

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 751 , CUTTACK, TUESDAY, MAY 18, 2021/ BAISAKHA 28, 1943

LABOUR & ESI DEPARTMENT

NOTIFICATION

The 11th May,2021

No.4704—LESI-IR-LABGNC-0001/2021/L&ESI.— The following draft of certain rules, which the State Government proposes to make in exercise of the powers conferred by Section 99 of the Industrial Relations Code, 2020 (35 of 2020) and in supersession of, –

- (i) the Odisha Trade Union Regulations, 1941;
- (ii) the Odisha Industrial Employment (Standing Orders) Rules,1946
- (iii) the Odisha Industrial Disputes Rules, 1959; and
- (iv) the Verification of Membership and Recognition of Trade Union Rules, 1994,

except as respects things done or omitted to be done before such supersession, is hereby published, as required under sub-section (1) of said section for information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the State Government on or after the expiry of a period of Forty-Five days from the date on which the copies of this notification published in the Odisha are made available to the public;

Objections or suggestion, which may be received from any person or organization in respect of the said draft before expiry of the period so specified above will be considered by the State Government;

Objections or suggestion, if any, may be addressed to the Labour Commissioner, Odisha, Shrama Bhawan, Unit-III, Kharvel Nagar, Bhubaneswar (labcom.orissa@gmail.com) and the Principal Secretary to Government of Odisha, Labour & ESI Department, Kharvel Bhawan, Bhubaneswar, (labsec.or@nic.in) and shall be sent in a proforma containing columns (i) specifying the name and address of the person or organization, column (ii) specifying the rule or sub-rule which is proposed to be modified and column (iii) specifying the revised rule or sub-rule proposed to be substituted and reasons therefor;

DRAFT
CHAPTER - I
PRELIMINARY

1. Short title, application and commencement- (1) These rules may be called “the Odisha Industrial Relations Rules, 2021”.

(2) They extend to the whole State of Odisha and matters for which the State Government is the appropriate Government.

(3) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. Definition.— (1) In these rules, unless the context otherwise requires,—

(a) “Chairperson” means the chairperson of the Standing Committee constituted under rule 27 framed under sub-section 27(2) of the Code;

(b) “Code” means the Industrial Relations Code, 2020;

(c) “electronically” means any information submitted by e-mail or uploading on the designated portal or digital payment in any mode for the purpose of the Code;

(d) “Form” means a form appended to these rules;

(e) “Section” means the section of the Code;

(f) “Standing Committee” means a committee constituted under rule 27 framed under section sub-section (2) of the Code;

(g) “State Government” means the Government of Odisha.

(h) “Verification Officer” includes an Additional Verification Officer.

(i) With reference to clause (m) of section 2, it is hereby specified that in relation to an industry, not being an industry referred to in sub clause (ii) thereof, carried on by or under the authority of a Department of the State Government, the officer-in-charge of the industrial establishment shall be the ‘employer’ in respect of that establishment; and

(2) The words and expressions used in these rules which are not defined therein, but are defined in the Code, shall have their respective meaning as assigned to them in the Code.

3. Memorandum of settlement under clause (zi) of Section 2.—

(1) The settlement arrived at in the course of conciliation proceedings or otherwise, shall be in **Form-I**.

(2) The written agreement for settlement shall be signed by—

(a) in the case of an employer, by the employer himself, or by his authorised agent, or when the employer is an incorporated Company, or other body

corporate, by the agent, manager or other principal officer of that company or body;

(b) in the case of workers , any of the following officers of Trade Union, namely:-

(i) the President;

(ii) the Vice-President;

(iii) the Secretary (including the General Secretary); or

(iv) the Joint Secretary;

(c) any other officer of the Trade Union authorized in this behalf by the President and Secretary of the Union;

(d) by five representatives of workers duly authorized in this behalf at the meeting of the workers held for the purpose; and

(e) in case of an industrial dispute between individual worker and employer, by the workers concerned.

(3) Where the settlement is arrived at in the course of conciliation proceedings, the conciliation officer shall send a report thereof to the State Government together with a copy of the memorandum of settlement signed by the parties to the dispute.

(4) Where a settlement is arrived at between an employer and his worker otherwise than in the course of conciliation proceedings before a Conciliation Officer, the parties to the settlement shall jointly send a copy thereof electronically or by speed post or by registered post, to the concerned Divisional Labour Commissioner.

(5) The conciliation officer shall file all settlements effected under this Code in respect of industrial disputes in the area within his jurisdiction in the register maintained electronically or otherwise and the register shall contain the details including serial number, name of the industry, parties to the settlement, date of settlement, remarks and whether settlement was effected at the intervention of conciliation officer or by mutual negotiation:

Provided that signature of conciliation officer on the agreement shall not be necessary where the agreement for settlement is arrived at outside conciliation:

Provided further that nothing in this rule shall prohibit a settlement between a worker or workers or Trade Union and an employer on mutually agreed terms and such settlement may be in the form other than Form I.

CHAPTER- II

BI-PARTITE FORUMS

4. Constitution of Works Committee etc. under Section 3.- (1) Every employer to whom an order made by the State Government under sub-section (1) of Section 3 relates, shall forthwith proceed to constitute a Works Committee (hereinafter in this rule referred to as the Committee) to promote measures for securing and preserving amity and good relations between the employer and workers and, to that end, to comment upon matters of common interest or concern.

(2) The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and class of workers engaged in, and to the sections, shops or departments of the establishment:

Provided that the total number of members of the Committee shall not exceed twenty:

Provided further that the number of representatives of the worker in the Committee shall not be less than the number of representatives of the employer therein.

(3) Subject to the provisions of this rule, the representatives of the employer in the Committee shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with, or associated with, the working of the industrial establishment.

