he can make further application to the compounding officer.

### Rules on OSH & WC Code, 2020

**Annual Health Check-up of worker (Section 6(1)(c), Rule 6):** The central rule and state rules of Haryana, Manipur and Odisha prescribe that every worker with 40 years of age and above, working in an establishment and drawing wages equal to or less than ceiling specified under the Social Security Code, 2020 to become the member of ESIC shall be eligible to get free annual health check-up. The rule in the state of Uttar Pradesh additionally also requires conducting medical check-up before employing any person. The state rule in Madhya Pradesh mandates conducting of medical examination for every worker above 30 years of age and is slightly more employee centric as compared to the Central rule and state rules mentioned above.

The rule in the states of Chhattisgarh, Kerala and Punjab does not have any such limit in terms of minimum age and seems to be quite progressive and welfare centric as it would help in detecting any serious health problem at its initial stage itself. On the contrary, the rule in the States/UTs of Assam, Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Ladakh, Tamil Nadu, Telangana and Uttarakhand prescribes the age limit to be 45 years, which seems to be slightly on higher side and requires reconsideration by the respective States/UTs. *The state of Maharashtra does not seem to have any rule in this regard and therefore need to cover this important aspect.*



**Special Conditions and facilities for women employees (Consent, CCTV Surveillance, Dedicated telephone numbers) (Section 43(1), Rule 67(a), Rule 67(e), Rule 67(g) ):** The rules in the states of Manipur, Odisha and Telangana are similar to the Central rules. Majority of the States/UTs (Assam, Chandigarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Ladakh, Madhya Pradesh, Punjab, Tamil Nadu, Uttar Pradesh and Uttarakhand) do not specify the manner of taking consent.

The rule in Haryana in this regard, seems to be quite stringent and unreasonable as it puts the requirement of taking consent for employing women for any type of work in all establishment irrespective of the fact whether they are going to be engaged during day or night.

Unlike, the Central Rules and rules of some States/UTs, most of the states/UTs have made no rules regarding installation of CCTV and dedicated telephone numbers in case of emergency. Though, the rule in the state of Haryana provides that the employer shall provide transportation facility to the women workers from their residence and back (for the night shift) and security guards (including female security guard) and each transportation vehicle shall also be equipped with CCTV cameras. *The state of Maharashtra does not have any rules in this regard.*

**Journey Allowance to Interstate migrant worker (Section 61, rule 85):** The provision in most of the states/UTs in this regard is similar to the Central Rule. The rule in the states of Chandigarh and Tamil Nadu and UT of Ladakh along with the journey allowance also provides for the payment of a lump sum amount of Rs. 100 per family member per day for the period of travel of the worker for food during the journey by the employer.

The rule in the state of Haryana provides for the payment of journey allowance even if the worker has worked only for 60 days in the establishment. The rule in the state of Chhattisgarh seems to be more liberal from workers point of view, as there is no minimum time period required for the employee to claim journey allowance. The rule in Uttar Pradesh and Uttarakhand also makes the provision for payment of return fare to workman on expiry of employment and also in case of termination of employment before the term of employment due to any reason or on account of illness or injury, or cessation of work not due to fault of worker or worker resigned.

**Minimum number of women to be employed in case of below ground mine (Section 43, Rule 67):** The rule in some of the States/UTs namely Chandigarh, Jammu & Kashmir, Jharkhand, Ladakh, Manipur and Telangana is similar to the Central rule and puts the requirement of employing at least 3 women in a below ground mine. The rule in the States/UTs of Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Odisha, Tamil Nadu, Uttar Pradesh and Uttarakhand have either no provision or prescribed no threshold limit.

The rule in the states of Bihar and Punjab prescribes that the employer shall ensure that the women workers are employed in a batch of not less than ten and the total of the women workers employed in a night shift shall not be less than  $\frac{2}{3}$ <sup>rd</sup> of the



total strength. While in the state of Kerala, the employer has to ensure that the women workers are employed in a batch of not less than five.

