

Z-13025/12/2015-LRC  
Government of India  
Ministry of Labour and Employment

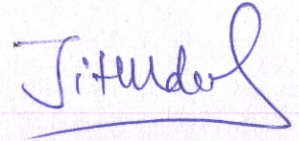
Shram Shakti Bhawan, Rafi Marg,  
New Delhi dated, the 20<sup>th</sup> July, 2018

**Note**

**Subject: The draft Labour Code on Occupational Safety, Health and Working Conditions, 2018 - regarding .**

Ministry of Labour & Employment has placed on its website the draft Labour Code on Occupational Safety, Health and Working Conditions, 2018 on 23rd March, 2018 [[https://labour.gov.in/sites/default/files/OSH\\_23-03-2018.pdf](https://labour.gov.in/sites/default/files/OSH_23-03-2018.pdf)], inviting comments/suggestions of various stakeholders including general public.

2. Now, the last date for giving comments/suggestions on the draft Code on Occupational Safety, Health and Working Conditions, 2018 has been extended upto 31<sup>st</sup> August, 2018.



(J. K. Singh)

Under Secretary to the Govt. of India  
Tel. No-2376 6937  
e-mail-jk.singh68@nic.in

To,  
All the Stakeholders

Z-13025/12/2015-LRC  
Government of India  
Ministry of Labour and Employment

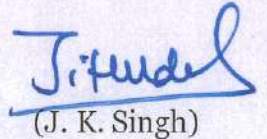
Shram Shakti Bhawan, Rafi Marg,  
New Delhi dated, the 23<sup>rd</sup> April, 2018

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2. Now, it has been decided to extend the last date for giving comments/suggestions on the Draft Code on Occupational Safety, Health and Working Conditions, 2018 to 31<sup>st</sup> May, 2018.

  
(J. K. Singh)

Under Secretary to the Govt. of India  
Tel. No-2376 6937  
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To,  
All the Stakeholders

**F. No. Z-13025/12/2015-LRC**  
**Government of India**  
**Ministry of Labour and Employment**

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Shram Shakti Bhawan, New Delhi

Dated: 23<sup>rd</sup> March, 2018

**OFFICE MEMORANDUM**

Sub:- The draft Labour Code on Occupational Safety, Health and Working Conditions, 2018. – inviting comments/suggestions/inputs Reg.

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The undersigned is directed to say that the Ministry of Labour & Employment has been taking steps for simplification, amalgamation and rationalization of Central Labour Laws which is also in tandem with recommendations of 2<sup>nd</sup> National Commission on Labour. The various existing Acts are being proposed to be subsumed in four major Labour Codes viz., Code on Wages, Code on Industrial Relations, Code of Social Security and Code on Occupational Safety, Health and Working Conditions.

2. Now, the Ministry has prepared a preliminary draft on Code on Occupational Safety, Health and Working Conditions, 2018, by amalgamating 13 labour laws relating to safety and health standards, health and working conditions, welfare provisions for the employees and leave and hours of work. The following Acts have been merged.

- i. The Factories Act, 1948 (Act no. 63 of 1948)
- ii. The Mines Act, 1952 (Act no. 35 of 1952)
- iii. The Dock Workers (Safety, Health and Welfare) Act, 1986 (Act no. 54 of 1986)
- iv. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Act No. 27 of 1996)
- v. The Plantations Labour Act, 1951 (Act No. 69 of 1951)
- vi. The Contract Labour (Regulation and Abolition) Act, 1970
- vii. The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979

- viii. The Working Journalist and other News Paper Employees (Conditions of Service and Misc. Provision) Act, 1955
- ix. The Working Journalist (Fixation of rates of wages) Act, 1958
- x. The Motor Transport Workers Act, 1961
- xi. Sales Promotion Employees (Condition of Service) Act, 1976
- xii. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
- xiii. The Cine Workers and Cinema Theatre Workers Act, 1981

3. Your specific inputs/suggestions are requested on the various aspects of the code including threshold/applicability, the registration/ licensing and processes there of, National/State Occupational Safety & Health Boards, the broad aspects on working and health conditions, safety standards, welfare measures, enforcement mechanism, penalties, rule making powers of the Central and State Governments and the various items incorporated in the three schedules.

4. The preliminary draft is enclosed for inviting comments/suggestions of the various stakeholders including general public. It is requested that the comments/suggestions may be sent to this Ministry by 22.04.2018 on the address, i.e. Under Secretary (LRC), Ministry of Labour & Employment, Room No. 17A, Shram Shakti Bhawan, Rafi Marg, New Delhi – 110 001 or through email: [jk.singh68@nic.in](mailto:jk.singh68@nic.in). The suggestions/comments should be in the following format:

Format			
Section/Sub-section/Clause/Proviso of the code	Issue/problem identified in the relevant clause	Proposed change/correction that is suggested	Reason for the proposed change

*A. Tripathi*  
23/3/18  
(Anita Tripathi)

Deputy Secretary to the Government of India

Ph: 23711354

Encl: 65 pages of the Code

To

All stakeholders.

**Draft**

**CODE ON OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS, 2018**

**Arrangement of Clauses:**

**Chapter I: Preliminary**

1. Short title, extent and commencement
2. Definitions

**Chapter II: Registration**

3. Registration of certain establishments
4. Appeal
5. Notice by employer of commencement and cessation of operation

**Chapter III: Duties of Employer and Employees, etc.**

6. Duties of employer
7. Duties and responsibilities of owners, agents and managers in relation to mine
8. Duties of manufacturers
9. Duties of architects, project engineers and designers
10. Notice of certain accident
11. Notice of certain dangerous occurrences
12. Notice of certain diseases
13. Duties of employees
14. Rights of employee
15. Duty not to interfere with or misuse things

**Chapter IV: Occupational Safety and Health**

16. National Occupational Safety and Health Advisory Board
17. State Occupational Safety and Health Advisory Board
18. Occupational Safety and Health Standards
19. Research related activities
20. Safety and occupational health surveys
21. Statistics
22. Safety Committee and Safety Officers

**Chapter V: Health and Working Conditions**

23. Responsibility of employer for maintaining health and working conditions

**Chapter VI: Welfare Provisions**

24. Washing facilities in the establishment, etc.

**Chapter VII: Hours of Work and Annual Leave with Wages**

25. Weekly and daily working hours, etc.
26. Weekly and compensatory holidays
27. Extra wages for overtime
28. Night shifts
29. Prohibition of overlapping shifts
30. Restriction on double employment in factory and mine
31. Notice of periods of work
32. Annual leave with wages, etc.

**Chapter VIII: Maintenance of Registers, Records and Returns etc.**

33. Maintenance of registers and records and filing of returns

**Chapter IX: Facilitators and other Authority**

34. Appointment of Facilitators
35. Powers of Facilitators
36. Special powers of Facilitator in respect of factory, mines and dock work and building and other construction work

37. Secrecy of information by Chief Facilitator or Facilitator, etc.
38. Facilities to be afforded to the Facilitator
39. Powers of Special Officer to enter, measure, etc. in relation to mine
40. Medical Officer

**Chapter X: Special Provision relating to Employment of Women**

41. Applicability of the chapter
42. Restriction on employment of women
43. Prohibition on employment of women in dangerous operation

**Chapter XI - Special Provisions for Contract Labour and Inter State Migrant Worker, etc.**

**PART-I Contract Labour and Inter State Migrant Worker**

44. Applicability of this Part
45. Appointment of licensing officers
46. Licensing of contractors
47. Grant of licence
48. No fees or Commission or any cost to workers
49. Information regarding work order to be given to the appropriate Government
50. Revocation, suspension and amendment of license
51. Appeal
52. Liability of Principal Employer for welfare facilities
53. Effect of employing contract labour from a non-licensed Contractor
54. Responsibility of Payment of wages
55. Experience Certificate
56. Prohibition of employment of contract labour
57. Power to exempt in special cases
58. Facilities to Inter- State Migrant workers
59. Displacement allowance
60. Journey allowance etc.
61. Past liabilities

**PART- II Audio-Visual Workers**

62. Prohibition of employment of audio-visual worker without agreement

**PART- III Mines**

63. Managers
64. Code not to apply in certain cases
65. Exemption from provision regarding employment
66. Decision of question whether a mine is under this Code

**PART- IV Beedi and Cigar Workers**

67. Licence to industrial premises and person
68. Appeals
69. Permission to work by employees outside industrial premises
70. Part not to apply to self employed persons in private dwelling houses

**PART -V Building and other Construction Worker**

71. Prohibition of employment of certain persons in certain building or other construction work

**PART- VI Factory**

72. Approval, licensing and registration of factories
73. Liability of owner of premises in certain circumstances
74. Power to apply the Code to certain premises
75. Dangerous operations
76. Constitution of Site Appraisal Committee
77. Compulsory disclosure of information by the occupier
78. Specific responsibility of the occupier in relation to hazardous processes
79. Power of Central Government to appoint Inquiry Committee
80. Emergency standards
81. Permissible limits of exposure of chemicals and toxic substances
82. Workers' participation in safety management

- 83. Right of workers to warn about imminent danger
- 84. Power to direct inquiry into cases of accident or disease in a factory
- 85. Appeal against the order of facilitator in case of factory
- 86. Power to make exempting rules and order

**Chapter XII: Offences, Penalties and Procedure**

- 87. General penalty for offences
- 88. Causing obstruction to deter Chief Facilitator or Facilitator from duty, etc.
- 89. Non-maintenance of register and records and non-filing of returns, etc. etc.
- 90. Contravention of provisions regarding employment of worker including women, audio-visual worker and contract labour, etc
- 91. Falsification of records, etc.
- 92. Penalty on disclosure of information
- 93. Penalty for wrongfully disclosing results of analysis of a sample of substance used or intended to be used
- 94. Penalty for contravention of the provisions of duties relating to hazardous processes
- 95. Penalty for contravention of the provisions of duties relating to safety provisions resulting in an accident
- 96. Failure to appoint manager in a mine
- 97. Offences by employees
- 98. Prosecution of owner, agent or manager of a mine
- 99. Exemption of owner, agent or manager of a mine or occupier of a factory from liability in certain cases
- 100. Offences by companies, etc.
- 101. Limitation of Prosecution and cognizance of offence
- 102. Jurisdiction of a court for entertaining proceedings, etc., for offence
- 103. Power of Court to make orders
- 104. Compounding of offences

**Chapter XIII: Miscellaneous**

- 105. Delegation of powers
- 106. Onus as to age
- 107. Onus of proving limits of what is practicable, etc.
- 108. Effect of law and agreements inconsistent with this Code
- 109. Power of the appropriate Government to direct inquiry in certain cases
- 110. Publication of reports
- 111. Powers of Central Government to give directions
- 112. General restriction on disclosure of information
- 113. Jurisdiction of civil courts barred
- 114. Protection of action taken in good faith
- 115. Power to exempt in special cases
- 116. Power to exempt during public emergency
- 117. Power to exempt public institution
- 118. Persons required to give notice, etc., legally bound to do so
- 119. Power to remove difficulties
- 120. Power of the appropriate Government to make rules
- 121. Power of the Central Government to make rules
- 122. Power of the State Government to make rules
- 123. Power of Central Government to make regulations in relation to mines and dock work
- 124. Prior publication of regulation and rules in relation to mine and dock work
- 125. Power to make regulation without previous publication
- 126. Bye-laws
- 127. Laying regulations, rules and bye laws before parliament
- 128. Laying of rules made by State Government
- 129. Repeal and Savings

**The First Schedule**

**The Second Schedule**

**The Third Schedule**

**Draft**  
**CODE ON OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS, 2018**

**A**  
**Bill**

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

BE it enacted by Parliament in the sixty-ninth Year of the Republic of India as follows:-

**Chapter I**  
**Preliminary**

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

1. This Act may be called the Code on Occupational Safety, Health and Working Conditions, 2018.
2. It extends to the whole of India:  
Provided that the provision of this Code in so far as are concerned with the beedi and cigar and plantation shall not be applicable in the state of Jammu and Kashmir.
3. It shall come into force on such date as the Central Government may, by notification appoint; and different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the coming into force of that provision.

**2. Definitions – (1) In this Code, unless the context otherwise requires,-**

(a) **“adolescent”** shall have the meaning as assigned to it in clause (i) of section 2 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (61 of 1986);

(b) **“adult”** means a person who has completed his eighteenth year;

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

(d) **“appropriate Government”** means -

- (i) in relation to an establishment carried on by or under the authority of the Central Government, railways, mines, oil fields, major ports, air transport services, telecommunication, banking and insurance company or a corporation or other authority established by a Central Act or a central public sector undertaking, subsidiary companies set up by the principal undertakings or autonomous bodies owned or controlled by the Central Government, the Central Government; and
- (ii) in relation to any other establishment, the State Government of a State in which the other establishment is situate.

Explanation.- For removal of doubt, it is clarified that in respect of the contract labour supplied by a contractor for the purposes of an establishment, the appropriate Government for the establishment shall also be the appropriate Government for such contract labour;

(e) **“audio-visual”** production means audio-visual produced in wholly or partly in India including animation, cartoon depiction and audio-visual advertisement.

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

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

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

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

(j) **“competent person”**, in relation to any provision of this Code, means a person or an institution recognised as such by the Chief Facilitator for the purposes of carrying out tests, examinations and inspections required to be done in an establishment having regard to-

- (i) the qualifications and experience of the person and facilities available at his disposal; or
- (ii) the qualifications and experience of the persons employed in such institution and facilities available therein;

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

(l) **“contract labour”** means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-state migrant worker.

Explanation 1.-For removal of doubt, it is clarified that where in or in connection with the work of an establishment, a worker, who is regularly employed in an establishment of a contractor, is hired in or in connection with such work of the first said establishment by or through the contractor, with or without the knowledge of the principal employer, shall not be deemed as “contract labour” for the purposes of this clause.