(4) (a) Where any workers of the industrial establishment are members of a registered Trade Union or Unions, the employer shall ask such registered Trade Union or Unions to inform him in writing as to how many of the workers are members of such Trade Union or Unions; and

(b) where an employer has reason to believe that the information furnished to him under clause (a) by the registered Trade Union or Unions is false, he may, after informing such registered Trade Union or Unions, refer the matter to the Joint Labour Commissioner, who shall, after hearing the parties, shall decide the matter and his decision shall be final.

(5) On receipt of the information called for under sub-rule (4), the employer shall provide for the choosing of worker's representative on the Committee in the following manner, namely:—

(a) where there is a negotiating union under sub-section (2) or sub-section (3) of Section 14 or a negotiating council under sub-section (4) of that section, then, such negotiating union or negotiating council, as the case may be, shall nominate the worker's representatives on the Committee and in the case of the negotiating council, the nomination shall be in the manner that every registered Trade Union representing in the negotiating council shall be represented in the

Committee in proportion to the number of workers of the industrial establishment who are members of such Trade Union;

(b) where there is no recognized negotiating union or negotiating council referred to in clause (a), the workers of the industrial establishment shall elect amongst themselves the worker's representatives on the Committee :

Provided that the employer may, with the mutual agreement with workers of the industrial establishment, deploy an electronic process of conducting the election process over an information technology application, online platform or like other platform to enable as to how the representatives of workers shall be elected for the Committee under clause (b):

Provided further that where a registered Trade Union neglects or fails to furnish the information called for under clause (a) of sub-rule (4) within one month from the date on which it is so called for, then, such Trade Union shall for the purpose of this rule be treated as if it did not exist:

Provided also that where any reference has been made by the employer under clause (b) of sub-rule (4), the process of choosing the worker's representative relating thereto shall be held on receipt of the decision of the concerned Joint Labour Commissioner.

(6) The employer may, if he thinks fit, sub-divide the electoral constituency or constituencies, as the case may be, and direct that workers shall vote in either by groups, sections, shops or departments.

(7) Any worker, of not less than 19 years of age and with a service of not less than one year in the industrial establishment may, if nominated as provided in this rule, be a candidate for election as a representative of the workers on the Committee:

Provided that the service qualification shall not apply to the first election in an industrial establishment which has been in existence for less than a year.

Explanation.— A worker who has put in a continuous service of not less than one year in two or more industrial establishments belonging to the same employer shall be deemed to have satisfied the service qualification specified under this sub-rule.

(8) All workers who are not less than 18 years of age and who have put in not less than 6 months' continuous service in the industrial establishment shall be entitled to vote in the election of the representative of workers.

Explanation.— A worker who has put in continuous service of not less than six months in two or more industrial establishments belonging to the same employer shall be

deemed to have satisfied the service qualification specified under this sub-rule.

- (9) (a) the employer shall fix a date as the closing date for receiving nominations from candidates for election as worker's representatives on the Committee;
- (b) for holding the election, the employer shall fix a date which shall not be earlier than three days and later than fifteen days after the closing date for receiving nominations;
- (c) the dates so fixed shall be notified at least seven days in advance to the workers concerned and the same notice shall be affixed on the notice board or electronic notice board of the industrial establishment and given adequate publicity amongst the workers. The notice shall specify the number of seats to be elected.
- (10) (a) every nomination shall be made on a nomination paper to be provided by employer and the copies thereof shall be supplied by the employer to the workers requiring them;
- (b) each nomination paper shall be signed by the candidate to whom it relates and attested by at least two other voters belonging to the group, section, shop or department, the candidate seeking election will represent, and shall be delivered to the employer.
- (11) (a) on the day following the last day fixed for filing nomination papers, the nomination papers shall be scrutinized by the employer in the presence of the candidates and the attesting persons and those which are not valid shall be rejected;
- (b) for the purposes of clause (a), a nomination paper shall be held to be not valid if,-
 - (i) the candidate nominated is ineligible for being a candidate under sub-rule (7); or
 - (ii) the requirements of sub-rule (10) have not been complied with:

Provided that where a candidate or an attesting person is unable to remain present at the time of scrutiny, he may send a nominee for the purpose duly Authorised by him.

(12) Any candidate whose nomination for election has been accepted may withdraw his candidature within 48 hours of the completion of scrutiny of the nomination papers.

- (13) (a) if the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall be forthwith declared duly elected;

(b) if in any constituency the number of candidate is more than the number of seats allotted to it, voting shall take place on the day fixed for election;

(14) (a) The Committee shall have among its office-bearers a Chairman, a Vice-Chairman, a Secretary and a Joint-Secretary. The Secretary and the Joint-Secretary shall be elected every year.

(b) The Chairman shall be nominated by the employer from amongst the employer's representatives on the Committee and he shall, as far as possible, be the head of the industrial establishment;

(c) The Vice-Chairman shall be elected by the members, on the Committee representing the workers, from amongst themselves:

Provided that in the event of equality of votes in the election of the Vice- Chairman, the matter shall be decided by draw of a lot:

(d) The Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from amongst the representatives of the employers, the Joint Secretary shall be elected from amongst the representatives of the worker and the vice versa:

Provided that the post of the Secretary or the Joint Secretary, as the case may be, shall not be held by a representative of the employer or the workers for three consecutive years:

Provided further that the representatives of the employer shall not take part in the election of the Secretary or Joint Secretary, as the case may be, and only the representatives of the workers shall be entitled to vote in elections for the post of Secretary or Joint Secretary;

(e) In any election under clause (d), in the event of equality of votes, the matter shall be decided by a draw of lot.

(15) (a) The term of office of the representatives on the Works Committee other than a member chosen to fill a casual vacancy shall be three years;

(b) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor;

(c) A member who without obtaining leave from the Works Committee, fails to attend three consecutive meetings of the Committee shall forfeit his membership.