**Qualification of Contractor and Conditions of Licence (Section 47(1), Rule 69 & Rule 70):** The rule in the state of Manipur regarding the qualification and criteria of the contractor for the purpose of granting of licence is similar to the Central rule (The contractor shall not be undischarged insolvent or convicted at any time during the last two years, of an offence punishable with more than 3 months imprisonment). A substantial majority of the States/UTs including Andhra Pradesh, Assam, Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Ladakh, Odisha, Punjab, Tamil Nadu, Uttar Pradesh and Uttarakhand does not have any rule in this regard. As regards the rule concerning the conditions of licence, the states/UTs of Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Ladakh, Madhya Pradesh, Manipur, Odisha, Tamil Nadu and Telangana have the provision quite similar to the Central rule, while the state of Uttarakhand does not have any rule in this regard.

The Central rule debars a person convicted any time during the last two years, of an offence liable for punishment for more than three months of imprisonment and is thus quite broad in its scope while some states such as Chhattisgarh, Karnataka, Madhya Pradesh and Telangana is quite restricted in its scope in terms of debarring only those persons from obtaining the licence who have been engaged in offence of criminal nature only. The rule in the state of Haryana additionally debars a person from obtaining licence if s/he is a minor or having been convicted of an offence, in the **last five years**, involving moral turpitude.

**Revocation or Suspension of licence (Section 51, Rule 79):** The rule in states of Andhra Pradesh, Chhattisgarh, Haryana, Karnataka, Madhya Pradesh, Manipur and Telangana is similar to the rule in Centre in this regard (obtaining licence by misrepresentation or suppression of any material fact or failure to comply with the conditions for licence or contravention of any of the provisions dealing with contract labour issues under the OSH & WC Code and the rules made thereunder). Some states and UTs including Bihar, Chandigarh, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Ladakh, Odisha, Punjab, Tamil Nadu, Uttar Pradesh and Uttarakhand do not have rule in this regard. The rule in the state of Assam and Union Territory of Jammu & Kashmir prescribes the time limit of 30 days for issuing of the notice and reply as compared to the limit of 15 days in case of Centre.

**Spread over on each day (Section 25(1)(b), Rule 28(2)):** The states of Andhra Pradesh, Haryana, Himachal Pradesh, Karnataka, Kerala, Manipur, Odisha and Uttarakhand provide for the maximum spread over of ten and a half hours in a day, which is similar to Central Rule. The remaining states provide for the maximum spread over of twelve and a half hours in a day, except the states of Gujarat and Uttar Pradesh which do not have any rule in this regard.

### **Rules on Code on Social Security, 2020**

**Funeral Expenses (Section 76(7)):** The states like Gujarat, Kerala, Maharashtra, Manipur, Uttarakhand have not made any rule in this regard. The Central law



provides for an amount of Rs. 15000 by way of expenditure towards the funeral of such employee however in several other states the amount ranges from Rs. 20000 to 25000. The state of Telangana provides for additional payment of transport charges to be calculated by competent authority within twelve hours and paid to the dependent of the employee by the employer.

**Time limit for disposal of application to pay compensation in case of accident (Section 93(4)):** Under Section 93(4) of the SS Code, 2020 the power to prescribe the time limit for this purpose has been given to the States/UTs. The rules framed by most of the States/UTs, have provided for a time-limit in the range of three to twelve months. *The states/UTs including Andaman & Nicobar, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Telangana, Uttar Pradesh and Uttarakhand have formulated no rule in this regard.* Ideally, there has to be a time limit and reasonably the maximum time limit be six months.