Explanation 2.- For the purposes of Explanation 1, the expression “regularly employed in an establishment of a contractor”, in case of a worker, means such worker who is employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment, but does not include part time employee;

(m) **“contractor”**, in relation to an establishment, means a person, who –

- (i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or
- (ii) supplies contract labour for any work of the establishment as mere human resource;

and includes a sub-contractor;

(n) **“chief facilitator”** means a Chief Facilitator appointed under sub-section (3) of section 34;

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

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

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

- (i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port; and
- (ii) all repairing and maintenance processes connected with any hold, tank structure or lifting machinery or any other storage area on board the ship or in the docks;
- (iii) chipping, painting or cleaning of any hold, tank, structure or lifting machinery or any other storage area in board the ship or in the docks;

(r) **“employee”** means, –

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

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

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

- (a) in any mining operation (including the concomitant operations of handling and transport of minerals upto the point of dispatch and of gathering sand and transport thereof to the mine);
- (b) in operations or services relating to the development of the mine including construction of plan therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;
- (c) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;
- (d) in operations, within the premises of the mine, of loading for dispatch of minerals;
- (e) in any office of the mine;
- (f) in any welfare, health, sanitary or conservancy services required to be provided under this Code relating to mine, or watch and ward, within the premises of the mine excluding residential area; or
- (g) in any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations;

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

- (i) in relation to an establishment which is a factory, the occupier of the factory;
- (ii) in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where said affairs are entrusted to a manager or managing director, such manager or managing director;
- (iii) in relation to mine, the owner of the mine; and
- (iv) Contractor;

(t) **“establishment”** means-

- (i) mine, motor transport undertaking or the place where dock work is performed; and
- (ii) any place where any industry, trade, business, manufacture or occupation is carried on including factory, newspaper establishment and plantation in which more than ten workers are employed;

(u) **“facilitator”** means a facilitator appointed under sub-section (1) of section 34;

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

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

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

Explanation I.—For computing the number of workers for the purposes of this clause all the workers in 10 different groups and relays] in a day shall be taken into account;

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

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

- (i) his or her spouse, and
- (ii) children including adopted children of the worker dependent upon him, who have not completed their eighteenth year,

and includes parents and widow sister, dependent upon him;

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

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

- (i) cause material impairment to the health of the persons engaged in or connected therewith, or
- (ii) result in the pollution of the general environment:

Provided that the Central or State Government may, by notification, amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule.

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

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

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

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit;

but does not include —

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

(zc) "**inter-State migrant worker**" means any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State;

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

(ze) "**manufacturing process**" means any process for-

- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or
- (ii) pumping oil, water, sewage or any other substance; or
- (iii) generating, transforming or transmitting power; or
- (iv) composing, printing, printing by letter press, lithography, offset, photogravure screen printing, 3-Dimensional printing, prototyping, flexography or other types of printing process or book binding; or
- (v) constructing, reconstructing, repairing, refitting, finishing, or breaking up ships or vessels; or
- (vi) preserving or storing any article in cold storage ; or
- (vii) such other purposes as the Central Government may notify;

(zf) "**medical officer**" means the medical officer appointed under sub-section (1) of section 40;

(zg) "**mine**" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes -

- (i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;
- (ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;
- (iii) all levels and inclined planes in the course of being driven;
- (iv) all opencast workings;
- (v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse there from;
- (vi) all adits, levels, planes, machinery works, railways, tramways and sidings in or adjacent to and belonging to a mine;
- (vii) all protective works being carried out in or adjacent to a mine;
- (viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;
- (ix) all power stations, transformer sub-stations, converter stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;
- (x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand

refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;

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

and includes a mine owned by the Government;

(zh) **“minerals”** means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulic, quarrying, or by any other operation and includes mineral oils (which in turn include natural gas and petroleum);

(zi) **“motor transport undertaking”** means a motor transport undertaking employing motor transport worker and engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier;

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

- (i) any such person who is employed in a factory ;
- (ii) any such person to whom the provisions of any law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;

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

(zl) **“newspaper establishment”** means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspaper or for conducting any news agency or syndicate and includes newspaper establishments specified as one establishment as below, namely:-

- (1) two or more newspaper establishments under common control shall be deemed to be one newspaper establishment;
- (2) two or more newspaper establishments owned by an individual and his or her spouse shall be deemed to be one newspaper establishment unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;
- (3) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory shall be deemed to be one newspaper establishment.

Explanation 1 – For the purposes of sub-clause (1) two or more establishments shall be deemed to be under common control-

- (a) (i) where the newspaper establishments are owned by a common individual or individuals;
  - (ii) where the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;
  - (iii) where the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;
  - (iv) where one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;
  - (v) where one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or
- (b) where there is functional integrality between concerned newspaper establishments.

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

- (a) different departments, branches and centers of newspaper establishments shall be treated as parts thereof;
- (b) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper.

(zm) "**notification**" means a notification published in the Gazette of India or the official gazette of a state, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;

(zn) "**occupier**" of a factory means the person who has ultimate control over the affairs of the factory:

Provided that-

- (i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;
- (ii) in the case of a company, any one of the directors shall be deemed to be the occupier;
- (iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier:

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

(zo) "**office of the mine**" means an office at the surface of the mine concerned;

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

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

(zr) "**owner, in relation to a mine**, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor or sub-lessee for the working of a mine or any part thereof shall be jointly and severally liable under the provisions of the Code with the owner;

(zs) "**plantation**" –

(A) means any land used or intended to be used for -

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

Explanation.—Where any piece of land used for growing any plant referred to in paragraph (i) or paragraph (ii) of this sub-clause admeasures less than five hectares and is contiguous to any other piece of land not being so

used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purposes of this sub-clause, the piece of land first mentioned shall be deemed to be a plantation, if the total area of both such pieces of land admeasures five hectares or more; and

(B) also means any land which the state government may, by notification, declares and which is used or intended to be used for growing any plant referred to in paragraph (i) or paragraph (ii) of sub-clause (A), notwithstanding that it admeasures less than five hectares:

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

(C) includes offices, hospitals, dispensaries, schools and any other premises used for any purpose connected with any plantation within the meaning of sub-clause (A) and sub-clause (B); but does not include factory on the premises;

(zt) "**prescribed**" means prescribed by rules made by the Central Government or the State Government, as the case may be, under this Code;

(zu) "**principal employer**", where the contract labour is employed or engaged, means—

- (i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf;
- (ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory, the person so named;
- (iii) in a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named;
- (iv) in relation to any other establishment, any person responsible for the supervision and control of the establishment.

(zv) "**producer**", in relation to audio-visual production means the person by whom the arrangements necessary for producing such audio-visual (including the raising of finances and engaging audio-visual workers for producing audio-visual) are under-taken;

(zw) "**production**", in relation to production of audio-visual, including any of the activities in respect of making thereof;

(zx) "**qualified medical practitioner**" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956) and who is enrolled on a State Medical register as defined in clause (k) of that section;

(zy) "**relay**"- where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a "relay " and each such periods is called a "shift";

(zz) "**sales promotion employees**" means any person by whatever name called (including an apprentice) employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, but does not include any such person,-

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

(zza) "**serious bodily injury**" means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(zzb) "**standards,**" "**regulations**" and "**rules**" respectively means standards, regulations and rules made under this Code;

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

(zzd) **“worker”** means any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees for the purposes of any proceeding under this Code in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched or otherwise terminated in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

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

Explanation.- For the purposes of this clause, the expression “industrial dispute” shall have the same meaning as assigned to it in clause (k) of section 2 of the Industrial Disputes Act 1947;

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

- (2) A person working or employed in or in connection with mine is said to be working or employed-
- (a) **“below ground”** if he is working or employed-
    - (i) in a shaft which has been or is in the course being sunk ; or
    - (ii) in any excavation which extends below superjacent ground ; and
  - (b) **“above ground ”** if he is working in an open cast working or in any other manner not specified in clause (a).

## **Chapter II Registration**

**3. Registration of certain establishments.** – (1) Every employer of an establishment, employing ten or more employees, shall, register-

- (a) such establishment to which this Code applies at its commencement; and
- (b) such other establishment to which this Code may be applicable at any time after such commencement;

within a period of six months from such commencement or, as the case may be, from the date on which this Code becomes so applicable to such establishment, by making an application to the registering officer appointed by the appropriate government (hereinafter referred to as the registering officer) for the registration of such establishment:

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

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

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

Provided that where an establishment is ministry, department, attached office or subordinate office of the Central Government or a State Government, then, the registration of the establishment is not required under this section.

Explanation – For the purposes of this sub-section, the expression “attached office or sub-ordinate office of the Central Government or a State Government” means such offices of the Central Government or State Government, as the case may be, -

- (i) to whom any execution of policy of such Government has been decentralized for executive convenience; or
- (ii) which are responsible for providing executive direction required in implementation of the policies laid down by the Ministry or department of the Government to which they are attached or subordinate; or
- (iii) which generally function as field establishments or an agencies responsible for the detailed execution of the policies of the concerned Government; or

which, are, having regard to the nature of their responsibilities and functions, have been declared by the concerned Government to be the attached offices or subordinate offices .

(4) Where, after the registration of an establishment under this Code, any change occurs in the ownership or management or other particulars prescribed by the Central Government in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed by the Central Government.

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

- (a) inform the closing of such establishment;
- (b) certify payment of all dues to the workers,

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

(6) If an employer of an establishment-

- (i) violates any provision of this Code applicable to such establishment; or
- (ii) has misrepresented or misrepresents any fact relating to registration to the registering officer,

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

(7) No employer of an establishment-

- (i) who has not registered the establishment under this section; or
- (ii) the registration of such establishment has been cancelled under clause (5) or revoked under clause (6) and no appeal has been preferred against such revocation under section 4 or where such appeal has been preferred, such appeal has been dismissed,

shall employ in the establishment any employee.

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

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

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

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

### **Chapter III Duties of Employer and Employees, etc.**

#### **6. Duties of employer:**

- (1) Every employer shall ensure to his employees that work place is free from hazards that cause or are likely to cause injury or occupational disease to the employees, and shall comply with the Occupational Safety and Health standards made under this Code and of the regulations, rules, bye-laws and orders made there under.
- (1A) Every employer shall ensure the periodical medical examination and prescribed tests of the employee employed in his establishment in the manner as prescribed.
- (2) Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees.
- (3) Every employer or manager of an establishment shall furnish to every worker on his appointment in the establishment, a letter of appointment in the prescribed form and where a worker appointed on or before the commencement of this Code does not have an appointment letter furnished by his employer or manager, such worker shall, within three months of such commencement, be furnished with appointment letter in the form so prescribed.
- (4) No employer shall levy or permit to be levied on any employee, any charge in respect of anything done or provided for maintenance of safety and health at work place including conduct of medical examination and investigation for the purpose of detecting occupational diseases.
- (5) Without prejudice to the generality of the provisions of sub-section (1), (2), (3), (4) the duties of an employer shall particularly in respect of factory, mines, dock, building and other construction work or plantation include -
  - (a) the provision and maintenance of plant and systems of work in the workplace that are safe and without risks to health;
  - (b) the arrangements in the workplace for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
  - (c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all workers at work;
  - (d) the maintenance of all places of work in the workplace in a condition that is safe and without risks to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risks;
  - (e) the provision, maintenance or monitoring of such working environment in the workplace for the employees that is safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work.
- (6) Every employer relating to factory, mine, dock work, building or other construction work or plantation shall ensure and be responsible for the safety and health of persons who are on the work premises of the employer, with or without his knowledge.

**7. Duties and responsibilities of owner, agent and manager in relation to mine.**—(1) The owner and agent of every mine shall jointly and severally be responsible for making financial and other provisions and for taking

such other steps as may be necessary for compliance with the provisions of this Code and the regulations, rules, bye-laws and orders made there under.

(2) The responsibility in respect of matters provided for in the rules, made by the Central Government under this Code in respect of mines –

- (a) requiring the maintenance therein, wherein the women are employed or were employed on any day of the preceding twelve months, suitable rooms to be reserved for the use of children under the age of six years belonging to such women and for providing, either generally or with particular reference to the number of women employed in the mine, the number and standards of such rooms provided and the supervision to be exercised therein;
- (b) for requiring the maintenance at or near pitheads of bathing places equipped with shower baths and of locker rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women employed therein, and for providing, either generally or with particular reference to the number of men and women ordinarily employed in a mine, the number and standards of such place and rooms;
- (c) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Facilitator or Facilitator, wherein, more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;

shall be exclusively complied with by the owner and agent of the mine and by such person (other than the mines manager) whom the owner or agent may appoint for securing compliance with the aforesaid provisions.

(3) If the compliance of any instructions given under sub-section (2) or given otherwise than through the manager under sub-section (3) of section 63, results in the contravention of the provisions of this Code or of the regulations, rules, bye-laws or orders made there under, every person giving such instructions shall also be liable for the contravention of the provisions concerned.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the owner, agent and manager of every mine shall jointly or severally responsible to see that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Code and of the regulations, rules, bye-laws and orders made there under.

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

- (i) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;
- (ii) the manager of the mine;
- (iii) the owner and agent of the mine;
- (iv) the person appointed, if any, to carry out the responsibility under sub-section (2).

(6) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Code or that a person to carry the responsibility under sub-section (2) has been appointed.

**8. Duties of manufacturers** – (1) The Central Government shall make regulations after consultation with the National Occupational Safety and Health Advisory Board and such regulations shall be complied with by every person who designs, manufactures, imports or supplies any article for use in any factory.

(2) The regulations under sub-section (1) shall be made generally for governing the duties of manufacturers as regards articles and substances for use in factories and particularly to-

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

- (b) carry out or manage for the carrying out such tests and examination in the factories as may be considered necessary for the effective implementation of the provisions of clause (a);
- (c) take out steps as may be necessary to ensure that adequate information will be made available-
  - (i) in connection with the use of the article in any factory;
  - (ii) about the use for which such article is designed and tested; and
  - (iii) about any conditions necessary to ensure that the article, when put to such use, shall be safe, and without risks to the health of the workers:

Provided that where an article is designed or manufactured outside India, then such regulations shall contain provisions making obligatory on the part of the importer to see -

- (A) that the article conforms to the same standards of such article manufactured in India; or
- (B) if the standards adopted in the country outside India for the manufacture of such article is above the standards adopted in India, that article conforms to such standards in such country;
- (C) if there is no standard of such article in India, then, the article conforms to the standard adopted in the country from where it is imported at its national level;

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

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

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

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

- (i) employer or owner of such establishment if it is mine or where an agent of such mine takes part in management of the place where such accident occurs in the mine, then, such agent; or
- (ii) employer in relation to such establishment if it is factory or relates to dock work; or
- (iii) the employer of such establishment if it is plantation; or
- (iv) employer of the establishment if it relates to building or other construction work; or
- (v) employer in relation to any other establishment,

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

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

**11. Notice of certain dangerous occurrences.**- Where in an establishment any dangerous occurrence of such nature as may be prescribed, occurs, whether causing any bodily injury or disability, or not, the employer shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

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

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

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

(4) The Central Government may, by notification, add to or alter the Third Schedule and any such addition or alteration shall have effect as if it had been made by amendment of this Code.