(16) In the event of worker's representative ceasing to be a member under clause (c) of sub-rule (15) or ceasing to be employed in the industrial establishment or in the event of his resignation, death or otherwise, his successor shall be chosen in accordance

with the provisions of this rule from the same group to which the member vacating the seat belonged for the remaining period of the Committee.

(17) The Works Committee shall have the right to co-opt in a consultative capacity, persons employed in the industrial establishment having particular or special knowledge of a matter under discussion and such co-opted member shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Works Committee.

(18)(a) The Works Committee may meet as often as necessary, but not less often than once in three months.

(b) The Works Committee shall at its first meeting regulate its own procedure

(19) (a) The employer shall provide accommodation for holding meetings of the Committee and also provide all necessary facilities to the Committee and to the members thereof for carrying out the work of the Committee and the Committee shall ordinarily meet during working hours of the industrial establishment concerned on any working day and the representatives of the workers shall be deemed to be on duty while attending the meeting;

(b) The Secretary of the Committee may with the prior concurrence of the Chairman, put up notice regarding the function of the Committee on the notice board of the industrial establishment.

(20) The employer shall submit the details of the constitution and the functioning of the Committee as a part of unified annual return provided under the Odisha Rules on Code on Occupational Safety, Health and Working Condition, 2021 framed under the Occupational Safety, Health and Working Condition Code, 2020 (37 of 2020).

(21) The State Government, or the officer authorized on its behalf, may after making such inquiry as it or he may deem fit, dissolve any Committee at any time, by an order in writing, if it or he, as the case may be, is satisfied that the Committee has not been constituted in accordance with this rule or that not less than two-thirds of the number of representatives of the workers have without any reasonable justification failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to function:

Provided that where the Committee is dissolved under this sub-rule, the employer may, and if so required by the State Government or, as the case may be, by such officer, shall take steps to re-constitute the Committee in accordance with this rule.

5. Manner of Choosing members from the employers and the workers for Grievance Redressal Committee under sub-section (2) of section 4-(1) The Grievance

Redressal Committee (hereinafter in this rule referred to as the Grievance Committee) in an industrial establishment employing twenty or more workers, shall consist of equal number of members representing the employer and the workers, which shall not exceed ten.

(2) The representatives of the employer in the Grievance Committee shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with or associated with the working of the industrial establishment, preferably the heads of major departments of the industrial establishment.

(3) The representative of the workers in the Grievance Committee shall be chosen in the following manner, namely:-

(a) where there is a negotiating union under sub-section (2) or sub-section (3) of Section 14 or a negotiating council under sub-section (4) of that section, then, such negotiating union or negotiating council, as the case may be, shall nominate the worker's representatives on the Grievance Committee and in the case of the negotiating council, the nomination shall be in the manner that every registered Trade Union representing in negotiating council shall be represented in the Grievance Committee in proportion to the number of workers of the industrial establishment who are members of such Trade Union;

(b) where there is no recognized negotiating union or negotiating council referred to in clause (a), the workers of the industrial establishment shall choose amongst themselves the worker's representatives on the Grievance Committee:

Provided that, the employer may, deploy an electronic process for choosing representative of workers, over an information technology application, online platform or like other platform, under clause (b):

Provided further that there shall be adequate representation of women workers in the Grievance Committee and such representation shall not be less than the proportion of women workers to the total workers employed in the industrial establishment:

Provided also that the tenure of the members of the Grievance Committee shall be three years:

Provided also that in case there is no recognized negotiating union or negotiating council and where any dispute arises regarding choosing of the worker's representative to the Grievance Committee, the matter may be referred to the concerned Joint Labour Commissioner, who shall after hearing the parties decide the matter and his decision shall be final.

6. Application in respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker under sub-section (5) of Section 4.-

Any aggrieved worker may file an application stating such worker's dispute therein before the Grievance Redressal Committee giving his name, designation, worker Code or token number, Department where posted, length of service in years, category of worker, address for correspondence, contact number, details of grievances and relief sought. Such application may be sent electronically or by registered post or speed post or in person. The Grievance may be raised within one year from the date on which the cause of action of such dispute arises.

7. Manner of Filing of application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the conciliation officer under sub-section (8) of Section 4.- Any worker who is aggrieved by the decision of the Grievance Redressal Committee or whose grievance is not resolved by the said Committee within thirty days of receipt of the application, may file an application online or through the designated Portal of the Department of Labour & ESI, Government of Odisha or by registered post or speed post or in person within a period of sixty days from the date of the decision of the Grievance Redressal Committee or from the date on which the period specified in sub-section (6) of Section 4 expires, as the case may be, to the Conciliation Officer through the Trade Union, of which he is a member:

Provided that in case of manual receipt of such application through registered post, speed post or in person, the Conciliation Officer shall get the same digitized and enter the particulars of the application in the online mechanism under intimation to the concerned Trade Union and worker.

CHAPTER- III TRADE UNIONS

8. Payment of a subscription by members of the Trade Union and donation from such members and others under clause (f) of Section 7.—The payment of a minimum subscription by members shall not be less than Rs.10 per annum per member.

9. Constitution of a separate fund for political purposes.— A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of the objects specified in rule 25.

10. Manner of annual audit under clause (j) of section 7.— (1)The auditor or auditors appointed in accordance with these rules shall be given access to all the books of the Trade Unions and shall verify the annual return with the accounts and vouchers relating thereto and shall thereafter sign the auditor's declaration appended to the Annual

Return as required under rule-29 in **Form-X or Form-XI**, indicating separately on that form under his signature or their signatures a statement showing in what respect he or they find the return to be incorrect, unvouched or not in accordance with the Act.