**Time-limit to pay the amount of cess and rate of interest (Section 101, Rule 44):** Cess on building and construction work levied by the State Governments/UTs in exercise of their powers under the Building and Other Construction Workers' Welfare Cess Act, 1996, is one of the important sources of fund for extending various social security benefits and measures to millions of workers engaged in the construction sector. The similar kind of provision has now also been incorporated in the SS Code, 2020 and the State Rules in this regard. The states and UTs of Haryana, Odisha, Puducherry, Telangana and Uttarakhand have rule similar to Central rule in this regard.

It is important to mention here that the provisions under most of the state rules with regard to the time period for payment of the cess is similar. Further, the rules of most of the states/UTs in this regard also provide for payment of interest by way of penalty to ensure the timely payment of cess. *However, Andaman & Nicobar, Bihar, Chandigarh, Goa, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Ladakh, Maharashtra, Manipur, Punjab and Uttar Pradesh have no penal provision to ensure timely payment of cess.*

**Manner of compounding of offences (Section 138, Rule 56):** The provision in most of the states/UTs is by and large similar to the provision contained in the Central Rule under this code which also contains the stipulation with regard to the time limit within which the composition fees has to be deposited as well as for issuing the composition certificate.

Further, the state rule of Manipur in this regard also provides the maximum time-limit (within one month of receipt of the memorandum of inspection of the Inspector-cum-Facilitator alleging the offence) for making application for composition.

## Annexure I

### Status of State Rules on Code on Wages, 2019 as on November 9, 2022

S.No.	State / Union Territory	Status
1.	Andaman & Nicobar	✓
2.	Andhra Pradesh	✓
3.	Arunachal Pradesh	✓
4.	Assam	✓
5.	Bihar	✓
6.	Chhattisgarh	✓
7.	Chandigarh	✓
8.	Delhi	✓
9.	Dadar and Nagar Haveli & Daman and Diu	✗
10.	Goa	✓
11.	Gujarat	✓
12.	Haryana	✓
13.	Himachal Pradesh	✓
14.	Jammu & Kashmir	✓
15.	Jharkhand	✓
16.	Karnataka	✓
17.	Kerala	✓
18.	Ladakh	✓
19.	Lakshadweep	✗
20.	Madhya Pradesh	✓
21.	Maharashtra	✓
22.	Manipur	✓
23.	Meghalaya	✗
24.	Mizoram	✓
25.	Nagaland	✗
26.	Odisha	✓
27.	Puducherry	✓
28.	Punjab	✓
29.	Rajasthan	✓
30.	Sikkim	✓
31.	Tamil Nadu	✓
32.	Telangana	✓
33.	Tripura	✓
34.	Uttar Pradesh	✓
35.	Uttarakhand	✓
36.	West Bengal	✗

Note- Draft Rules on Code on Wages, 2019 have been notified in 31 States & UTs and awaited in 5 States and UTs namely: Dadar and Nagar Haveli & Daman and Diu, Lakshadweep, Meghalaya, Nagaland, West Bengal.

## Annexure II

Status of State/UT Rules on Code on Industrial Relations, 2020 as on November 9, 2022		
S.No.	State / Union Territory	Status
1.	Andaman & Nicobar	✗
2.	Andhra Pradesh	✓
3.	Arunachal Pradesh	✓
4.	Assam	✓
5.	Bihar	✓
6.	Chhattisgarh	✓
7.	Chandigarh	✓
8.	Delhi	✗
9.	Dadar and Nagar Haveli & Daman and Diu	✗
10.	Goa	✓
11.	Gujarat	✓
12.	Haryana	✓
13.	Himachal Pradesh	✓
14.	Jammu & Kashmir	✓
15.	Jharkhand	✓
16.	Karnataka	✓
17.	Kerala	✓
18.	Ladakh	✓
19.	Lakshadweep	✗
20.	Madhya Pradesh	✓
21.	Maharashtra	✓
22.	Manipur	✓
23.	Meghalaya	✗
24.	Mizoram	✓
25.	Nagaland	✗
26.	Odisha	✓
27.	Puducherry	✓
28.	Punjab	✓
29.	Rajasthan	✗
30.	Sikkim	✗
31.	Tamil Nadu	✓
32.	Telangana	✓
33.	Tripura	✓
34.	Uttar Pradesh	✓
35.	Uttarakhand	✓
36.	West Bengal	✗