**13. Duties of employees-** Every employee at work place shall –

- (a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the work place;
- (b) comply with the safety and health requirements specified in the Standards;
- (c) co-operate with the employer in meeting the statutory obligations of the employer under the Code;
- (d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable, report such situation to his employer or to the health and safety representative for his workplace or section thereof, as the case may be, who shall report it to the employer;
- (e) willfully interfere with, or misuse, or neglect any appliance, convenience or other thing provided work for the purpose of securing the health, safety and welfare of workers; and
- (f) not do, willfully and without reasonable cause, anything, likely to endanger himself or others.

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

(2) (i) where the employees referred to in sub-section (1) in any work place have reasonable apprehension that there is a likelihood of imminent serious personal injury or death or imminent danger to health, they may bring the same to the notice of their employer directly or through a member of the Safety Committee referred to in sub-section (1) and simultaneously bring the same to the notice of the Facilitator.

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

(3) If the employer referred to in clause (ii) of sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by his employees, he shall, nevertheless, refer the matter forthwith to the Facilitator whose decision on the question of the existence of such imminent danger shall be final.

**15. Duty not to interfere with or misuse things** -No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health ,safety or welfare under this Code.

#### **Chapter IV Occupational Safety and Health**

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

- (i) Standards, rules and regulations to be framed under this Code;
- (ii) implementation of the provisions of this Code and the rules and regulations relating thereto;
- (iii) the issues of policy relating to occupational safety and health referred to it, from time to time, by the Central Government; and
- (iv) any other matter relating to this code referred to, from time to time, by the Central Government.

(2) The National Board shall consist of-

- (i) Secretary, Ministry of Labour and Employment.....Chairperson ( ex-officio);
- (ii) Director General, Factory Advices Services and Labour Institutes, Mumbai.....Member ( ex-officio);
- (iii) Director General, Mines Safety, Dhanbad.....Member (ex-officio);
- (iv) Chief Controller of Explosives, Nagpur.....Member (ex-officio);
- (v) Chairman, Central Pollution Control Board, New Delhi.....Member (ex-officio);
- (vi) Chief Labour Commissioner (Central), New Delhi.....Member (ex-officio);
- (vii) Principal Secretaries dealing with labour matters of 4 States (by rotation as the Central Government may deem fit) .....Member (ex-officio);
- (viii) Director General, Employee State Insurance Corporation, New Delhi.....Member (ex-officio);
- (ix) Director General, Health Services, New Delhi.....Member (ex-officio);
- (x) five representatives of employers.....Member (ex-officio);
- (xi) five representatives of employees.....Member (ex-officio);
- (xii) five eminent persons connected with the field of Occupational Safety and Health, or representatives from reputed research institutions or similar other discipline.... Member;
- (xiii) Joint Secretary, Ministry of Labour and Employment-Member Secretary (ex-officio);

(3) The terms of office of the Members referred to in clause (vii), (x), (xi) and (xii) of sub-section (2) shall be of three years and the procedure of the National Board and the officers and staff thereof shall be such as may be prescribed.

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

**17. State Occupational Safety and Health Advisory Board-** (1)The State Government shall constitute a board to be called the State Occupational Safety and Health Advisory Board(herein after referred to as State Advisory Board) to advise the State Government on such matters arising out of the administration of this Code as may be referred to it.

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

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

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

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

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

- (b) the norms-
  - (i) appraising the hazards to employees and users to which they are exposed;
  - (ii) relevant symptoms and appropriate energy treatment and proper conditions and precautions of safe use or exposure;
  - (iii) monitoring and measuring exposure of employees to hazards;
  - (iv) medical examination and other tests which shall be made available, by the employer or at his cost, to the employees exposed to hazards; and
  - (v) of hazard evaluation procedures like safety audit, hazard and operability study, fault free analysis, event free analysis and such other requirements;
- (c) norms for medical examination including criteria for detection and reporting of occupational diseases to be extended to the worker even after he ceases to be in employment, if he is suffering from an occupational disease which arises out of or in course of employment;
- (d) such aspects of occupational safety and health which the Central Government considers necessary on the report of the authority designated by such Government for such purpose relating to work places;
- (e) such safety and health measures which may be required having regard to the specific conditions prevailing at the workplaces relating to mine, factory, building and other construction work, beedi and cigar, dock work or any other establishment notified, as the case may be; and
- (f) matters specified in the Second Schedule to this Code.

(3) The Central Government, on the basis of the recommendation of National Occupational Safety and Health Advisory Board, after giving by notification, not less than forty five days previous notice of its intention so to do, may, by like notification, amend the Second Schedule to this Code.

(4) Every standard made under sub-section (1) and sub-section (2) and every notification issued under sub-section (3) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the standard or notification or both Houses agree that the standard or notification should not be made, the standard or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that standard or notification.

(5) The State Government, for the purposes to which it is the appropriate Government, may, after prior approval of the Central Government, amend the standards made under sub-section (1) and sub-section (2) for their applicability in that state.

(6) Every amendment of the standards made by State Government under sub-section (4) shall be laid before the state legislature.

**19. Research related activities** - It shall be the duty of institutions in the field of occupational safety and health as notified by the Central Government to cause to conduct research, experiments and demonstrations relating to occupational safety and health and thereafter submit their recommendation to the appropriate government.

**20. Safety and occupational health surveys.**— At any time during the normal working hours of an establishment or at any other time as is found by him to be necessary, -

- (a) the Chief Facilitator in the case of factory or mine; or
- (b) the Director General of Factory Advice Service and Labour Institute in the case of factory; or
- (c) the Director General of Mines Safety in the case of mine; or
- (d) the Director General of Health Services in the case of factory or mine; or
- (e) such other officer as may be authorised by the appropriate Government in the case of any other establishment or class of establishment;

after giving notice in writing to the occupier or manager of the factory or, as the case may be, to the manager of the mine or to any other person who for the time being purports to undertake safety and occupational health survey of such factory or mine or in the case of any other establishment or class of establishment to such person who is for the time being responsible for the safety and the occupational health of such other establishment or an establishment of such class of establishment, as the case may be,

conduct survey of the factory or as the case may be of the mine or such other establishment or such an establishment of the class of establishment and such occupier or manager or such responsible person shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

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

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such worker worked in the establishment.

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

**21. Statistics:**—(1) In order to further the purposes of this Code, the Central Government and the State Government shall develop and maintain an effective programme of collection, compilation and analysis of occupational safety and health statistics.

(2) To carry out the functions, the appropriate Government may promote, encourage or directly engage in programme of studies, information and communication concerning occupational safety and health statistics.

**22. Safety Committee and Safety Officers.**— (1) In every factory and establishment relating to building and other construction work wherein each five hundred workers or more, or in a mine wherein one hundred workers or more, are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the workers as may be prescribed by the appropriate Government;

Provided that the number of persons representing the workers shall, in no case, be less than the persons representing the employer.

Provided further that the appropriate Government may, if it considers appropriate, also direct other establishments to set up Safety Committee or appoint Safety Officers.

(2) In every establishment referred to in sub-section (1), wherein such number of workers are employed as may be prescribed, the employer shall also appoint such number of safety officers, who shall possess such qualifications and perform such duties, as may be prescribed.

## **Chapter V** **Health and Working Conditions**

**23. Responsibility of employer for maintaining health and working conditions** – (1) The employer shall be responsible to maintain in his establishment the health and working conditions for the workers to provide them such standard of working atmosphere as may be prescribed by the Central Government.

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

- (i) cleanliness and hygiene;
- (ii) ventilation, temperature and humidity;
- (iii) environment free from dust, noxious gas, fumes and other impurities;
- (iv) the adequate standard of humidification, artificially increasing the humidity of the air, ventilation and cooling of the air in work rooms;
- (v) potable drinking water;
- (vi) the adequate standards to prevent overcrowding and to provide sufficient space to workers or persons, as the case may be, employed therein;
- (vii) adequate lighting;
- (viii) sufficient arrangement for latrine and urinal accommodation to male, female and transgender separately for workers maintaining hygiene therein;

- (ix) effective arrangements for treatment of wastes and effluents; and
- (x) any other arrangement which the Central Government considers appropriate for providing decent working conditions to the workers employed in an establishment.

#### **Chapter VI** **Welfare Provisions**

**24. Welfare facilities in the establishment, etc.** – (1) The employer shall be responsible to provide and maintain in his establishment welfare facilities for the workers of such standard as may be prescribed by the Central Government.

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

- (i) adequate and suitable facilities for washing to workers for both male and female separately;
- (ii) bathing places and locker rooms for both male and female employees separately;
- (iii) place of keeping clothing not worn during working hours and for the drying of wet clothing;
- (iv) sitting arrangements for all workers obliged to work in a standing position;
- (v) adequate standard of canteen or canteens and medical examination of workers thereof in an establishment employing one hundred or more workers including contract labour ordinarily employed;
- (vi) creche having suitable room or rooms for the use of children under the age of six years at suitable location in every establishment wherein more than fifty workers are ordinarily employed;
- (vii) readily accessible during all working hours adequate first-aid boxes or cupboards with contents; and
- (viii) any other welfare measures which the Central Government considers, under the set of circumstances, as required for decent life of the workers.

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

- (i) ambulance room in every factory, mine and other construction work wherein more than five hundred workers are ordinarily employed;
- (ii) medical facilities at the operating centres and halting stations, uniforms, raincoats and other like amenities for protection from rain or cold for motor transport workers;
- (iii) adequate, suitable and separate shelters or rest-rooms for male and female workers and lunch-room in every factory and mine wherein more than seventy five workers are ordinarily employed and in motor transport undertaking wherein worker is required to halt at night;
- (iv) the employment of welfare officer in every factory, mine or plantation wherein two hundred fifty or more workers are ordinarily employed and the qualification, conditions of service and duties of such welfare officer;
- (v) the provision for providing by the employer temporary living accommodation, free of charges and within the work site or as near to it as may be possible, to all building workers employed by him and for causing removal or demolition of such temporary living accommodation and for returning by the employer the possession of any land obtained by him for such purpose from Municipal Board or any other local authority;
- (vi) for payment by the principal employer the expenses incurred on providing the accommodation to the contractor, where the building and other construction work is done through the contractor.

(4) Without prejudice to the generality of the powers conferred under sub-section (1) and sub-section (2), the State Government may also prescribe the manner in which the employer of the plantation shall provide for drinking water, housing facility, education facility for the children of workers, health facilities for the worker and his family and other amenities required for the protection of the plantation worker from rain or cold.

#### **Chapter VII** **Hours of Work and Annual Leave with Wages**

**25. Weekly and daily working hours, etc.** – (1) No worker shall be required or allowed to work, in an establishment for more than –

- (i) forty-eight hours in a week;

- (ii) nine hours in a day subject to hours of work specified in clause (i); and
- (iii) the periods of work in each day shall be so fixed that no period shall exceed five hours and there shall be half an hour of interval after each such period.

Provided that the period of work of a worker shall be so arranged that inclusive of his intervals for rest under this sub-section, it shall not spread over more than ten and half hours in any day:

Provided further that in the case of mines,-

- (i) the persons employed below ground in a mine shall not be allowed to work for more than eight hours in any day;
- (ii) no work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of work for each shift is not spread over more than the daily maximum stipulated in clause (ii);
- (iii) no person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained under sub-section (1) of section 33.

(2) In case of overtime work to be performed by a worker in any establishment, total number of hours of overtime shall not exceed one hundred for any one quarter:

Provided that –

- (i) the total number of hours of work in any day, including overtime shall not exceed ten;
- (ii) the spread over, inclusive of intervals of rest, shall not exceed twelve hours in any one day;
- (iii) the total number of hours of work in a week, including overtime, shall not exceed sixty;

Explanation.- For the purposes of this section, the expression “quarter” means a period of three consecutive months beginning on the 1<sup>st</sup> January, the 1<sup>st</sup> of April, the 1<sup>st</sup> of July or 1<sup>st</sup> October.

(3) Notwithstanding anything contained in sub-section (1) and sub-section (2), the hours of work in case of motor transport shall be such as may be prescribed taking into account that -

- (i) the time during which a motor transport worker is at the disposal of the employer or of any other person, he shall be entitled to claim his services;
- (ii) the running time of the transport vehicle during which the work will be done by him, the time spent during the subsidiary work and the mere attendance at terminals of less than fifteen minutes shall be included in the said hours of work.

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

- (a) “running time” in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work;
- (b) “subsidiary work” means work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular—
  - (i) work in connection with accounts, the paying in of cash, the signing of registers, the handing in of service sheets, the checking of tickets and other similar work;
  - (ii) the taking over and garaging of the transport vehicles;
  - (iii) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;
  - (iv) work in connection with the upkeep and repair of the transport vehicle; and
  - (v) the loading and unloading of the transport vehicle;
- (c) “period of mere attendance” means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule.

(4) Notwithstanding anything contained in sub-section (1) and sub-section (2), the hours of work for working journalist shall, subject to a maximum of one hundred and forty-four hours work during any period of four

consecutive weeks and a period of not less than twenty-four consecutive hours rest during any period of seven consecutive days, be as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) and sub-section (2), in case of a sales promotion employees-

(i) in addition to such holidays, casual leave or other kinds of leave as may be prescribed, every sales promotion employee shall be granted, if requested for –

- (a) earned leave on full wages for not less than one-eleventh of the period spent on duty;
- (b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service;

(ii) the maximum limit up to which he may accumulate earned leave shall be such as may be prescribed;

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

(iv) he shall,—

- (a) when he voluntarily relinquishes his post or retires from service, or
- (b) when his services are terminated for any reason whatsoever (not being termination as punishment),

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

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

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

(6) Notwithstanding anything contained in this section,-

(i) the appropriate Government may, taking into consideration the nature of work or other circumstances, relax total number of overtime hours in a quarter subject to a maximum of one hundred and twenty five hours in a quarter in any establishment or class or description of establishment;

(ii) the chief facilitator may,-

- (a) approve that the maximum hours specified in clause (ii) of the proviso to sub-section (1) may be exceeded in order to facilitate the change of shifts; and
- (b) for the reasons to be recorded in writing and subject to such conditions as he may deem fit to impose, permit the spread-over to extend over a period not exceeding fourteen hours in any day.

(7) Notwithstanding anything contained in the section the working hours of an adolescent worker shall be regulated in accordance with the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (61 of 1986)

**26. Weekly and compensatory holidays –** (1) No worker shall be allowed to work in an establishment on more than six days in any one week—

Provided that in any motor transport undertaking, an employer may, in order to prevent any dislocation of a motor transport service, require a worker to work on any day of rest which is not a holiday so arranged that the worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

(2) The appropriate Government may, by notification, exempt such workers as it thinks reasonable from the provisions of sub-section (1), subject to such conditions as may be prescribed.