(2) The particulars given in the statement under sub-rule (1) shall indicate,—

- (a) every payment which appears to be unauthorized by the rules of the Trade Union or contrary to the provisions of the Act;
- (b) the amount of any deficiency loss which appears to have been incurred by the negligence or misconduct of any person;
- (c) the amount of any sum which ought to have been, but is not brought to account by any person.

11. Maintenance of book and registers to facilitate the audit of its accounts.—

Every registered Trade Union shall maintain the following book and registers preferably electronically to facilitate the audit of its accounts-

- (i) Register of membership and subscription in **Form-II**.
- (ii) Register of receipts and disbursements of the General Fund Account,
- (iii) Minute Books to record the proceeding of all meetings,
- (iv) Register of stock, tools and plant to show the furniture, fittings and valuable documents relating to the immovable properties of the Union.
- (v) Matching numbered subscription receipt book,
- (vi) Register of receipts and disbursements for the political fund (if there is a political fund); and
- (vii) A file of vouchers.

12. Audit of political funds.—The audit of the political fund of a registered Trade Union shall be carried out along with the audit of the general account of the Trade Union and by the same auditors.

13. Form of declaration to be made by an affidavit and the manner of making the same under clause (a) of sub-section (1) of section 8.—Every application for registration of a Trade Union, as required under clause (a) of sub-section (1) of Section 8, shall be accompanied by a declaration to be made by an affidavit containing a statement of the following particulars, namely:-

- (a) the names, occupations and addresses of the members making the application;

- (b) in case of a trade union of workmen, the names, occupations and addresses of the place of work of the members making the application
- (c) the name of the Trade Union and the address of its head office; and
- (d) the titles, names, ages, addresses and occupations of the office-bearers of the Trade Union.

14. Form of application for registration under sub-section (1) of Section 8.-

Every application for registration of a trade union under sub-section (1) of Section 8 shall be made electronically in **Form-III** and shall be accompanied with a list of office bearers in Schedule-I of that Form and a statement of the numbers of the rules of the Trade Union making provisions relating to the matters under Section 7 in Schedule-II thereof.

(2) The fee payable for the registration of a trade union shall be Rs.500/- and shall be accompanied with the application of registration, to be deposited electronically.

15. General statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars under sub-section (2) of section 8.—

Where a Trade Union has been in existence for more than one year before making application for its registration, the general statement of the assets and liabilities of the Trade Union as required under sub-section (2) of Section 8 shall be delivered in Schedule-III of Form III to the Registrar together with the application for its registration.

16. Form of issuing certificate of registration to be issued by the Registrar to the applicant Trade Union under sub-section (2) of section 9.—The Certificate of registration issued by the Registrar under sub-section (2) of section 9 shall be in Form-IV.

17. Form of entering the name and other particulars of Trade Union in a register maintained by the Registrar in this behalf under sub-section (3) of Section 9.- The Register of Trade Unions referred to in sub-section (3) of Section 9 shall be maintained in **Form-V** electronically.

18. Cancellation or withdrawal of certificate of registration of the Trade Union under sub-section (5) of section 9.—(1) The Registrar on application for the withdrawal or cancellation shall, before granting the application satisfy himself that the withdrawal or cancellation of a registration was approved by a general meeting the Trade Union, or if it was not so approved that it has the approval of the majority of the members of the Trade Union and for this purpose, the Registrar may call for such further particulars as it may deemed necessary and may examine any officer of the Union.

(2) The Registrar shall, before withdrawing or cancelling the certificate of registration of a Trade Union under clause (ii) of sub-section (5) of Section 9, cause to be

served notice in **Form-VI** on the Trade Union through its Secretary electronically or by registered post or by speed post or in person.

(3) The certificate of registration issued to Trade Union under rule 16 shall be surrendered by the Secretary of the Union when the Registrar withdraws or cancels such certificate under sub-section (5) of Section 9.

19. Period within which appeal is to be preferred by Trade Union to Tribunal under sub-section (1) of section 10.— Any appeal made under sub-section (1) of Section 10 of the Act. must be filed within sixty days of the date on which the Registrar passed the order against which the appeal is made.

20. Sending of communication and notices under sub-section (1) and the manner to inform the Registrar under sub-section (3) of section 11.—(1) All communications and notices to a registered Trade Union shall be sent to its Secretary in its registered or head office electronically or by registered post or by speed post or in person.

(2) Notice of any change in the particulars given by the Trade Union in its application for registration and its constitution or rules shall be given electronically or by registered post or by speed post or in person within fourteen days of such change to the Registrar in writing, and the such change in particulars shall be recorded in the register referred to in sub-section (3) of Section 9.

(3) On receiving a copy of any alteration made in the particulars given by the Trade Union in its application for registration and in its constitution or rules sent under sub-section (3) of Section 11, the Registrar after satisfying himself that the alteration has been made in the manner laid down by the rules of the Trade Union and is not inconsistent with any of the provisions of the Code, shall register the alteration in the entry relating to the Trade Unions in the register of Trade Unions prescribed under Rule 14 and deliver to the Secretary of such Trade Union a copy of the alterations with a certificate appended thereto to the effect that the alteration has been duly registered by him.

(4) The fee payable for registration of any alteration shall be Rs. 100/- (Rupees One Hundred) for each set of alterations made simultaneously.”