Note- Draft Rules on Industrial Relations Code, 2020 have been notified in 27 States & UTs and awaited in 9 States and UTs namely: Andaman & Nicobar, Delhi, Dadar and Nagar Haveli & Daman and Diu, Lakshadweep, Meghalaya, Nagaland, Rajasthan, Sikkim, West Bengal.



## Annexure III

### Status of State/UT Rules on Code on the OSH & WC Code, 2020 as on November 9, 2022

S.No.	States / Union Territory	Status
1.	Andaman & Nicobar	✗
2.	Andhra Pradesh	✓
3.	Arunachal Pradesh	✓
4.	Assam	✓
5.	Bihar	✓
6.	Chhattisgarh	✓
7.	Chandigarh	✓
8.	Delhi	✗
9.	Dadar and Nagar Haveli & Daman and Diu	✗
10.	Goa	✗
11.	Gujarat	✓
12.	Haryana	✓
13.	Himachal Pradesh	✓
14.	Jammu & Kashmir	✓
15.	Jharkhand	✓
16.	Karnataka	✓
17.	Kerala	✓
18.	Ladakh	✓
19.	Lakshadweep	✗
20.	Madhya Pradesh	✓
21.	Maharashtra	✓
22.	Manipur	✓
23.	Meghalaya	✗
24.	Mizoram	✗
25.	Nagaland	✗
26.	Odisha	✓
27.	Puducherry	✓
28.	Punjab	✓
29.	Rajasthan	✗
30.	Sikkim	✗
31.	Tamil Nadu	✓
32.	Telangana	✓
33.	Tripura	✓
34.	Uttar Pradesh	✓
35.	Uttarakhand	✓
36.	West Bengal	✗

Note- Draft Rules Code on OSH & WC, 2020 have been drafted in 26 States & UTs and awaited in 10 States and UTs namely: Andaman & Nicobar, Delhi, Dadar and Nagar Haveli & Daman and Diu, Goa, Lakshadweep, Meghalaya, Mizoram, Nagaland, Rajasthan, Sikkim, West Bengal.

## Annexure IV

Status of State/UT Rules on Code on Social Security, 2020 as on November 9, 2022		
S.No.	State / Union Territory	Status
1.	Andaman & Nicobar	✓
2.	Andhra Pradesh	✓
3.	Arunachal Pradesh	✓
4.	Assam	✓
5.	Bihar	✓
6.	Chhattisgarh	✓
7.	Chandigarh	✓
8.	Delhi	✗
9.	Dadar and Nagar Haveli & Daman and Diu	✗
10.	Goa	✓
11.	Gujarat	✓
12.	Haryana	✓
13.	Himachal Pradesh	✓
14.	Jammu & Kashmir	✓
15.	Jharkhand	✓
16.	Karnataka	✓
17.	Kerala	✓
18.	Ladakh	✓
19.	Lakshadweep	✗
20.	Madhya Pradesh	✓
21.	Maharashtra	✓
22.	Manipur	✓
23.	Meghalaya	✗
24.	Mizoram	✓
25.	Nagaland	✗
26.	Odisha	✓
27.	Puducherry	✓
28.	Punjab	✓
29.	Rajasthan	✗
30.	Sikkim	✗
31.	Tamil Nadu	✗
32.	Telangana	✓
33.	Tripura	✓
34.	Uttar Pradesh	✓
35.	Uttarakhand	✓
36.	West Bengal	✗

Note- Draft Rules Code on SS, 2020 have been drafted in 26 States & UTs and awaited in 10 States and UTs namely: Andhra Pradesh, Delhi, Dadar and Nagar Haveli & Daman and Diu, Lakshadweep, Meghalaya, Nagaland, Rajasthan, Sikkim, Tamil Nadu, West Bengal.