(3) Where, as a result of the passing of an order or the making of a rule under the provisions of this Code exempting an establishment or the workers therein from the provisions of sub-section (2), a worker is deprived

of any of the weekly holidays, the worker shall be allowed, within the month in which the holidays were due or within the two months immediately following that month, compensatory holidays of equal number to the holidays so deprived.

**27. Extra wages for overtime.-** There shall be paid wage at the rate of twice the ordinary rate of wages in respect of overtime work, where,-

- (i) a worker works in an establishment for more than nine hours in any day or for more than forty-eight hours in any week;
- (ii) in a mine a person works above ground for more than nine hours in any day, or works below ground for more than eight hours in any day or works for more than forty-eight hours in any week whether above ground or below ground;

and the period of overtime shall be calculated on a daily basis or weekly basis, whichever is more favourable to such person or, as the case may be, to such worker.

Explanation – For the purposes of this section, -

“ordinary rate of wage” means the basic wages plus dearness allowance or any other allowances which is considered as a part of wage.

**28. Night shifts -** Where a worker in a factory works on a shift which extends beyond midnight,-

- (a) for the purposes of sections 26, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;
- (b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

**29. Prohibition of overlapping shifts -** (1) The work shall not be carried on in any establishment by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The appropriate Government or subject to the control of the appropriate Government, the Chief Facilitator, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any establishment or class or description of establishment or any department or section of an establishment or any category or description of workers therein from the provisions of sub-section (1):

Provided that no such exemption shall be given in case of mines or any department or section thereof or any category or description of workers therein.

**30. Restriction on double employment in factory and mine-** No worker shall be required or allowed to work in a mine or factory if he has already been working in any other such similar establishment within the preceding twelve hours, save in such circumstances as may be prescribed.

**31. Notice of periods of work -** (1) There shall be displayed and correctly maintained in every establishment a notice of periods of work, showing clearly for every day the periods during which workers may be required to work in accordance with the provisions as may be prescribed.

(2) The form of notice required by sub-section (1), the manner of maintaining such notice and the manner in which such notice shall be sent to the Facilitator shall be such as may be prescribed.

(3) Any proposed change in the system of work in any establishment which will necessitate a change in the notice referred to in sub-section (1) shall be intimated to the Facilitator before the change is made, and except with the previous sanction of the Facilitator, no such change shall be made until one week has elapsed since that last change.

**32. Annual leave with wages, etc.** – (1) Every person employed in an establishment shall be entitled for such leave with wages in such manner during a calendar year as may be prescribed subject to the condition that -

- (i) he has worked ninety days or more in such calendar year;
- (ii) he shall be entitled for one day leave for every twenty days of his work, and in the case of adolescent worker for fifteen days of his work, in such calendar year;
- (iii) any period of layoff, maternity leave or annual leave availed by such person in such calendar year shall be counted for calculating the period of ninety days or more under clause (i), but he shall not earn leave for the period so counted;
- (iv) any holidays falling between the leave availed by such person in a calendar year or prefixed or suffixed holiday shall be excluded from the period of leave so availed;
- (v) in case of such person whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate specified in clause (ii), if he was worked for one-fourth of the total number of days in the remainder of the calendar year;
- (vi) in case such person is discharged or dismissed from service or quits employment or is superannuated or dies while in service, during the course of the calendar year, such person or heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to which such person was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death, calculated as specified in preceding clause, even such person has not worked for the required period under this sub-section making such person eligible to avail such leave, and such payment shall be made –
  - (a) where such person is discharged or dismissed or quits employments before the expiry of the second working day from the date of such discharge, dismissal or quitting; and
  - (b) where such person is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death;
- (vii) if such person does not in any one calendar year take the whole of the leave allowed to him under this sub-section and the rules made there under, then, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year so that –
  - (a) the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty days; and
  - (b) such person, who has applied for leave with wages but has not been given such leave in accordance with this sub-section and the rules made there under shall be entitled to carry forward the leave refused without any limit.

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

### **Chapter VIII** **Maintenance of Registers, Records and Returns etc.**

**33. Maintenance of registers and records and filing of returns.**- (1) An employer shall –

- (a) maintain prescribed register, electronically or otherwise, containing prescribed particulars of workers employed by him including in respect of such workers,—
  - (i) work performed by them;
  - (ii) number of hours of work constituting normal working hours in a day;
  - (iii) day of rest allowed in every period of seven days;
  - (iv) wage paid and receipts given there for;
  - (v) leave, leave wages, overtime work, attendance and dangerous occurrences;
  - (vi) employment of adolescent; and
  - (vii) any other matter prescribed by the Central Government;such workers;
- (b) display notices at the working place of the workers in the manner and form as may be prescribed;
- (c) issue wage slips to the workers, in electronic forms or otherwise; and
- (d) file such return electronically or otherwise to the Facilitator in such manner as may be prescribed.

(2) The provisions of sub-section (1) shall not apply in respect of the employer to the extent he employs not more than five persons for agriculture or domestic purpose; but such employer, when demanded shall produce before the Facilitator, the reasonable proof towards the payment of wages to the persons so employed.

(3) The appropriate Government may prescribe the forms of returns which shall be filed by the establishments or the class of establishment in the prescribed manner.

(4) In this section, the expression “domestic purpose” means the purpose exclusively relating to the home or family affairs of the employer and does not include any affair relating to any establishment, industry, trade, business, manufacture or occupation.

## **CHAPTER IX**

### **Facilitators and other Authority**

**34. Appointment of Facilitators** – (1) The appropriate Government may, by notification, appoint such persons who possess the prescribed qualifications to be Facilitators for such purposes of such establishments or class or description of establishment and for such local or other limits of jurisdiction as may be specified in the notification.

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

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

Provided that a Chief Facilitator may be appointed for the purposes of a state or more than one state or, as the case may be, or for the purposes of the whole of the Country.

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

(5) Every Additional Chief Facilitator, Joint Chief Facilitator, Deputy Chief Facilitator and every other officer appointed under sub-section(3) shall, in addition to the powers of a Chief Facilitator specified in the notification by which the officer is appointed, exercise the powers of a Facilitator within such local limits as may be specified in the notification.

(6) No person shall be appointed under sub-section (1), sub-section (3), sub-section (4) or sub-section (8), or having been so appointed, shall continue to hold office, who is, or who becomes, directly or indirectly interested in a workplace or work activity or in any process or business carried on in any work place or in any plant or machinery connected therewith.

(7) The District Magistrate may exercise the powers and perform the duties of a Facilitator in case of a mine subject to the general or special orders of the Central Government:

Provided that nothing in this sub-section shall be deemed to empower a district magistrate to exercise the powers conferred by sub-section (2) of section 36 and section 127.

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

(9) Without prejudice to the other functions of the Facilitator under the Code, a Facilitator may in respect of any establishment, class or description of establishment, where the Chief Facilitator with the approval of the appropriate Government and subject to such restrictions or conditions as he may think fit to impose, by order in writing authorise the Facilitator to exercise such of the powers of the Chief Facilitator as may be specified in such order.

(10) Every Chief Facilitator, Additional Chief Facilitator, Joint Chief Facilitator, Deputy Chief Facilitator, Facilitator and every other officer appointed under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the appropriate Government may specify in this behalf.

**35. Powers of Facilitators** – (1) Subject to any rules made in this behalf, a Facilitator may, within the local limits for which he is appointed,–

- (i) enter, with such assistance, being persons in the service of the Government, or any local or other public authority, or with an expert, as he thinks fit, any place which is used, or which he has reason to believe is used, as a work place;
- (ii) make examination of the premises, plant, machinery, article, or any other relevant material;
- (iii) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or death or not and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry;
- (iv) in respect of a plantation and subject to any rules made by the State Government in this behalf, within his jurisdiction, examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Code, and take on the spot or otherwise statement of any person which he may consider necessary for carrying out the purposes of this Code relating to plantation.
- (v) require the production of any prescribed register or any other document relating to the work place or work activity;
- (vi) search or seize, or take copies of, any register, record or other document or any portion thereof, as he may consider necessary in respect of any offence under this Code, which he has reason to believe, has been committed;
- (vii) direct the concerned occupier or employer that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any inspection or inquiry;
- (viii) take measurements, photographs and video graphs and make such recordings as he considers necessary for the purpose of any examination or inquiry, taking with him any necessary instruments or equipment;
- (ix) take samples of any articles or substances found in any premises into which he has power to enter and of the air of the atmosphere in or in the vicinity of any such premises in the manner as may be prescribed;
- (x) in case of any article or substance found in any premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health and safety of the employees, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of any provision of this Code) and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;
- (xi) issue show cause notice relating to safety, health and welfare provisions arising under this Code, rules and regulation made there under;
- (xii) prosecute, conduct or defend before any court any complaint or other proceeding arising under this Code, the rules and regulations made there under; and
- (xiii) exercise such other powers as may be prescribed.

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

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

**36. Special powers of Facilitator in respect of factory, mines and dock work and building and other construction work.**— (1) Without prejudice to the other powers of a Facilitator in this Code, a Facilitator in respect of a factory shall have the following special powers, namely:-

- (a) where it appears to the Facilitator that conditions in a factory or part thereof are such that they may cause serious hazard by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard is removed;
- (b) any order issued by the Facilitator under sub-clause (a) shall have effect for a period of three days until extended by the Chief Facilitator by a subsequent order;
- (c) any person aggrieved by an order of the Facilitator under sub-clause (a), and the Chief Facilitator under sub-clause (b), shall have the right to appeal to the High Court;
- (d) any person whose employment has been affected by an order issued under sub-clause (a), shall be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible and in the manner prescribed;
- (e) the provisions of sub-clause (d) shall be without prejudice to the rights of the parties under the Industrial Disputes Act, 1947 (14 of 1947);

(2) Without prejudice to the other powers of a Facilitator in this Code, a Facilitator in respect of mines shall have the following special powers, namely:-

- (a) if, in respect of any matter for which no express provision is made by or under this Code, it appears to the Chief Facilitator or a Facilitator that any mine or part thereof or any matter, thing or practice in or connected with the mine, or with the control, supervision, management or direction thereof, is dangerous to human life or safety or defective so as to threaten or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine and shall state in the notice the particulars in respect of which he considers the mine or part thereof or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as he may specify in the notice;
- (b) where the owner, agent or manager of a mine fails to comply with the terms of a notice given under sub-clause (a) within the period specified therein, the Chief Facilitator or the Facilitator, as the case may be, may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice;
- (c) without prejudice to the provisions contained in sub-clause (a), the Chief Facilitator or the Facilitator, as the case may be, may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars or blocks of minerals in any mine or part thereof, if, in his opinion, such operation is likely to cause the crushing of pillars or blocks of minerals or the premature collapse of any part of the workings or otherwise endanger the mine or the life or safety of persons employed therein or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by fire or flooding;
- (d) if the Chief Facilitator, or a Facilitator authorised in this behalf by general or special order in writing by the Chief Facilitator, is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by order in writing containing a statement of the grounds of his opinion, prohibit until he is satisfied that the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger;
- (e) every person whose employment is prohibited under sub-clause (b) or sub-clause (d) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition in employment and the owner, agent or manager shall be liable for payment of such full wages of that person;

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

- (f) where a notice has been given under sub-clause (a) or an order made under sub-clause (b), sub-clause (c) or sub-clause (d) by a Facilitator, the owner, agent or manager of the mine may, within ten days after the receipt of the notice or order, as the case may be, appeal against the same to the Chief Facilitator who may confirm, modify or cancel the notice or order;
- (g) the Chief Facilitator or the Facilitator sending a notice under sub-clause (a) or making an order under sub-clause (b), sub-clause (c) or sub-clause (d) and the Chief Facilitator making an order (other than an order of cancellation in appeal) under sub-clause (f) shall forthwith report the same to the Central Government;
- (h) if the owner, agent or manager of the mine objects to a notice sent under sub-clause (a) by the Chief Facilitator or to an order made by the Chief Facilitator under sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (f), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision on appeal, as the case may be, send his objection in writing stating the grounds thereof to the Central Government which shall, ordinarily within a period of two months from the date of receipt of the objection decide the matter.
- (i) every notice under sub-clause (a), or order under sub-clause (b), sub-clause (c), sub-clause (d) or sub-clause (f), to which objection is made under sub-clause (h), shall be complied with, pending the receipt at the mine of the decision of the Central Government:

Provided that the Central Government may, on the application of the owner, agent or manager, suspend the operation of a notice under sub-clause (a), pending its decision on the objection after hearing.

- (j) nothing in this section shall affect the powers of a magistrate under section 144 of the Code of Criminal Procedure, 1973 (1 of 1974);
  - (k) where in respect of any matter relating to safety of mine for which express provision is made by or under this Code, the owner, agent or manager of a mine fails to comply with such provisions, the Chief Facilitator may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter;
  - (l) where the owner, agent or manager fails to comply with the terms of a notice given under sub-clause (k) within the period specified in such notice or, as the case may be, within the extended period of time specified under that sub-clause, the Chief Facilitator may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice;
  - (m) every person whose employment is prohibited under sub-clause (l), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager shall be liable for payment of such full wages of that person:  
Provided that the owner, agent or manager may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-clause (l);
  - (n) the provisions of sub-clauses (g), (h) and (i) shall apply in relation to a notice issued under sub-clause (k) or an order made under sub-clause (l) as they apply in relation to a notice under sub-clause (a) or an order under sub-clause (b);
  - (o) Chief Facilitator may, for reasons to be recorded in writing, reverse or modify any order passed by him under this Code or under any regulation, rule or bye-law made there under in relation to mine;
  - (p) no order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation;
  - (q) the Central Government may reverse or modify any order passed under this Code in relation to mine.
- (6) Without prejudice to the powers of a Facilitator elsewhere in this Code, a Facilitator in respect of dock work shall have the following special powers, namely:-
- (a) if it appears to a facilitator that any place where any dock work is being carried on is in such a condition which is dangerous to life, safety or health, of dock workers, he may, in writing, serve on

the owner or on the person in charge of such place an order prohibiting any dock work in such place until measures have been taken to remove the cause of the danger to his satisfaction;

- (b) a Facilitator after serving an order under clause (a) shall endorse a copy thereof to the Chief Facilitator who may modify or cancel the order without waiting for an appeal;
- (c) any person aggrieved by an order under clause (a) or clause (b) may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Facilitator or where such order is by the Chief Facilitator, to the Central Government and the Chief Facilitator or Central Government shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible:

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

Provided further that an order under clause (a) shall be complied with, pending the decision of the Chief facilitator or such authority.