21. Matters on which negotiating union or negotiating council, as the case may be, in an industrial establishment may negotiate with the employer of the industrial establishment under sub-section (1) of Section 14.—The negotiating union or negotiating council, as the case may be, in an industrial establishment may negotiate with the employer of the industrial establishment under sub-section (1) of Section 14 on the following matters namely:-

- (a) Classification by grades and category ;
- (b) Order passed by an employer under the standing order ;
- (c) Wages including the period and mode of payment, DA, Bonus, Overtime, Increment, customary concession or privileges, compensatory and other allowances etc. ;
- (d) For betterment of social security and welfare schemes ;
- (e) Hours of work, rest days, rest intervals, shift working ;
- (f) Leave with wages, holidays ;
- (g) Retrenchment, discharge, dismissal, reinstatement, grant of relief to dismissed worker;
- (h) Promotion and transfer policy, disciplinary procedure and any amendment in the existing service rules ;
- (i) Formulation of quarter allotment policy;
- (j) Rationalization, standardization, safety, improvement of plant or introduction of new technology ;
- (k) Rationalization of work force employed in any occupation, process or departments; and
- (l) Any other matter pertaining to conditions of service, terms of employment and working conditions, which are not covered in the above list ;

22. Criteria to be followed by the employer of industrial establishment under sub-section (2) of Section 14.—(1) There shall be no verification of Trade Union membership for recognition of the union to act as sole negotiating union of the workers as required under sub-section (2) of Section 14, where only one registered Trade Union of workers is functioning in an industrial establishment for at least a period of one year after its registration.

(2) Where only one union is functioning at least for a period of one year after registration, such union shall apply to the Verification Officer for granting recognition to such union.

(3) On receipt of such application, the Verification Officer shall recognise such union as the sole bargaining agent within two weeks and forward a copy of the letter of recognition to the Labour Commissioner and the local conciliation officer.

(4) Such recognition shall be for a period of three years.

(5) The Verification Officer shall register the name of the union in the Register of Recognised Trade Unions.

23. Verification of workers on the muster roll of the industrial establishment, under sub-sections (3) and (4) under section 14.—Verification of workers on the muster roll of the industrial establishment, as required under sub-sections (3) and (4) of Section 14, shall be made in the following manner namely :—

- (a) The employer of the industrial establishment shall be the Verification Officer for the purpose of verification of membership of the Trade Unions in the industrial establishment.
- (b) The Verification Officer can appoint Additional Verification Officer (s) depending upon the quantum of work of membership verification.
- (c) Additional Verification Officer shall be neutral person, who must not have any interest with any of the Trade Union, whose membership verification to be carried out.
- (d) The Verification Officer shall carry out the work of membership verification in the industrial establishment in time bound manner.
- (e) The employer of the industrial establishment shall be responsible for expenditure and arrangement in connection with the verification of membership of Trade Union.
- (f) The employer of the industrial establishment shall initiate action before expiry of the tenure of incumbent negotiating union or negotiating council in advance so that process of verification of membership of Trade Unions is completed before expiry of tenure of incumbent negotiating union or negotiating council as the case may be.
- (g) Trade Unions which satisfy the following condition shall first request the employer of the industrial establishment to participate in the process of verification of membership of the workers:
 - (i) the trade union must be holding valid registration of trade union under the Industrial Relations Code, 2020 (35 of 2020) or the Trade Unions Act, 1926 (16 of 1926), as the case may be,
 - (ii) the membership of the Trade Union must be confined to the particular industrial establishment only.
- (h) Request from Trade Union for recognition shall be accompanied with the copy of the registration Certificate, copy of list of members, details of the membership subscription and copy of latest annual return submitted to the Registrar of Trade Unions and any other relevant document the Trade Union wishes to submit in

support of claim.

- (i) On receipt of request from trade unions for granting recognition, the employer of the industrial establishment shall appoint Additional Verification Officer (s).
- (j) On receipt of the documents or records, the Verification Officer shall scrutinize the records, documents submitted by the Trade Union to ascertain the status of registration of Trade Union, etc.
- (k) The Verification Officer shall hold meeting with representative of employer of industrial establishment and all participating Trade Unions to decide the method of verifying membership of Trade Unions by any of the following method or procedure, on which majority of participating Trade Unions are agreed upon.
 - i. Trade Union membership verification through record verification or;
 - ii. Trade Union membership verification through check off system or;
 - iii. Trade Union membership verification through secret ballot;

The date of reckoning shall also be decided in the above meeting.

- (l) In case of no decision over the method of verification, or date of reckoning or other modalities or any dispute arise during the verification process, the employer of the industrial establishment or participating Trade Unions may submit written application to the Labour Commissioner, Odisha to intervene in the matter. On receipt of such written application, the Labour Commissioner, Odisha shall, after hearing the parties, decide the matter and his decision shall be final. Further, the Labour Commissioner, Odisha may appoint Verification Officer to conduct verification of membership of Trade Unions in the industrial establishment or appoint an observer under whose supervision membership verification of Trade Unions shall be conducted.

(m) A. Trade Union membership verification through record verification:

- (i) The Verification Officer shall ask all participating unions to submit following documents and records within a stipulated time namely:—
 - (1) List of members along with all other particulars of the workers, whose name is on the muster roll of the industrial establishment where the verification is to be carried out.
 - (2) Details of subscription paid by the member to the trade union for any three months immediately preceding twelve months from the date of reckoning along with counterfoil of the receipts.
 - (3) Details of accounts or cashbook or bank account of the Trade Union.
- (ii) The Verification Officer shall check the list of membership with the

membership register and receipts/counterfoils of subscription and exclude those names, who have not paid three months subscription during the period of twelve months preceding the date of reckoning.