## Annexure V

### Important Steps to be undertaken by Central and Appropriate/State Governments for implementation of the various Labour Codes

In order to effectively implement the various Labour Codes in their true letter and spirit, there is a requirement of taking certain immediate steps by the Central and the Appropriate/State Governments. The code wise steps required are as follows:

#### I. The Code of Wages, 2019

##### Steps to be taken by Central Government

1. Fixation of floor wage taking into account minimum living standards of the worker under Section 9(1).
2. Constitution of the Central Advisory Board under section 42(1).

##### Steps to be taken by Appropriate/State Governments

1. Appointment of Authority under Section 7(2) to compute the cost-of-living allowance and the cash value of concessions in respect of supplies of essential commodities at concession rate at such intervals and in accordance with such directions as may be specified or given **by the appropriate Government** from time to time.
2. Appointment of required number of committees **by the appropriate Government** under Section 8(1) to hold enquiries and recommend in respect of fixing minimum rates of wages for the first time or revising minimum rates of wages under this code.
3. Constitution of the State Advisory Board **by the state Government** under section 42(4).
4. Appointment of the required number of authorities, not below the rank of a Gazetted Officer **by the appropriate Government**, under Section 45(1) to hear and determine the claims arising under the provisions of this Code.
5. Appointment of the Appellate Authority **by the appropriate Government** under Section 49(1) to hear the appeal filed by any person aggrieved by an order passed by the authority under sub-section (20) of section 45.
6. Appointment of "Inspectors-cum-Facilitators" **by the appropriate Government** under Section 51(1).
7. Appointment of officer(s) not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government **by the appropriate Government** under Section 53, for holding enquiry and for the purpose of imposing penalty under clauses (a) and (c) of sub-section (1) and sub-section (2) of Section 54 and sub-section (7) of Section 56.
8. Specifying a Gazetted Officer for Composition of offences **by the appropriate Government** under Section 56(1).

#### II. The Industrial Relations Code, 2020

##### Steps to be taken by Central Government

1. Constitution of one or more National Industrial Tribunals for adjudication of industrial disputes which, in the opinion of the Central government involves



questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes under Section 46(1).

### Steps to be taken by Appropriate/State Governments

1. Appointment of the Registrar of Trade Unions, Additional Registrar(s) of Trade Unions, Joint Registrar(s) of Trade Unions and Deputy Registrar(s) of Trade Unions, for exercising such powers and perform such duties of the Registrar as **the State Government** may, by notification, specify from time to time under Section 5(1).
2. Appointment of “Certifying Officer(s)” by **the Appropriate Government** as defined under Section 2(g) of the Code to perform the functions of a Certifying Officer under the provisions of Chapter IV (Standing Orders) and appointment of the appellate authority under Section 32 to dispose of the appeal filed against the order of the Certifying Officer under sub-section (5) of Section 30.
3. Appointment of “Conciliation Officer(s)” by **the Appropriate Government** under section 43 for mediating in and promoting the settlement of industrial disputes.
4. Constitution of Industrial Tribunal(s) under Section 44(1), consisting of two members by **the Appropriate Government**, for the adjudication of industrial disputes and for performing such other functions as may be assigned to them under this Code and prescribing the terms of office of the Judicial Member and the Administrative Member, their salaries and allowances, procedure of resignation, removal and other terms and conditions of service, under Section 44(5) of the Code.
5. Setting up ‘Worker re-skilling fund’ by **the Appropriate Government** under Section 83.
6. Appointment of an officer by **the Appropriate Government** not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government under Section 85 for the purpose of imposing penalty under sub-section (3), (5), (7), (8), (9), (10), (11) and (20) of section 86 and sub-section (7) of section 89.
7. Specifying a Gazetted Officer for composition of offences by **the appropriate Government** under Section 89 of the Code.