(7) Without prejudice to the other powers of a Facilitator elsewhere in this Code,-

- (a) if it appears to the Facilitator that any site or place at which any building or other construction work is being carried on, is in such condition that it is dangerous to life, safety or health of building workers or the general public, he may, in writing serve on the employer of building workers or on the employer of the establishment or on the person in charge of such site or place an order prohibiting any building or other construction work at such site or place until measures have been taken to remove the cause of the danger to his satisfaction;
- (b) a Facilitator serving an order under clause (a) shall endorse a copy to the Chief Facilitator;
- (c) such prohibition order shall be complied with by the employer forthwith.

(8) Any person aggrieved by an order under clause (a) of sub-section (7), may, within fifteen days from the date on which the order is communicated to him, may prefer an appeal to the Chief Facilitator or where such order is by the Chief Facilitator, to the appropriate Government and the Chief Facilitator or the appropriate Government, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible:

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

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

**37. Secrecy of information by Chief Facilitator or Facilitator, etc.**-(1) No Chief Facilitator or Facilitator shall while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes, of this Code any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties:

Provided that no such prohibition of disclosure shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceedings pursuant to this Code or of any criminal proceeding which may be taken, whether pursuant to this Code or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(2) All copies of, and extracts from, registers or other records appertaining to any mine and all other information acquired by the Chief Facilitator or a Facilitator of a mine or by any one assisting him, in the course of the inspection or survey of any mine under this Code or acquired by any person authorised under section 20 or section 39 in the exercise of his duties there under, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Facilitator or the Facilitator considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(3) Nothing in sub-section (2) shall apply to the disclosure of any such information (if so required) to—

- (a) any court;

- (b) any Committee or Board constituted under the Code;
- (c) an official superior or the owner, agent or manager of the mine concerned;
- (d) a Commissioner for employees' compensation appointed under the Employees' Compensation Act, 1923;
- (e) the Controller, Indian Bureau of Mines;
- (f) any registered or recognised trade union;
- (g) any such officer, authority or organisation as may be specified in this behalf by the Central Government.

(4) No Chief Facilitator or Facilitator shall disclose the source of any complaint made to him regarding the contravention of the provisions of this Code and shall also not while making an inspection under this Code in pursuance of such complaint, disclose to the employer or contractor, agent, owner occupier, manager concerned or any of his representative that the inspection is being made in pursuance of such complaint:

Provided that nothing in this sub-section shall apply to any case in which the person who has made the complaint has consented to disclose his name.

**38. Facilities to be afforded to the Facilitator.**-Every employer, owner, agent or manager, as the case may be, in respect of an establishment shall afford the Chief Facilitator and every Facilitator having jurisdiction or every person prescribed all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Code.

**39. Powers of Special Officer to enter, measure, etc. in relation to mine** —Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Facilitator or of a Facilitator of mine may, for the purpose of surveying, leveling or measuring any mine or any output there from, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof or any output there from at any time by day or night:

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

**40. Medical Officer** – (1) The appropriate Government may appoint qualified medical practitioners to be medical officers for the purposes of this Code in relation to factory, mines, plantation motor transport undertakings and any other establishment as may be prescribed to exercise such jurisdiction as may be prescribed:

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

(2) The medical officer shall perform such duties in connection with the matters specified in sub-section (3) as may be prescribed.

(3) The matters referred to in sub-section (2) shall be -

- (a) the examination and certification of workers engaged in a mine or factory and any other establishment as may be prescribed in such dangerous occupations or processes as may be prescribed;
- (b) the exercise of such medical supervision as may be prescribed where adolescents are, or are to be employed in any work in relations to workers employed in factory, mines, plantation and motor transport undertaking and any other establishment as may be prescribed;
- (c) in respect of the illness of workers employed in factory and mines which are due to the effect of any process carried on or other conditions of work performed in the mines, factory and any other establishment as may be prescribed;
- (d) the examination and certification of young persons employed in factory, mine, plantation, motor transport undertakings and any other establishment as may be prescribed; and
- (e) in respect of young persons who are or are about to be employed in any factory, plantation, motor transport undertakings and any other establishment as may be prescribed in any work which is likely to cause injury to their health.

## Chapter X

### Special Provision relating to Employment of Women

**41. Applicability of the chapter.**- Notwithstanding anything contained in this Code, this chapter shall apply to employment of women in an establishment relating to factories, mines, plantation, beedi or cigar or both and building and other construction work.

**42. Restriction on employment of women.**- Without prejudice to any prohibition in any other law for the time being in force in this behalf and subject to the safety, holiday and working hours beyond 6 A.M to 7 P.M as may be prescribed by the appropriate Government, the women workers may be employed in an establishment.

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

## Chapter XI – Special Provisions for Contract Labour and Inter State Migrant Worker, etc.

### PART -I

#### Contract Labour and Inter-State Migrant Worker

**44. Applicability of this Part.**-(1) This Part shall apply to-

- (i) every establishment in which twenty or more contract labour are employed or were employed on any day of the preceding twelve months through contractor;
- (ii) every manpower supply contractor who employed on any day of the preceding twelve months twenty or more contract labour:

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

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

(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the National Board or, as the case may be, a State Advisory Board, and its decision shall be final.

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

- (i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or
- (ii) if it is of a seasonal character and is performed for more than sixty days in a year.

**45. Appointment of licensing officers.**-The appropriate Government may, by an order, herein after referred to as the licensing officers, appoint such persons, being Gazetted officers of the Government, as it thinks fit to be licensing officers and define the limits, within which the licensing officer shall exercise the powers conferred on him by or under this Part of the Code.

**46. Licensing of contractors.**-(1) No contractor to whom this Part applies shall –

- (a) supply or engage contract labour in any establishment; or
- (b) undertake or execute the work through contract labour;

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

(2) Where the contractor does not fulfil the requisite qualifications or criteria referred to in sub-section (1), the licensing officer may issue him the licence to supply or engage the contract labour, or execute the work through contract labour, under the concerned work order as specified in the licence for that work order and

subject to the conditions as may be specified in the licence and such licence shall be renewable within the such period as may be prescribed.

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

(a) a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 121 and shall be issued on payment of such fees and on the deposit of bank guarantee as security for the due performance of the conditions, as may be prescribed:

Provided that the conditions under this clause shall not include any limitation for doing the work of a particular nature in an establishment;

(b) every contractor who provides or intends to provide contract labour for the purposes under clause (a) or clause (b) of sub-section (1) or sub-section (2) of this section in an establishment, shall obtain the licence, if for such establishment -

- (i) the appropriate Government is the Central Government, from the licensing officer appointed by the Central Government; and
- (ii) the appropriate Government is the state Government, from the licensing officer appointed by the state Government:

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

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

**47. Grant of licence.**-(1) Every application for issuing a licence under sub-section (1) or sub-section (2) of section 46 shall be made in the prescribed form and manner and shall contain the particulars regarding the number of contract labour, nature of work for which contract labour is to be employed and such other particulars as may be prescribed.

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

(3) The licence issued under sub-section (1) of section 46 shall be valid for a period of three years in respect of the number of contract labour specified therein and in case the contractor wants to increase the number of the contract labour, then, he shall apply in the prescribed manner for the renewal of the licence for such purpose to the licensing officer and if the licence is renewed by the licensing officer in the prescribed manner, the contract labour shall be increased to such extent by depositing such security deposit as specified in the renewed licence for the balance period.

**48. No fees or Commission or any cost to workers.**-The contractor shall not charge directly or indirectly, in whole or in part, any fee or commission from the contract labour.

**49. Information regarding work order to be given to the appropriate Government.**- When a contractor receives work order from an establishment -

- (i) for supply or engagement of contract labour in the establishment; or
- (ii) by which he undertakes or executes work through contract labour in the establishment;

he shall, within such time and in such manner as may be prescribed, intimate the appropriate Government and if he fails to give such intimation within the time and manner so prescribed, then, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, suspend or cancel the licence in the prescribed manner.

**50. Revocation, suspension and amendment of licence.**-(1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that--

- (a) a licence granted under this Part has been obtained by misrepresentation or suppression of any material fact, or
- (b) that the contractor has violated the provision of this Part or the rules made there under or any of the conditions of the licence, or
- (c) the holder of a licence has, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this part or the rules made there under, without prejudice to any other penalty to which the contractor may be liable under this Part, the licensing officer may, after giving the contractor an opportunity of showing cause, revoke or suspend the licence.

(2) Subject to any rules that may be made in this behalf, the licensing officer may amend a licence granted under this Part.

**51. Appeal.**-(1) Any person aggrieved by an order made under section 46, section 47 or section 50 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate authority who shall be a person notified in this behalf by the appropriate Government:

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

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard dispose of the appeal within thirty days from the date on which the appeal is preferred.

**52. Liability of Principal Employer for welfare facilities.**- Welfare facilities relating to providing of canteens, rest rooms, drinking water and first aid as referred and prescribed under section 23 and section 24 shall be provided by the principal employer of the establishment to the contract labour who are employed in the establishment.

**53. Effect of employing contract labour from a non-licensed contractor.**-If the establishment is employing contract labour through the contractor who is required to obtain a licence, but he does not obtain licence, the contract labour so engaged through the contractor, shall be deemed to be employed by the principal employer and will be liable to discharge all responsibilities of a contractor.

**54. Responsibility for payment of wages.** —(1) A contractor shall be responsible for payment of wages to each contract labour employed by him and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every contractor shall, make the disbursement of wages referred to in sub-section (1) through bank transfer or electronic mode and inform the principal employer electronically the amounts so paid by such mode:

Provided that where it is not practicable to disburse such payment otherwise than in cash, then, it shall be disbursed in the presence of a representative duly authorised by the principal employer and it shall be the duty of such representative to certify the amounts so paid as wages in such manner as may be prescribed.

(3) In case the contractor fails to make payment of wages referred to in sub-section (1) within the prescribed period or makes short payment, then, the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the concerned contract labour employed by the

contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(4) The appropriate Government, in the event the contractor does not pay the wages to the contract labour employed by him, shall pass the orders of making payment of such wages from the amount deposited by such contractor as security deposit under the licence issued by the licensing officer to the contractor, in the manner as prescribed.

**55. Experience Certificate.-** Every establishment concerned shall issue experience certificate to the contract labour annually, or at any other time demanded by the contract labour giving details of the work performed by the contract labour in the prescribed format.

**56. Prohibition of employment of contract labour.-** (1) Notwithstanding anything contained in this part, the appropriate Government may, after consultation with the National Board or, as the case may be, a State Board, prohibit, by notification, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as-

- (a) whether process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment.
- (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
- (c) whether it is done ordinarily through regular workers in that establishment or an establishment similar thereto;
- (d) whether it is sufficient to employ considerable number of whole-time workmen.

**Explanation.-**If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

**57. Power to exempt in special cases.—**The appropriate Government may, in the case of an emergency, direct, by notification, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Code or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

**58. Facilities to Inter- State Migrant workers.-** It shall be the duty of every establishment employing inter-State migrant worker in connection with the work of that establishment to which this part applies,-

- (i) to ensure suitable conditions of work to such worker having regard to the fact that they are required to work in a State different from their own State;
- (ii) in case of fatal accident or serious bodily injury to any such worker, to report to the specified authorities of both the States and also the next of kin of the worker;
- (iii) to provide and maintain suitable residential accommodation to such workmen during the period of their employment;
- (iv) to provide the prescribed medical facilities and periodical medical examination to the such workmen, free of charge; and

**59. Displacement allowance.-** (1) There shall be paid by the contractor to every inter-State migrant worker at the time of recruitment, a displacement allowance equal to fifty percent of the monthly wages payable to him.

(2) The amount paid to a worker as displacement allowance under sub-section (1) shall not be refundable and shall be in addition to the wages or other amount payable to him.

**60. Journey allowance etc.**-A journey allowance of a sum not less than the fare from the place of residence of the inter-State migrant workers in his State to the place of work in the other State shall be payable by the contractor to the workers both for the outward and return journeys at the time of recruitment only and such worker shall be entitled to payment of wages during the period of such journeys as if he were on duty.

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

## **PART - II** **Audio-Visual Workers**

**62. Prohibition of employment of audio-visual worker without agreement-** (1) No person shall be employed as an audio-visual worker in connection with production of any audio-visual programme unless,-

- (a) an agreement in writing is entered into -
  - (i) with such person by the producer of such audio-visual programme; or
  - (ii) by the producer of such audio-visual programme with the contractor, where such person is employed through such contractor; and
- (b) such agreement is registered with the competent authority by the producer of such audio-visual programme.

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

- (a) be in the prescribed form;
- (b) specify the name and such other particulars as may be prescribed particulars with respect to, the person whose employment the agreement relates (hereafter in this section referred to as the employee);
- (c) include, where such employee is employed through a contractor, a specific condition to the effect that in the event of the contractor failing to discharge his obligations under the agreement to the employee with respect to payment of wages or any other matter, the producer of the audio-visual programme shall also be liable to discharge such obligations and shall be entitled to be reimbursed with respect thereto by the contractor.

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

(4) The agreement referred to in sub-section (1) shall include,-

- (i) nature of assignment;
- (ii) wages and other benefits (including provident fund, if any);
- (iii) health and working condition;
- (iv) safety;
- (v) hours of work; and
- (vi) welfare facilities;

and it shall be responsibility of the producer to provide the facilities specified in the agreement to the employee. The mode of payment of wages shall be through electronic mode.

**PART -III**  
**Mines**

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

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

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

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

**64. Code not to apply in certain cases.**— (1) The provisions of this Code, except those contained in sections 35, 36, 38, 39, 42 and 43 shall not apply to-

(a) any mine or part- thereof in which excavation is being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale:

Provided that-

- (i) not more than twenty persons are employed on any one day in connection with any such excavation;
- (ii) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres or, in the case of an excavation for coal, fifteen metres; and
- (iii) no part of such excavation extends below super- jacent ground; or

(b) any mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand (excluding mouldings and, glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone, slate, road metal, earth, fullers earth (marl, chalk) and lime stone:

Provided that-

- (i) the workings do not extend below superjacent ground ; or
- (ii) where it is an open cast working-
  - (a) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres ;
  - (b) the number of persons employed on any one day does not exceed fifty; and
  - (c) explosives are not used in connection with the excavation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that, having regard to the circumstances obtaining in relation to a mine or part thereof or group or class of mines, it is necessary or desirable so to do, by notification in the Official Gazette, declare that any of the provisions of this Code, not set out in sub-section (1), shall apply to any such mine or part thereof or group or class of mines or any class of persons employed therein.