- (iii) The examination of records shall be done in the presence of the office bearers of the trade union concerned, but not in presence of the office bearers of other participating Trade Union(s).
- (iv) The Verification Officer shall scrutinize the cash or account books as well as well as the bank pass book maintained by the trade union to ascertain that amount of subscription shown to have been received, has been properly accounted for and that the amount received in subscription are not incompatible with the total number of members shown in the register and the list of membership furnished by the Trade Union.
- (v) The Verification Officer shall also ensure that only those workers are included in the list of members of Trade Unions, who are or were on the muster roll of the industrial establishment on the date of reckoning.
- (vi) The Verification Officer shall thereafter intimate in writing to the Trade Union concerned that verified list of their respective members are ready for their inspection by the Trade Union representatives at an appointed time and place.
- (vii) The trade unions shall also be informed that after inspections of the verified list of members of the participating Trade Unions, they shall send in writing their specific objections if any, to the entries in the list within fifteen days or larger period (as agreed by participating unions) of the date of inspection.
- (viii) Objection shall be given with name of person whose membership of Trade Union is objected and reason thereof.
- (ix) The Verification Officer shall then recheck the records like membership register, receipt book, etc. to ascertain the correct position and if necessary personal interrogation of members shall be done.
- (x) The Verification Officer shall maintain a list of members personally interrogated, result of personal interrogation, etc.
- (xi) While conducting personal interrogation, the verification officer or Additional Verification Officer shall not allow the representative of any

Trade Union to be present.

- (xii) Where the personal interrogation of selected person denies membership of particular Trade Union, list of members of that Trade Union shall be modified accordingly and final list of verified members shall be prepared and copy of the same shall be shared with all the participating Trade Unions.

(B) Trade Union membership verification through check off system:

- (i) Under the check off system, verification of membership of Trade Union shall be done on the basis of deduction of subscription for trade union made from the salary or wages of workers based on the check off mandate on date of reckoning fixed in the meeting with the verification officer.
- (ii) The employer of the industrial establishment shall prepare a Certificate of membership strength indicating the data or details, as the case may be, in Form VII along with list(s) showing name of the members of each Trade Union operating in the industrial establishment along with designation, section, department, station, etc.
- (iii) A worker of the industrial establishment shall be considered as a member of particular trade union subject to the condition that the worker can only give one check off mandate in favour of one particular trade union at a given point of time and the industrial establishment shall only reckon check off mandate form for the salary/wages on the date of reckoning fixed in the meeting with the verification officer.
- (iv) The Verification Officer shall within a period of ten days from the date of receipt of list(s) showing the name of members of Trade Union along with **Form VII** from the employer of the industrial establishment, forward a copy of the list(s) along with notice in **Form-VIII** to the Trade Unions and call upon them to accept or object its authenticity, if any, within a period of thirty days from the receipt of such communication.
- (v) If any objection is received from the Trade Union(s), the Verification Officer shall verify the same and if any reason to modify or alter the list(s) of member of Trade Union(s) is found, he shall get altered.
- (vi) The verification officer/Additional Verification Officer shall verify the name objected by the contested union, he may enquire from the concerned worker(s) about his or her or their affiliation to one or any

other Trade Union.

- (vii) In the course of such personal enquiry by the Verification Officer or the Additional Verification Officer , no representative of any of the Trade Union shall be allowed to be present.
- (viii) Subject to clause (v) above, the Verification Officer shall finalize the list of members of Trade Union(s) and submit his report to the employer of the industrial establishment.
- (ix) A copy of the final list of member shall also be distributed to all participating Trade Union(s).

(C) Trade Union membership verification through secret ballot:

- (i) The Verification Officer shall convene meeting of representatives of all registered Trade Unions functioning in the industrial establishment at least two months before the date of actual voting to decide the date, time, mode of voting, place of voting, date time and place of counting and other modalities relating to secret ballot. The minutes of the meeting shall be prepared and signed by all the participants.

The symbol to all participating Trade Unions shall be allotted in the same meeting.

- (ii) All workers whose names are borne on the muster roll of the industrial establishments on the date of reckoning shall be eligible to cast their votes.
- (iii) The voter list shall be prepared by the employer of the industrial establishment on the basis of name of the workers borne on the muster roll on the date of reckoning mutually decided in meetings held under clause (k) of rule 23. The voter list shall contain the name, father's name, designation, Employee Code, if any, and place of posting of the worker.
- (iv) The final voter list shall be published by the employer after obtaining the approval of the Verification Officer and shall be displayed at all notice boards of the industrial establishment. The copy of the voter list shall also be sent to the participating union by hand or by registered post or by electronic mode.
- (v) The Verification Officer shall display the name of the participating union with the symbol allotted to them on the notice board as soon as it is finalized.

(vi) Counting of votes will be held on the date, time and place fixed by the Verification Officer under the supervision of the Verification Officer and during the counting, agents of all participating Trade Unions shall be allowed to remain present.

(vii) After final counting of votes, the result shall be declared by the verification officer. The result sheet shall contain the names of all Trade Unions which have participated in the secret ballot election, total number of votes polled, and the number of votes cast in favour of each Trade Union. The result shall be signed by the representatives of all participating unions and the verification officer. The Verification Officer shall hand over the copy of the result to all participating unions and to the employer of the industrial establishment.

(n) The Verification Officer shall submit his report with results of verification of membership of the Trade Union to the employer of the industrial establishment.

(o) On the basis of report of the Verification Officer, the employer of the industrial establishment shall grant recognition to Trade Union as a sole negotiation union or shall constitute negotiation council under the provisions of sub-sections (2), (3) and (4) of Section 14.