### III. The Occupational Safety, Health and Working Conditions Code, 2020

#### Steps to be taken by Central Government

1. Constitution of the National Occupational Safety and Health Advisory Board under Section 16(1) to discharge the functions conferred on it by or under the OSH & WC Code and to advise the Central Government on the matters as referred under clauses (a)-(d) of Section 16(1) of the Code.
2. Laying down the standards on occupational safety and health for workplaces relating to factory or mine, dock work, beedi and cigar, building and other construction work and other establishments under Section 18(1).

#### Steps to be taken by Appropriate/State Governments

1. Appointment of the Registering Officer for the registration of establishment under Section 3 of the Code by **the Appropriate Government** and prescribing



- application form containing such particulars including the information relating to the employment of inter-state migrant workers and prescribe fees.
2. Appointment of Appellate Officer **by the Appropriate Government** under Section 4 of the Code to dispose of the appeal filed against an order made by the Registering Officer.
  3. Constitution of State Occupational Safety and Health Advisory Board **by the State Government** under Section 17 of the Code 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 and prescribe the procedure and other matters relating to State Advisory Board.
  4. Constituting under Section 17(3) of the Code, the required number of technical committees or advisory committees of the State Advisory Board including site appraisal committees to assist the State Government or State Advisory Board in discharge of their functions **by the State Government**.
  5. Appointment of Inspectors-cum-Facilitators **by the Appropriate Government** under Section 34(1) of the Code.
  6. Laying down under Section 34(3) of the Code an inspection scheme which may provide for the generation of web-based inspection **by the Appropriate Government**.
  7. Appointment of “Chief Inspector-cum-Facilitator” under sub-section (5) of Section 34 of the Code. Appointment of Additional Chief Inspector-cum-Facilitator(s), Joint Chief Inspector-cum-Facilitator(s) and Deputy Chief Inspector-cum-Facilitator(s) or any other officer of any designation, to exercise such powers of the Chief Inspector-cum-Facilitators within his/her jurisdiction under Section 34(6) **by the Appropriate Government** of the Code.
  8. Appointment of such public officers as the appropriate government thinks fit to be Inspector-cum-Facilitator(s) in addition to existing Inspector-cum-Facilitator(s) for exercising the powers and discharging the duties of Inspector-cum-Facilitator(s) for all or any other purposes of the Code within such local limits as may be specified in such notification under Section 34(9) of the Code.
  9. Appointment of Medical Officer(s) **by the Appropriate Government** under sub-section (1) of Section 42 of the Code in relation to factory, mines, plantation, and water transport undertakings and in any other establishment as prescribed.
  10. Appointment of a designated authority **by the Appropriate Government** under Section 57(2) of the Code to advise that on the question whether any activity of an establishment is a core activity or otherwise in respect of contract labour.
  11. Prescribing provisions under Section 90 of the Code providing the manner in which and the appropriate authority to whom the manager or occupier of the factory may make appeal against the order of the Inspector-cum-Facilitator and the procedure for disposing of such appeals **by the Appropriate Government**.
  12. Appointment of any officer not below the rank of Under Secretary to the Government of India or an officer of equivalent rank in the State Government under Section 111(1) of the Code for holding inquiry in such manner and for the purpose of imposing penalty under sub-section (3) of Section 12 of the



Code or Sections 94, 96, 97, 99, 106 and sub-section (3) of Section 114 of the Code.