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

**65. Exemption from provision regarding employment.**—(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as the result of breakdown of such machinery plant or equipment, the manager may, subject to the provisions of sub- section (2) of section 36 and in accordance with the rules under section 87 relating to exemption from weekly day of rest, hours of work above ground, hours of work below ground and notices regarding hours of work relating to mines, permit persons to be employed in contravention of **section**

**12, section 25, section 30 and sub-section (1) of section 31** on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

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

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

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

#### **PART -IV Beedi and Cigar Workers**

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

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

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

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

- (a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both;
- (b) previous experience of the applicant or he has employed experienced person or has entered into agreement with the experience person for employment for the period of licence;
- (c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;
- (d) whether the application is made bona fide on behalf of the applicant himself or in benami of any other person;
- (e) welfare of the labour in the locality, the interest of the public generally and such other matters as may be prescribed.

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

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

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

(6) The competent authority shall not grant or renew a licence unless it is satisfied that the provisions of this Code and the rules made thereunder have been complied with.

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

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

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

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

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

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

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

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

**70. Part not to apply to self-employed persons in private dwelling houses.-** Nothing contained in this Part shall apply to the owner or occupier of a private dwelling house who carries on any manufacturing processes in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him:

Provided that the owner or occupier thereof is not an employee of an employer to whom this Part applies.

Explanation.— For the purposes of this section,-

- (i) "family" does not include child, as defined in the Child and Adolescent (Prohibition and Regulation) Act, 1986 (61 of 1986), for this section.
- (ii) "**private dwelling house**" means a house in which persons engaged in the manufacture of beedi or cigar or both reside;

#### **Part -V**

##### **Building and other Construction Workers**

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

#### **Part -VI**

## **Factories**

**72. Approval, licensing and registration of factories.**—(1) The State Government may make rules—

- (a) requiring, for the purposes of this Part, the submission of plans of any class or description of factories to the Chief Facilitator or the State Government;
- (b) requiring the previous permission in writing of the State Government or the Chief Facilitator to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories;
- (c) requiring for the purpose of considering applications for such permission the submission of plans and specifications;
- (d) prescribing the nature of such plans and specifications and by whom they shall be certified;
- (e) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licences;
- (f) requiring that no licence shall be granted or renewed unless the notice specified in section 5 has been given.

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

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

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

**73. Liability of owner of premises in certain circumstances.**- (1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for provision and maintenance of—

- (i) common facilities and services such as approach roads, drainage, water supply, lighting and sanitation;
- (ii) adequate staircases;
- (iii) precaution in case of fire;
- (iv) ensuring structural stability;
- (v) hoists and lifts; and
- (vi) any other common facilities as may be prescribed.

(2) Where in any premises, independent or self-contained, floors or flats, compartments, rooms, sheds are used as separate factories, the owner of the premises shall be responsible for the provision and maintenance of—

- (i) latrines, urinals and washing facilities;
- (ii) safety of machinery and plant installed in the common place or location of an occupier;
- (iii) safe means of access to floors or flats, compartments, rooms, galas, sheds and maintenance and cleanliness of staircases and common passages;
- (iv) precautions in case of fire;
- (v) hoists and lifts;
- (vi) prohibition of the common passages, balconies, verandas, access space, staircases and such other common spaces for use of any activity not intended in such spaces;
- (vii) ensuring structural stability; and (viii) any other common facilities provided in the premises.

(3) The owner of premises shall be responsible for provision, maintenance or arrangement for any other facility which may be required but not specified in sub-sections (1) and (2) above.

(4) The Chief Inspector shall have, subject to the control of the appropriate Government, the power to issue orders to the owner of the premises referred to in sub-sections (1) and (2) in respect of the carrying out of the provisions of canteens, shelter, rest rooms and creches.

(5) In respect of sub-section (3) while computing for the purposes of any of the provisions of this Code, the total number of workers employed in the whole of the premises shall be deemed to be in a single factory.

(6) The owner of the premises shall be liable for any contravention of any of the provisions of this section, as if he were the occupier or manager of a factory, and shall be punishable in accordance with the provisions of section 98.

Explanation.—For the purposes of this section, “owner” shall include promoter, co-operative society, trust, receiver, special officer, as the case may be.

**74. Power to apply the Code to certain premises.**—(1) The state Government may, by notification in the Official Gazette, declare that all or any of the provisions of this Part shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on, notwithstanding that—

- (i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or
- (ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

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

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

**75. Dangerous operations.**—Where the State Government is of opinion that any manufacturing process or operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may order or make rules applicable to any factory or class or description of factories in which manufacturing process or operation is carried on -

- (a) specifying the manufacturing process or operation and declaring it to be dangerous;
- (b) prohibiting or restricting the employment of women in the manufacturing process or operation;
- (c) providing for the periodical medical examination for persons employed or seeking to be employed, in the manufacturing process or operation, and prohibiting the employment of persons not certified as fit for such employment and requiring the payment by the occupier of the factory of fees for such medical examination;
- (d) providing for the protection of all persons employed in the manufacturing process or operation or in the vicinity of the places where it is carried on;
- (e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the manufacturing process or operation;
- (f) requiring the provision of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing, and laying down the standards thereof, having regard to the dangerous nature of the manufacturing process or operation.

**76. Constitution of Site Appraisal Committee.**— (1) The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of any such factory, appoint a Site Appraisal Committee consisting of-

- (a) the Chief Facilitator of the State who shall be its Chairman;

- (b) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (c) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);
- (d) a representative of the State Advisory Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (e) a representative of the State Advisory Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);
- (f) a representative of the Department of Environment in the State;
- (g) a representative of the Meteorological Department of the Government of India;
- (h) an expert in the field of occupational health; and
- (i) a representative of the Town Planning Department of the State Government, and not more than five other members who may be co-opted by the State Government who shall be-
  - (i) a scientist having specialized knowledge of the hazardous process which will be involved in the factory,
  - (ii) a representative of the local authority within whose jurisdiction the factory is to be established, and
  - (iii) not more than three other persons as deemed fit by the State Government.

(2) The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within a period of ninety days of the receipt of such application in the prescribed form.

(3) Where any process relates to a factory owned or controlled by the Central Government or to a corporation or company owned or controlled by the Central Government, the State Government shall co-opt in the Site Appraisal Committee a representative nominated by the Central Government as a member of that Committee.

(4) The Site Appraisal Committee shall have power to call for any information from the person making an application for the establishment or expansion of a factory involving a hazardous process.

(5) Where the State Government has granted approval to an application for the establishment or expansion of a factory involving a hazardous process, it shall not be necessary for an applicant to obtain a further approval from the Central Board or the State Advisory Board established under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981).

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

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

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

(4) Every occupier shall, with the approval of the Chief Facilitator, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the

general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

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

(6) Where any occupier of a factory contravenes the provisions of sub-section (5), the licence issued under section 72 to such factory shall, notwithstanding any penalty to which the occupier of factory shall be subjected to under the provisions of this Code, be liable for cancellation.

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

**78. Specific responsibility of the occupier in relation to hazardous processes.**—Every occupier of a factory involving any hazardous process shall—

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

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

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

(c) provide for medical examination of every worker—

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

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

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

(2) The Committee appointed under sub-section (1) shall consist of a Chairman and two other members and the terms of reference of the Committee and the tenure of office of its members shall be such as may be determined by the Central Government according to the requirements of the situation.

(3) The recommendations of the Committee shall be advisory in the nature.

**80. Emergency standards.**- (1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Director-General of Factory Advice Service and Labour Institutes or any Institution specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

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

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

**82. Workers' participation in safety management.-**(1) The occupier shall, in every factory where a hazardous process takes place, or where hazardous substances are used or handled, set up a Safety Committee consisting of equal number of representatives of workers and management to promote co-operation between the workers and the management in maintaining proper safety and health at work and to review periodically the measures taken in that behalf.

Provided that the State Government may, by order in writing and for reasons to be recorded, exempt the occupier of any factory or class of factories from setting up such Committee.

(2) The composition of the Safety Committee, the tenure of office of its members and their rights and duties shall be such as may be prescribed.

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

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

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

**84. Power to direct inquiry into cases of accident or disease in a factory.-**(1) The appropriate Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Third Schedule has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Facilitator under this Code; and every person required by the person making the inquiry to furnish any information, shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (45 of 1860).

(3) The person holding an inquiry under this section shall make a report to the appropriate Government stating the cause of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The appropriate Government may, if it thinks fit, cause to be published any report made under this section or any extracts there from.

(5) The appropriate Government may make rules for regulating the procedure of inquires under this section.

**85. Appeal against the order of facilitator in case of factory** - (1) The employer of an establishment or the manager of a factory or the occupier of the factory on whom an order in writing by a Facilitator has been served under the provisions of this Code may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the appropriate Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the appropriate Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the establishment or the factory concerned as may be prescribed:

Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the appropriate Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

**86. Power to make exempting rules and order.**-(1) The State Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory or empowering the Chief Facilitator to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Facilitator, such person holds such position or is so employed, and the provisions of this Chapter, other than the provisions of section 42, shall not apply to any person so defined or declared.

(2) The State Government may make rules in respect of the such categories of workers in factories and specified in the rules providing for the exemption, to such extent and subject to such conditions as may be notified by the State Advisory Board.

(3) In making rules under this section, the State Government shall not exceed the following limits of work inclusive of overtime; namely:-

- (i) the total number of hours of work in any day shall not exceed ten;
- (ii) the spread over, inclusive of intervals for rest, shall not exceed twelve hours in any one day;
- (iii) the total number of hours of work in a week, including overtime, shall not exceed sixty;
- (iv) the total number of hours of overtime shall not exceed one hundred for any one quarter.

Explanation- "Quarter" means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October.

(4) The State Government or, subject to the control of the State Government, the Chief Facilitator may, by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or a class or description of factories from any or all of the provisions of section 25 and 26 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional pressure of work.

(5) Any exemption granted under sub-section (4) shall be subject to the following conditions, namely-

- (i) the total number of hours of work in any day shall not exceed twelve;
- (ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;
- (iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;
- (iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed one hundred and fifteen:

“Provided that the State Government or the Chief Facilitator may, subject to the prior approval of the State Government, by order, further enhance the total number of hours of overtime work in any quarter to one hundred and twenty-five in the public interest.”.

## **Chapter XII Offences, Penalties and Procedure**

**87. General penalty for offences.**- Save as is otherwise expressly provided in this Code, if in, or in respect of, any establishment, there is any contravention of the provisions of this Code and rules, or of any standards, made thereunder or of any order in writing given under the Code or such rules or standards, the occupier or manager or employer of the establishment, as the case may be, shall be guilty of an offence and be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, or with both, and if the contravention is continued after the conviction, then, with further fine which may extend to two thousand rupees for each day till the contravention is so continued.

**88. Causing obstruction to deter Chief Facilitator or Facilitator from duty, etc.** - (1) Any, who willfully prevents or causes obstruction-

- (i) to a Chief Facilitator or Facilitator or an officer of the appropriate Government or a person authorized to discharge, or entrusted with, any duty or to exercise any powers from discharging any duty or exercising any power under this Code or the rules made thereunder; or
- (ii) refuses entry to the Chief Facilitator or the Facilitator to any place where such Chief Facilitator or Facilitator is entitled to enter under this Code or the rules made thereunder; or
- (iii) fails to produce any document which he is required to produce under, or fails to comply with any requisition or order issued to him by or under, the provisions of this Code or the rules made thereunder,

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

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again convicted of an offence under that sub-section, then, he shall be punishable on a second or subsequent conviction with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.

**89. Non-maintenance of register, records and non-filing of returns, etc.** -(1) Any person, who is required under this Code or the rules or regulations or bye-laws made thereunder or of any order made under the Code or such rules or regulations or bye-laws,-

- (i) to maintain any register or other document or to file returns, omits or fails to maintain such register or document or to file such returns; or
- (ii) to produce any register or plan or record or report or any other document, omits or fails to produce such register or plan or record or report or such other document, then, he shall be punished with fine which may extend to one lakh rupees.

(2) Any, person, who is required under this Code or the rules or regulations or bye-laws made thereunder to maintain the register or record or any other document or to file return in a manner specified therein and fails to comply with such requirement or manner, as the case may be, then, he shall be punished with fine which may be extended to fifty thousand rupees.

(3) If any person, who has been convicted of any offence punishable under sub-section (1) or sub-section (2) is again convicted of an offence under the respective said sub-section, then, he shall be punished on a second or subsequent conviction, with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees, or with both.

**90. Contravention of provisions regarding employment of worker including women, audio-visual worker and contract labour, etc.**- (1) Any person, who, save as permitted by or under this Code contravenes.-

- (i) any provision of this Code or of any rule, regulation or bye-laws; or
- (ii) any order made under the provision referred to under clause (i) prohibiting, restricting or regulating the employment of workers including women, audio-visual worker and contract labour,

then, he shall be punishable with fine which may extend to one lakh rupees.

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again found guilty of an offence under that sub-section, then, he shall be punishable on a second or subsequent conviction with imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both.

**91. Falsification of records, etc.** –(1) Any person, who produces false records or counterfeits or knowingly makes a false statement regarding any document in connection with compliance of any of the provisions of this Code or any rules, regulations or bye-laws or of any order made there under, then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both;

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again convicted of an offence under that sub-section, then, he shall be punishable on a second or subsequent conviction with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees, or with both.

**92. Penalty on disclosure of information** - (1) If the Chief Facilitator or Facilitator or any other person referred to in section 37 or section 112 discloses, contrary to the provisions of that section, any such information as is referred to in that section without the consent of the appropriate Government, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one lakh rupees, or with both.

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

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

**94. Penalty for contravention of the provisions of duties relating to hazardous processes** - (1) If, a person, who fails to comply with or contravenes any of the duties under clauses (a) to (e) of sub-section (5) of section 6 or clause (d) of section 13 in so far as such duty relates to hazardous processes shall, in respect of such failure or contravention, be punishable with an imprisonment for a term which may extend to two years and with fine which may extend to five lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to twenty five thousand rupees for every day during which such failure or contravention continues, after the conviction for the first such failure or contravention.

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

**95. Penalty for contravention of the provisions of duties relating to safety provisions resulting in an accident.**- If a person fails to comply with or contravenes any duties under this Code or the rules made thereunder and such non-compliance or contravention has resulted in an accident causing death or serious bodily injury to any person within the establishment, then, he shall be punishable with fine which shall not be less than five lakh rupees in the case of an accident causing death, and two lakh rupees in the case of an accident causing bodily injury:

Provided that while imposing the fine under this section, the court may direct that a portion of the fine, which shall not be less than fifty percent thereof, shall be given to the victim or the legal heirs of the victim, in the case of his death (in accordance with their rights which the court deems fit), as the case may be, as compensation.