24. Facilities to be provided by industrial establishment to a negotiating union or negotiating council under sub-section (7) of Section 14.-The following facilities shall be provided by the industrial establishment to a negotiating union or negotiating council as required under sub-section (7) of section 14; namely :-

(i) Provision for notice board in premises of the industrial establishment in which its member are employed ;

(ii) Facilities for holding discussions on the premises of industrial establishments with the workers concerned. ;

(iii) Facilitation for entrance and inspection, in any part of industrial establishment, where any worker is employed, with the prior notice to the employer ;

(iv) Facility for subscription through check off system or collect subscription from its members in the premises;

(v) Facility for meeting and discussion with an employer of the industrial establishment or any person appointed by him for the purpose to settle the grievances of its members;

(vi) The employer of the industrial establishment shall provide

accommodation and all other necessary facilities for holding meetings with the aim to resolve the grievance of the workers;

(vii) The office bearer of the negotiating union or member of negotiating council shall be treated on duty, whenever the employer or any of his authorized person holds meeting. In case, the meeting takes place at places other than in the premises of the industrial establishment, TA/DA as per their entitlement shall be allowed to such office bearer or member, as the case may be;

(viii) Representatives of the negotiating union or the negotiating council shall be allowed to attend conciliation, arbitration or adjudication cases. The employer may treat their absence as special leave provided the negotiating union or the negotiating council makes a formal request on that behalf to the employer along with supporting documents;and

(ix) The industrial establishment where three hundred or more workers are employed, the employer in such establishments shall provide office accommodation to negotiating union or constituent of negotiating council;

25. Objects under sub-sections (1) and sub-section (2) of section 15 and the subscription payable under sub-section (4) thereof.- (1) The general funds of a registered Trade Union shall not be spent on any objects other than the following objects, namely:—

- (a) the payment of salaries, allowances and expenses to office-bearers of the Trade Union;
- (b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union;
- (c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;
- (d) the conduct of trade disputes on behalf of the Trade Union or any member thereof;
- (e) the compensation of members for loss arising out of trade disputes;

- (f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;
- (g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment;
- (h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;
- (i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;
- (j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year; and
- (k) any other object which shall be notified by the State Government from time to time.

(2) The following objects are of the separate fund constituted under rule 9 for promotion of civic and political interests under sub-section (2) of Section-15, namely :-

- (a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the constitution or of any local authority, before, during, or after the election in connection with his candidature or election; or
- (b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or
- (c) the maintenance of any person who is a member of any legislative body constituted under the Constitution or of any local authority; or
- (d) the registration of electors or the election of a candidate for any legislative body constituted under the Constitution or for any local authority; or
- (e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

26. Manner of making application for adjudication before the Tribunal under sub-section (1) of Section 22. — Where any dispute arises between one Trade Union and another; or one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office bearers of the Trade Union; or one or more workers who are refused admission as members and the Trade Union; or where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union, who are party to the dispute shall submit application in **Form-IX** within one year from the date of dispute arose under sub-section (1) of Section 22 before the concerned Industrial Tribunal electronically or by registered post or by speed post or in person.

27. Manner of amalgamation under sub-section (2) of section 24, and the manner of sending signed amalgamation to the Registrar of a different State under sub-section (3) thereof.-(1) Any two or more registered Trade Unions may be amalgamated together as one Trade Union under sub-section (2) of Section 24 with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such trade Union entitled to vote are recorded, and that at least sixty percent of the votes recorded are in favour of the proposal.

(2) On receipt of a notice of amalgamation under sub-section (3) of Section 24, if the head office or registered office of the amalgamated Trade Union is in the state of Odisha, the Registrar shall consult Registrars of Trade union in other States so amalgamating, if any, before registering the amalgamated Trade Union under sub-section (2) of the said section.

(3) When the amalgamated Trade Union is registered, it shall be assigned a new number in the register in **Form-V** and the Registrar shall issue a new certificate in **Form-IV** thereof and the Registrar shall also note the fact of amalgamation against the entries, if any, relating to the Trade Unions so amalgamated in the register in **Form-V** and send intimation of the registration of the amalgamated Union electronically and by registered post or by speed post to the Registrars of the Trade Unions so amalgamated in other States, if any.

(4) The fee payable for the registration of an amalgamated trade union shall be Rs. 500/- and shall be deposited electronically.

28. Distribution of funds of the Trade Union on dissolution by Registrar under sub-section (2) of Section 25.-(1) When a Trade Union is dissolved, the certificate of registration issued under rule 16 shall be surrendered along with the notice of dissolution

under sub-section (1) of Section 25. When the Registrar registers the dissolution, an intimation of the fact of such registration shall be sent to the Trade Union under signature of the Registrar.

(2) Where it is necessary for the Registrar, under sub-section (2) of Section 25 to distribute the funds of a Trade Union which has been dissolved, the Registrar shall divide the funds in proportion to the amounts contributed by the members by way of subscription to the several funds of the Trade Union during their membership. In the event of the death of a member of a Trade Union subsequent to the date of its dissolution prior to the distribution of funds, the Registrar shall pay the sum payable to the legal representative of the member.

29. Date before which a general statement shall be forwarded annually to the Registrar, the particulars to be contained in general statement and its form, the person by whom and the manner in which such general statement shall be audited under clause (a) of sub-section (1) of Section 26.—The annual return for each calendar year ending on the 31st day of December under clause (a) of sub-section (1) of Section 26 shall be submitted electronically to the Registrar by the 30th day of April of the following year and shall be in **Form-X** in case of Trade Union or in **Form-XI** in case of Federation of Trade Unions.

30. Manner and purpose of recognition of a Trade Union or a federation of Trade Unions by the State Government as a State Trade Union at the State level and the authority and the manner of deciding dispute by it under sub-section (2) of Section 27. —

(1) If the State Government is of the opinion that it is necessary or expedient to recognize A Trade Union or federation of Trade Unions as State Trade Union at State level, the State Government may constitute a Standing Committee for consultation in this regard. The Labour Commissioner, Odisha shall be the ex-officio Chairperson and two members from each Trade Union or federation of Trade Unions participating in recognition process shall be the members of the standing committee.

(2) Only those Trade Unions or federation of Trade Unions, which affiliates at least combined membership of ten thousand in the State and Trade Unions registered in at least in five districts and membership is in at least eight industries, shall be recognized by the State Government under sub-section (2) of Section 27.

(3) The recognition under sub-section (2) of Section 27 shall be accorded to Trade Unions or federation of Trade Unions for five years. The Labour Commissioner, Odisha shall complete the process of verification within the period prescribed in the

notification issued for this purpose or a period of three years from the date of notification inviting membership claims from the Trade Unions or federation of Trade Unions. The final verified membership results shall be in force till the same are replaced by the next verification results.