13. Appointment of Appellate Authority from amongst officers not below the rank of Deputy Secretary to the Government of India or an officer of equivalent rank in the State Government under Section 111(3) of the Code to hear and dispose of an appeal filed against an order of penalty imposed by the officer.
14. Notification of Officer for composition of the specified **by the Appropriate Government** offences under Section 114 of the Code.
15. Designating Gazetted officers as authority **by the Appropriate Government** under sub-section (1) of Section 119 of the Code and specify the limits of their jurisdiction and vest them with such powers and duties including dealing with issuance and revocation of licences electronically.
16. Prescribing Appellate Authority under Section 119(6) of the Code to dispose of appeal filed against the order passed by the authority under Section 119(3) of the Code and specify the form of appeal and the fee to be accompanied therewith **by the Appropriate Government**.

#### IV. The Code on Social Security, 2020

##### Steps to be taken by Central Government

1. Constitution of Standing Committee from amongst the members of the Employees' State Insurance Corporation under Section 5(3) of the Code.
2. Constitution of National Social Security Board for unorganized workers under Section 6(1), to exercise the powers conferred on and to perform the functions assigned to it under this code.
3. Appointment of Central Provident Fund Commissioner who shall be the CEO of the Central Board and shall also function as the head of the Employees' Provident Fund Organization under Section 14(1).
4. Framing of the Employees' Provident Fund Scheme under Section 15(1).
5. Establishment of a Provident Fund under Section 16(1).
6. Appointment of Director General of Employees' State Insurance Corporation and a Financial Commissioner under Section 24(1) of the Code, who shall be the Principal Officers of the Corporation.
7. Framing of Schemes for unorganized workers, gig workers and platform workers and the members of their families for providing benefits under Chapter IV of the Code as per the requirement of Section 45(1).
8. Appointment of "Inspectors-cum-Facilitators" for the purposes of Chapter III and IV and further provisions relating to these chapters under Section 122(1) of the Code.
9. Establishment of Social Security Fund and welfare of the unorganized workers, gig workers and platform workers under Section 141(1).

##### Steps to be taken by Appropriate/State Governments

1. Constitution of **the State Unorganized Workers' Social Security Board by the State government** under section 6(9) of the Code and prescribe the manner in



which members shall be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of the State Unorganized Workers' Board.

2. Constitution of **State Building Workers' Welfare Board** by the **State government** under Section 7(1) of the Code and prescribe the terms and conditions of appointment and the salaries and other allowances payable to the Chairperson and the other members of the Building Workers' Welfare Board, and the manner of casual vacancies of the members of the Building Workers' Welfare Board.
3. Prescribing under Section 7(5)(c) of the Code, the terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Building Workers' Welfare Board by the **State government**.
4. Constitution of Employees' Insurance Court by the **State government** under Section 48 of the Code.
5. Appointment of "competent authority" by the **Appropriate government** under section 58(1) of the Code for the purposes of Chapter V (Gratuity); specify "appellate authority" under Section 56(8) to hear an appeal against the decision of the competent authority; notifying the "appellate authority" for the purposes of Chapter VI (Maternity Benefit); and appointment of the "competent authority" under section 91 for the purposes of Chapter VII (Employees' Compensation) as the case may be.
6. Framing and notifying, from time to time, under section 109(2) of the Code suitable welfare schemes for unorganized workers, including schemes relating to- (i) provident funds; (ii) employment injury benefit; (iii) housing; (iv) educational schemes for children; (v) skill upgradation of workers; (vi) funeral assistance; and (vii) old age homes by the **State government**.
7. Setting up under Section 112 of the Code, a toll-free call center or helpline or such facilitation centers as may be considered necessary from time to time to perform certain functions for unorganized workers, gig workers and platform workers by the **Appropriate government**.
8. Appointment of "Inspectors-cum-Facilitators" by the **Appropriate government** under Section 122 of the Code for the purposes of Chapters other than III and IV of the code.
9. Authorizing an officer by the **Appropriate government** under Section 138(1) of the Code for compounding of offences relating to provisions of this Code [Except Chapter III and IV] and the rules, regulations or schemes made or framed under this Code relating thereto.
10. Establishment of Social Security Fund for the welfare of the unorganized workers by the **State government** under Section 141(5) of the Code.



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