Explanation.-In this section "serious bodily injury" means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of and phalanges of the hand or foot.

**96. Failure to appoint manager in a mine.-** Any person, who in contravention of the provisions of section 63, fails to appoint a manager, then, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one lakh rupees, or with both.

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

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

**98. Prosecution of owner, agent or manager of a mine.-** No prosecution shall be instituted against any owner, agent or manager of a mine for any offence under this Code except at the instance of the Chief Facilitator or of the district magistrate or of Facilitator authorised in this behalf by general or special order in writing by the Chief Facilitator :

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

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

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

- (a) that he has exercised due diligence to enforce the execution of this Code, and
- (b) that the said other person committed the offence in question without his knowledge, consent or connivance,

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

Provided that in seeking to prove as aforesaid the owner, agent or manager of a mine or the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any

witness whom he calls in his support, shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

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

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

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

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

*Explanation.*—For the purposes of this section,—

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

(b) "director", means,-

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

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

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

**101. Limitation of Prosecution and cognizance of offence** - (1) No court shall take cognizance of any offence punishable under this Code, unless a complaint in respect thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of the Facilitator and a complaint is filed in that regard thereby:

Provided that where the offence consists of disobeying a written order made by a Facilitator, complaint thereof may be made within six months from the date on which the offence is alleged to have been committed.

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

**Explanation.** - For the purposes of this section,-

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

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

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

**103. Power of Court to make orders.** - (1) Where the owner, occupier, agent or manager of a mine or a factory, as the case may be, is convicted of an offence punishable under this Code, the Court may, in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the Court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the owner, occupier, agent or manager of the mine or the factory or a mine or factory, as the case may be, shall not be liable under this Code in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

**104. Compounding of offences.**- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Code, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted officer, as the appropriate Government may, by notification, specify, for a sum of fifty percent of the maximum fine provided for such offence, in the manner as may be prescribed.

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

(a) of commission of a similar offence which was earlier compounded;

(b) of commission of similar offence for which such person was earlier convicted.

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

(4) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

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

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

### **Chapter XIII Miscellaneous**

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

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

(2) The prescribed medical authority shall, while examining a worker for issuing the certificate of age for the purposes of this Code, take into account the Aadhar card of the worker, and in the absence thereof, the date of birth certificate from school or the matriculation or equivalent certificate from the concerned examination Board of the worker, if available, and in the absence thereof, the birth certificate of the worker given by a

corporation or a municipal authority or a Panchayat, and only in the absence of any of the methods specified in this sub-section, the age shall be determined by such medical authority through an ossification test or any other latest medical age determination test.

**107. Onus of proving limits of what is practicable, etc.** -In any proceeding for an offence for the contravention of any provision of this Code or rules made there under consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or as the case may be, all practicable measures were taken to satisfy the duty or requirement.

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

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

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

**109. Power of the appropriate Government to direct inquiry in certain cases -**

- (1) The appropriate Government may, in the event of the occurrence of an accident which has caused or had the potentiality to cause serious danger to employees and other persons within, and in the vicinity of the workplace or whether immediate or delayed, or any occupational disease as specified in the Standards, which has been or is suspected to have been contracted, in epidemic proportions, appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry in order to inquire into the causes of the accident and disease, fix responsibilities and suggest a plan of action for the future to prevent such accidents or diseases.
- (2) The appropriate Government may direct a Chief Facilitator or any other officer under the control of the Government concerned or appoint a committee to undertake a survey on the situation relating to safety or health at work at any workplace or class of workplaces or into the effect of work activity on the health of the employees and other persons within and in the vicinity of the workplace.
- (3) The officer or the committee referred to in sub-section (2) -
  - (a) may, at any time during the normal working hours of the workplace, or at any other time as found by him or the committee to be necessary, after giving notice in writing, undertake such survey and the employer shall make available all records and afford all facilities for such survey including facilities for the examination and testing of plant and collection of samples and other data relevant to the survey;
  - (b) for the purpose of facilitating a survey under this sub-section, every employee shall, if so required by the officer or the committee conducting the survey present himself to undergo such medical examination as may be considered necessary by such officer and furnish all such information in his possession of the employee and relevant to the survey as may be considered necessary by the officer or the committee conducting the survey.
  - (c) Any time spent by an employee for undergoing medical examination or furnishing information under clause (b) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such employee worked.
- (4) The officer directed or committee appointed under sub-section (2) to hold an inquiry, shall have the powers of a Civil Court under the code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also so far as may be necessary for the purposes of the inquiry, exercise such powers of a Facilitator under this Code as may be necessary; and every person required by the

officer or committee to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (45 of 1860).

- (5) The officer or committee holding an inquiry under this section shall make a report to the Government concerned.
- (6) The Central Government may make rules for regulating the procedure of inquiries and other related matters under this section.

**110. Publication of reports.**- The appropriate Government, if it thinks fit, may cause to be published any report submitted to it by the National Board or State Advisory Board, as the case may, or any extracts from any report submitted to it under this Code.

**111. Powers of Central Government to give directions.**-The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Code.

**112. General restriction on disclosure of information** - (1) No person shall in respect of the factory or the mine, as the case may be, disclose otherwise than in connection with enforcement or for the purposes of any of the relevant statutory provisions, any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties under any of the relevant statutory provisions or which has been disclosed to him in connection with, or for the purposes of any of the relevant statutory provisions.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of the business or process or for the purposes of any legal proceeding (including adjudication or arbitration), pursuant to any of the relevant statutory provisions or of any criminal proceeding or proceeding before a tribunal under this Code which may be taken, whether pursuant to any of the relevant statutory provisions or otherwise, or for the purposes of any report of such proceedings as aforesaid.

**113. Jurisdiction of civil courts barred.**—No civil court shall have jurisdiction in respect of any matter to which any provision of this Code applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Code.

**114. Protection of action taken in good faith.**- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-law order made there under.

(2) No prosecution or other legal proceeding shall lie against the Government, any Board or Committees constituted under this Code or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Code or any rule or regulation or bye-laws order made or issued there under.

**115. Power to exempt in special cases.**- The appropriate Government may, by notification in the Official Gazette and subject to such conditions and restrictions, if any, and for such period or periods as may be specified in the notification, direct that all or any of the provisions of this Code or the rules or the regulations made thereunder shall not apply to or in relation to any establishment or class or description of establishments.

**116. Power to exempt during public emergency** - In case of a public emergency, the appropriate Government may, by notification, exempt any work place or work activity or class or description thereof from all or any of the provisions of this Code for such period and subject to such conditions as it may think fit:

Provided that no such notification shall be made for a period exceeding three months at a time.

Explanation.— For the purposes of this section ‘public emergency’ means a grave emergency whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

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

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

**118. Persons required to give notice, etc., legally bound to do so.-** Every person required to give any notice or to furnish any information to any authority in relation to the provisions of this Code shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).

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

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

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

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

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

- (a) to prescribe the substance as hazardous substance under clause (z) of sub-section (1) of section 2;
- (b) the late fee under the proviso to sub-section (1) of section 3;
- (c) the manner of submitting application under sub-section (2) of section 3 and the form of such application and the particulars to be contained therein and the fees to be accompanied therewith;
- (d) the form and manner of sending the notice and the authority to whom the notice shall be sent and the manner of intimating the authority under section 5;
- (e) the form of letter of appointment under sub-section (3) of section 6;
- (f) the nature of bodily injury and the form of notice and the time within which the notice shall be sent under sub-section (1) of section 10;
- (g) nature of dangerous occurrence and the form of notice, the time within which and the authority to which notice shall be given under section 11;
- (h) the form of notice related to certain diseases and the time within which the notice shall be sent to the authority under sub-section (1) of section 12;
- (i) the form and manner of the report and the time within which such report shall be sent to the office of the Chief Facilitator under sub-section (2) of section 12;
- (j) the representatives of the employer and the workers in the Safety Committee under sub-section (1) of section 22;
- (k) the number of workers and the qualifications, duties and number of safety officers under sub-section (2) of section 22;
- (l) conditions under sub-section (2) of section 28;

- (m) circumstances under section 30;
- (n) provisions under sub-section (1) of section 31;
- (o) the form and manner of maintaining and the manner of sending the notice under sub-section (2) of section 31;
- (p) the leave with wages which the person employed shall be entitled and the manner in which the person shall be entitled during a calendar year under sub-section (1) of section 32;
- (q) the register and the particulars of workers under clause (a) of sub-section (1) of section 33;
- (r) the manner and form of displaying notices under clause (b) of sub-section (1) of section 33;
- (s) the manner of filing return to the Facilitator under clause (d) of sub-section (1) of section 33;
- (t) the forms of return and the manner of filing the returns under sub-section (3) of section 33;
- (u) the manner of inspection including web based inspection under sub-section (2) of section 34;
- (v) the qualification and experience of Chief Facilitator under sub-section (3) of section 34;
- (w) rules under sub-section (1) of section 35;
- (x) the register to be produced under clause (v) of sub-section (1) of section 35;
- (y) the manner of taking sample under clause (ix) of sub-section (1) of section 35;
- (z) the powers under clause (xi) of sub-section (1) of section 35;
- (aa) the manner of providing alternative employment under clause (d) of sub-section (1) of section 36;
- (bb) any other establishment and the jurisdiction under sub-section (1) of section 40;
- (cc) duties of medical officer under sub-section (2) of section 40;
- (dd) other establishment and the dangerous occupation or processes under clause (a) of sub-section (3) of section 40;
- (ee) medical supervision under clause (b) of sub-section (3) of section 40;
- (ff) any other establishment under clause (c) of sub-section (3) of section 40;
- (gg) any other establishment under clause (d) of sub-section (3) of section 40;
- (hh) any other establishment under clause (e) of sub-section (3) of section 40;
- (ii) safety, holiday and working hours beyond 6 A.M to 7 P.M under section 42;
- (jj) manner of prohibiting the employment of women under section 43;
- (kk) the particulars under sub-section (1) of section 46;
- (ll) the time within which the licence shall be renewed under sub-section (2) of section 46;
- (mm) fees under clause (a) of sub-section (3) of section 46;
- (nn) the form and manner of application and the other particulars which such application shall contain under sub-section (1) of section 47;
- (oo) the procedure to be followed under sub-section (2) of section 47;
- (pp) manner of application for renewal of the licence and the manner of renewing licence under sub-section (3) of section 47;
- (qq) the time and manner of intimation and the manner of cancelling licence under clause (ii) of section 49;
- (rr) rules under sub-section (2) of section 50;
- (ss) the period before which the wages shall be paid under sub-section (1) of section 54;
- (tt) the manner of certifying the amounts paid as wages under proviso to sub-section (2) of section 54;
- (uu) the time of make payment under sub-section (3) of section 54;
- (vv) the manner of passing orders by the appropriate Government under sub-section (4) of section 54;
- (ww) the format of issuing experience certificate under section 55;
- (xx) the medical facilities under clause (iv) of section 58;
- (yy) the manner of compounding of offence under sub-section (1) of section 105;
- (zz) the manner of making application under sub-section (4) of section 105;
- (aaa) any other matter which is required to be, or may be, prescribed under this Code.

**121. Power of the Central Government to make rules.**-(1) The Central Government may, subject to the conditions of previous publication and by notification, make rules for carrying out the purposes of this Code.  
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) form of certificate of registration, the time within which and the conditions subject to which such certificates shall be issued under sub-section (3) of section 3;
- (b) other particulars and form under sub-section (4) of section 3;
- (c) the manner of informing closing and certifying payment to the registering officer under sub-section (5) of section 3;
- (d) rules under sub-section (2) of section 7;
- (e) procedure of National Board and the officers and staff thereof under sub-section (3) of section 16;
- (f) the number of members and their qualifications under sub-section (4) of section 16;
- (g) standards of working atmosphere under sub-section (1) of section 23;
- (h) rule for the matters specified in sub-section (2) of section 23;
- (i) standard for welfare facilities for the workers under sub-section (1) of section 24;
- (j) rule for the matters specified in sub-section (2) of section 24;
- (k) the hours of work for working journalist under sub-section (4) of section 25;
- (l) other kinds of leave under clause (i) of sub-section (5) of section 25;
- (m) the maximum period of accumulating leave under clause (ii) sub-section (5) of section 25;
- (n) the limit upto which the earn leave may be availed of at a time and the reasons for which such leave may be exceeding under clause (iii) of sub-section (5) of section 25;
- (o) the conditions and restrictions under clause (iv) of sub-section (5) of section 25;
- (p) other matter under sub-clause (vii) of clause (a) of sub-section (1) of section 33;
- (q) requisite qualifications or criteria under sub-section (1) section 46;
- (r) form of agreement under clause(a) of sub-section (2) section 62;
- (s) authority under sub-section (3) section 62;
- (t) the matter which may be save under sub-section (1) section 63;
- (u) the qualifications of sole manager under sub-section (1) of section 63;
- (v) the authority to be informed about the non-fulfillment and the manner in which and time within which such authority shall be so informed under sub-section (3) of section 64;
- (w) qualification under clause (g) of section 123;
- (x) any other matter under clause (bb) of section 123;
- (y) other language or languages under sub-section (5) of section 126;

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

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

- (a) the constitution, procedure and other matters relating to State Advisory Board under sub-section (2) of section 17;
- (b) the number of members and their qualifications under sub-section (3) of section 17;
- (c) the manner in which the employer of the plantation shall provide for drinking water, housing facility, education facility for the children of workers, health facility and other amenities required for the protection of the plantation worker from rain or cold under sub-section (4) of section 24;
- (d) the form of application and the payment of fees under sub-section (2) of section 67;
- (e) the manner of preparing the plan of the place of premises under sub-section (3) of section 67;
- (f) other matter under clause (e) of sub-section (4) of section 67;
- (g) fees under clause (b) of sub-section (5) of section 67;
- (h) the time of filing appeal and the fees under section 68;
- (i) the form of maintaining record sub-section (2) of section 69;
- (j) rules under sub-section (1) of section 72;
- (k) mode under sub-section (2) of section 72;
- (l) limit under explanation to section 72;
- (m) any other common facilities under clause (vi) of sub-section (1) of section 73;
- (n) form of application under sub-section (2) of section 76;
- (o) the manner of disclosing information under sub-section (1) of section 77;
- (p) the interval of informing Chief Facilitator and the local authority under sub-section (2) of section 77;
- (q) the form and manner of informing Chief Facilitator under sub-section (5) of section 77;
- (r) the manner of publicizing among the workers and the general public living in the vicinity under sub-section (7) of section 77;

- (s) conditions under clause (a) of section 78;
- (t) the manner of providing necessary facilities for protecting the workers under clause (b) of section 78;
- (u) the manner of medical examination of a worker under sub-clause (ii) of clause (c) of section 78;
- (v) the value of the maximum prescribed limit of exposure of chemical and toxic substances in manufacturing process in any factory under section 81;
- (w) the composition of safety committee, the tenure of office of its members and their rights and duties under sub-section (2) of section 81;
- (x) the authority under sub-section (1) of section 85;
- (y) the body representing the factory concerned under sub-section (2) of section 85;
- (z) rules under sub-section (1) of section 86;
- (aa) rules under sub-section (2) of section 86;
- (bb) any other matter which has to be or may be prescribed.

**123. Power of Central Government to make regulations in relation to mines and dock work** - The Central Government may, by notification in the Official Gazette, make regulations consistent with this Code for all or any of the following purposes, namely:-

- (a) for prescribing the qualifications required for appointment as Chief Facilitator or Facilitator;
- (b) for prescribing and regulating the duties and powers of the Chief Facilitator and of Facilitators in regard to the inspection of mines under this Code;
- (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them, and for prescribing the qualifications (including age) of agents and managers of mines and of persons acting under them;
- (d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties ;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;
- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any or mines to be under a manager not having the prescribed qualifications;
- (h) for providing for inquiries to be made under this Code, including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Code and for the suspension or cancellation of any such certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects;
- (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made there under, the storage, conveyance and use of explosives;
- (j) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such persons and for limiting the weight of any single load that may be carried by any such person;
- (k) for providing for the safety of the persons employed in a mine, their means of entrance there into and exit there from, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences ;
- (l) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine ;
- (m) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction or reduction of pillars or blocks of minerals and the maintenance of sufficient barriers between mine and mine;
- (n) for the inspection of workings and sealed off fire- areas in a mine, and for the restriction of workings in the vicinity of the sea or any lake or river or any other body of surface water, whether natural or artificial, or of any public road or building, and for requiring due precaution to be taken -against the irruption or inrush of water or other liquid matter into, outbreak of fire in or premature collapse of,

- any workings;
- (o) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;
  - (p) for regulating, subject to the provisions of the Indian Electricity Act, 1910, (9 of 1910) and of any rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines and of all other machinery and plant therein;
  - (q) "for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads and for restricting the use of certain classes of locomotives underground;
  - (r) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use ;
  - (s) for providing against explosions or ignitions of inflammable gas or dust or irruptions of or accumulations of water in mines and against danger arising there from and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of workings or to result in or to aggravate the collapse of workings or irruptions of water or ignitions in mines;
  - (t) for specifying type of accidents for the purposes of notice under section 10 and for specifying the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
  - (u) for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for prescribing the plans and sections and field notes connected there with to be kept by them and the manner and places in which such plans, sections and field notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Facilitator; and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue;
  - (v) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about, mines; for dealing effectively with the situation.
  - (w) for specifying the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 5 ;
  - (x) for specifying the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within forty five meters of any railway subject to the provisions of the Indian Railways Act, 1890 (9 of 1890) or of any public roads or other works as the case may be, which are maintained by the Government or any local authority;
  - (y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (9 of 1890);
  - (z) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner in the same manner as an arrear of land revenue;
  - (aa) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public ; and
  - (bb) any other matter which has to be or may be prescribed.

**124. Prior publication of regulation and rules in relation to mine and dock work** -. (1) The power to make rules and regulations conferred by sections 121 and 123 relating to mine and dock work is subject to the condition of the regulations and rules being made after previous publication in the following manner, namely:-

- (a) the date to be specified after a draft of regulations or rules proposed to be made will be taken under

consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

- (b) no regulation or rule shall be made unless the draft thereof has been referred to the National Occupational Safety Health Advisory Board constituted under sub-section (1) of section 16 and unless that Committee has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.
- (c) regulations and rules shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Code.
- (d) the provisions of clause (a), (b) and (c) shall not apply to the first occasion on which rules referred to in clause (d) or clause (e) of section 121 are made.

**125. Power to make regulation without previous publication.**- Notwithstanding anything contained in section 124, regulations under section 123 may be made without previous publication and without reference to the National Occupational Safety Health Advisory Board constituted under sub-section (1) of section 16 if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference;

Provided that any regulations so made shall be sent to the said National Occupational Safety Health Advisory Board for information and shall not remain in force for more than one year from the making thereof.

**126. Bye-laws.** (1) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Facilitator or Facilitator, frame and submit to the Chief Facilitator or Facilitator a draft of such bylaws, not being inconsistent with this Code or any regulations or rules for the time being in force, governing the use of any particular machinery or the adoption of a particular method of working in the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager-

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Facilitator or Facilitator, or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Facilitator or Facilitator sufficient, the Chief Facilitator or Facilitator may-

- (i) propose a draft of such bye-laws as appear to him to be sufficient, or
- (ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Facilitator or Facilitator to the owner, agent or manager under the provisions of sub-section (2), the Chief Facilitator or Facilitator and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Facilitator or Facilitator shall refer the draft bye-laws for settlement to the technical Committee constituted under sub-section (4) of section 16 in respect of mines.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Facilitator or Facilitator, or, when they are unable to agree, have been settled by the "Committee constituted under sub-section (4) of section 16 in respect of mines, a copy of the draft bye-laws shall be sent by the Chief Facilitator or Facilitator to the Central Government for approval.

(b) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(c) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bylaws, made by or on behalf of persons affected should be sent to the Central

Government.

(d) Every objection shall be in writing and shall state-

- (i) the specific grounds of objections, and
- (ii) the omissions, additions or modifications asked for.

(e) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Code, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable dispatch.

(6) The Central Government may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

**127. Laying regulations, rules and bye laws before parliament.** - Every rule, regulation and bye-laws made by the Central Government under this Code shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, rule or bye-law or both Houses agree that the regulation, rule or bye-law should not be made, the regulation, rule or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation, rule or bye-law, as the case may be.

**128. Laying of rules made by State Government.**- Every rule made by the State Government under this Code shall be laid, as soon as may be, after it is made, before the State Legislative.

**129. Repeal and Savings**— (1) The following Acts are hereby repealed, namely:-

- (a) The Factories Act, 1948 (Act no. 63 of 1948)
- (b) The Mines Act, 1952 (Act no. 35 of 1952)
- (c) The Dock Workers (Safety, Health and Welfare) Act, 1986 (Act no. 54 of 1986)
- (d) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (Act No. 27 of 1996)
- (e) The Plantations Labour Act, 1951 (Act No. 69 of 1951)
- (f) The Contract Labour (Regulation and Abolition) Act, 1970
- (g) The Inter-State Migrant workmen (Regulation of Employment and Conditions of Service) Act, 1979
- (h) The Working Journalist and other News Paper Employees (Conditions of Service and Misc. Provision) Act, 1955
- (i) The Working Journalist (Fixation of rates of wages) Act, 1958
- (j) The Motor Transport Workers Act, 1961
- (k) Sales Promotion Employees (Condition of Service) Act, 1976
- (l) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
- (m) The Cine Workers and Cinema Theatre Workers Act, 1981

(2) Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed for the purposes under any of the provisions of the enactments repealed by this Code, shall be deemed to have been appointed under this Code for such purposes under this Code.

(3) Notwithstanding such repeal, anything done or any action taken under the enactments so repealed (including any rule, regulation, notification, nomination, appointment, order or direction made there under)

shall be deemed to have been done or taken under the corresponding provisions of this Code and shall be in force to the extent they are not contrary to the provisions of this Code till they are repealed by the Central Government.

(4) Without prejudice to the provisions of sub-section (2), provisions of section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply to the repeal of such enactment.

**FIRST SCHEDULE**  
**[See Section 2(y)]**  
**List of Industries involving hazardous processes**

1. Ferrous Metallurgical Industries
  - Integrated Iron and Steel
  - Ferro-alloys
  - Special Steels
2. Non-ferrous metallurgical Industries
  - Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium
3. Foundries (ferrous and non-ferrous)
  - Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting
4. Coal (including coke) industries
  - Coal, Lignite, Coke, etc.
  - Fuel Gases (including Coal Gas, Producer Gas, Water Gas)
5. Power Generating Industries
6. Pulp and paper (including paper products) industries
7. Fertiliser Industries
  - Nitrogenous
  - Phosphatic
  - Mixed
8. Cement Industries
  - Portland Cement (including slag cement, puzzolona cement and their products)
9. Petroleum Industries
  - Oil Refining
  - Lubricating Oils and Greases
10. Petro-chemical Industries
11. Drugs and Pharmaceutical Industries
  - Narcotics, Drugs and Pharmaceuticals
12. Fermentation Industries (Distilleries and Breweries)
13. Rubber (Synthetic) Industries
14. Paints and Pigment Industries
15. Leather Tanning Industries
16. Electro-plating Industries
17. Chemical Industries
  - Coke Oven by-products and Coal-tar Distillation products
  - Industrial Gases (nitrogen, oxygen, acetylene, argon, carbon, dioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, etc.)
  - Industrial Carbon
  - Alkalies and Acids
  - Chromates and dichromates
  - Leads and its compounds
  - Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides)
  - Electrothermal products (artificial abrasive, calcium carbide)
  - Nitrogenous compounds (cyanides, cyanamides and other nitrogenous compounds)
  - Phosphorous and its compounds
  - Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine)
  - Explosives (including industrial explosives and detonators and fuses)
18. Insecticides, Fungicides, Herbicides and other Pesticides Industries
19. Synthetic Resin and plastics
20. Man made Fibre (Cellulosic and non-cellulosic) Industry
21. Manufacture and repair of electrical accumulators
22. Glass and Ceramics
23. Grinding or glazing of metals
24. Manufacture, handling and processing of asbestos and its products
25. Extraction of oils and fats from vegetable and animal sources
26. Manufacture, handling and use of benzene and substances containing benzene

- 27. Manufacturing processes and operations involving carbon disulphide
- 28. Dyes and Dyestuff including their intermediates
- 29. Highly flammable liquids and gases

## THE SECOND SCHEDULE

[See Section 18(2)(f)]

List of matters:

- (i) fencing of machinery;
- (ii) work on or near machinery in motion;
- (iii) employment of adolescents on dangerous machines;
- (iv) striking gear and devices for cutting off power;
- (v) self acting machines;
- (vi) casing of new machinery;
- (vii) prohibition of employment of women and children near cotton openers;
- (viii) hoists and lifts;
- (ix) lifting machines, chains, ropes and lifting tackles;
- (x) revolving machinery;
- (xi) pressure plant;
- (xii) floors, stairs and means of access;
- (xiii) pits, sumps, openings in floors and other similar indentation of area;
- (xiv) safety officers
- (xv) protection of eyes;
- (xvi) precautions against dangerous fumes, gases, etc.;
- (xvii) precautions regarding the use of portable electric light;
- (xviii) explosive or inflammable dust, gas, etc.;
- (xix) safety committee;
- (xx) power to require specifications of defective parts or tests of stability;
- (xxi) safety of buildings and machinery;
- (xxii) maintenance of buildings;
- (xxiii) prohibition in certain cases of danger;
- (xxiv) notice in respect of accidents;
- (xxv) court of inquiry in case of accidents;
- (xxvi) safety management in plantation;
- (xxvii) the general requirement relating to the construction, equipments and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;
- (xxviii) the safety of any regular approaches over a dock, wharf, quay or other places which dock worker have to use for going for work and for fencing of such places and projects;
- (xxix) the efficient lighting of all areas of dock, ship, any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;
- (xxx) adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;
- (xxxi) the fire and explosion preventions and protection;
- (xxxii) safe means of access to ships, holds, stagings, equipment, appliances and other working places;
- (xxxiii) the Construction, maintenance and use of lifting and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;
- (xxxiv) the safety of workers employed in freight container terminals of other terminals for handling unitized cargo;
- (xxxv) the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;

- (xxxvi) the construction, maintenance and use of staging;
- (xxxvii) the rigging and use of ship's derricks;
- (xxxviii) the testing, examination, inspection and certification as appropriate of' loose gears including chains and ropes and of slings and other lifting devices used in the dock work;
- (xxxix) the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handing coal or other bulk cargo;
- (xl) the measures to be taken in order to prevent dangerous methods of' working in the stacking, unstacking, stowing and unstowing of cargo or handing in connection therewith;
- (xli) the handling of dangerous substances and working, in dangerous or harmful environments and the precautions to be taken in connection with such handling;
- (xlii) the work in connection with cleaning, chipping painting, operations and precautions to be taken in connection with such work;
- (xliii) the employment of persons for handling cargo, handling appliances, power operated batch covers or other power operated ship's equipment such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;
- (xliv) the transport of dock workers;
- (xlv) the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibration and air pollution at the work place;
- (xlvi) protective equipment and protective clothing;
- (xlvii) the sanitary, washing and welfare facilities;
- (xlviii) the medical supervision;
- (xlix) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;
- (l) the investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of' notices, the persons and authorities to whom, they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted; and
- (li) the submission of statement of accidents, man-days lost, volume of cargo handled and particulars of dock workers.
- (lii) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;
- (liii) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person child the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;
- (liv) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;
- (lv) the erection installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;
- (lvi) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;
- (lvii) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;
- (lviii) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;
- (lix) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;
- (lx) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of prime mover and every part of transmission or other machinery, unless it is in such a position or of

such construction as to be safe to every worker working only of the operations and as if it were securely fenced:

- (lxi) the safe handling and use of plant, including tools and equipment operated by compressed air;
- (lxii) the precaution to be taken in case of fire;
- (lxiii) the limits of weight to be lifted or moved by workers;
- (lxiv) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;
- (lxv) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;
- (lxvi) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;
- (lxvii) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipment and floating operational equipments;
- (lxviii) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;
- (lxix) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefore and the matters connected therewith, to be framed by the employers and contractors for tile operations to be carried on in a building or other construction work;
- (lxx) emergency standards for enforcement of suitable standards in respect of hazardous processes in a factory;
- (lxxi) the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory;
- (lxxii) lightning;
- (lxxiii) any other matter which is the Central Government considers under the circumstance for better working condition for safety at the work place.

### THE THIRD SCHEDULE

[See section 12]

#### List of Notifiable Diseases

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead-tetra-ethyle poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
  - (a) radium or other radio-active substances;
  - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.
18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.

19. Byssionosis.
20. Asbestosis.
21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.
22. Noise induced hearing loss (exposure to high noise levels).
23. Beryllium poisoning.
24. Carbon monoxide poisoning.
25. Coal miners' pneumoconiosis.
26. Phosgene poisoning.
27. Occupational cancer.
28. Isocyanates poisoning.
29. Toxic nephritis.