(4) The date of reckoning for membership verification of Trade Unions or federation of Trade Unions shall be decided by the State Government in consultation with the Standing Committee.

(5) The State Government may by notification invite claims from the Trade Unions or federation of Trade Unions for recognition by the State Government and the notification shall be posted on the website of the State Government, for information of all Trade Unions or federations of Trade Unions.

(6) In case of any difficulty and for valid reasons, the Labour Commissioner, Odisha may extend the time limit to file the claim with the concurrence of the Standing Committee on verification.

(7) The Trade Union or federation of Trade Unions shall furnish particulars of their claim for membership (district wise and within each district industry wise also) on the basis of the annual returns submitted to the Registrar of Trade Unions, electronically or by registered post or by speed post. If a registered federation affiliated any Trade Union has provision to enroll direct membership in their Constitution that will be treated as Trade Union and all directly enrolled membership claimed by the Federation shall be verified.

(8) The claims submitted by the Trade Union or federation of Trade Unions shall be scrutinized by the Labour Commissioner, Odisha to ensure that the claimed membership are furnished in requisite form and the total membership and grouping of the Trade Union and in various heads of the classification of industries mentioned in notice. The Labour Commissioner, Odisha shall propose to the Standing Committee to reject the claims on the grounds, if some of the claims filed are not in the prescribed form or do not come up to the criteria fixed for a Trade Union to be considered as Trade Union or federation of Trade Union.

(9) A copy of the membership submitted to the Labour Commissioner, Odisha by each of the Trade Union or federation of Trade Unions shall be made available to the other Trade Unions or federation of Trade Unions. The Trade Union or federation of Trade Unions shall be given three months' time to raise objections, if any, in writing with regard to the claims furnished by other Trade Union or federation of Trade Unions. While raising objections, the Trade Union or federation of Trade Unions shall furnish specified objections. The Labour Commissioner, Odisha shall examine the objections and verify it

through Joint Labour Commissioners having jurisdiction or through any other authorized officer.

(10) The Trade Unions or federation of Trade Unions shall submit a list of authorized representative (two at State level and one for each district) to the Labour Commissioner, Odisha to render necessary cooperation to facilitate the verification process.

(11) Checking of the records from the office of Registrar Trade Union shall be done in respect of all the Trade Unions claimed by Trade Unions or federation of Trade Unions by the Joint Labour Commissioner having jurisdiction or his authorized representative of the region concerned in whose jurisdiction the Registrar of Trade unions fall.

(12) The first notice to produce records shall be issued to the Trade Union by giving them 21 days' time from the date of issue of the notice. The second notice shall be issued after the expiry date of the first notice giving the same notice period, if the Trade Union fails to produce records and a third and final notice shall be issued by the Verification Officer appointed by the Standing Committee for this purpose giving 25 days' notice period. The Verification Officer appointed by the Standing Committee for this purpose shall endorse copies of all notices to the head office or registered office of the Trade Union(s) or federation of Trade Unions to which the Union is affiliated. All the notices shall be sent electronically or by registered post or speed post or by hand.

(13) Record verification shall be undertaken only in cases where specific objections are raised by participating Trade unions or federation of Trade Unions requiring verification. Record verification shall also be done where there are wide variations in the membership claimed and membership shown in the Annual Return submitted to Registrar of Trade Unions.

Explanation.- In this sub-rule, Wide variation means,-

- (a) The Trade Unions or federation of Trade Unions with a claimed membership upto 250 having a variation of 40% as compared to membership shown in the annual return.*
- (b) The Trade Unions or federation of Trade Unions with claimed membership of above 250 and up to 1000 having a variation of 30% as compared to the membership shown in the annual return. (subject to minimum variation of 100).*
- (c) The Trade Unions or federation of Trade Unions with claimed membership of above 1000 but upto 5000 having variation of 25% as compared to the membership shown in the annual return. (subject to minimum variation of 300).*
- (d) The Trade Unions or federation of Trade Unions with claimed membership of*

above 5000 having a variation of 20% as compared to the membership shown in the annual return. (subject to minimum variation of 1250.

Where the claimed membership is less than 10,000, records shall be examined in the Office of verification officer, -if claimed membership exceeds 10,000, records shall be examined in the office of the Trade Unions or federation of Trade Unions and where the Verification Officer finds wide variations in the membership claimed and membership shown in the Annual Return, the records such as Membership register of Trade Unions, receipt books containing counter foils of receipts for membership subscription or certification of employer regarding deduction of subscription from the salary of the employee and payment to the Trade Unions, case book, audited statement of accounts of Trade Unions, Annual Return, Affiliation Certificate or any other relevant documents which Trade Unions or federation of Trade Unions wishes to submit in support of their claim shall be checked.

(14) The spot verification shall be done at the place of work and not in the office of the Trade Unions or federation of Trade Unions. No representative of the Unions, except in case of Agriculture and Rural Industry, shall be allowed to be present at time of taking the statement of the workers. Employer's representative shall not be allowed to remain present at the time of taking the statement of workers. Size of the spot verification shall be upto 1000-10%, 1000-10,000-5% (Minimum 100), 10,001 and above 2% of the membership verified from the record (Minimum 500). The sample size in the Agriculture and Rural Industry shall be 1/3rd of the requisite number of members required to be in case of Industrial workers.

(15) In all cases where lock-outs, closure or strikes have been continuing for a period upto three years affecting the keeping of records in the year of reckoning, annual returns submitted to the Registrar of Trade Unions for the relevant year shall be accepted as a basis for the purpose of verification. No spot verification shall be done in such case and the process shall be confined to record verification only.

(16) The Joint Labour Commissioner having jurisdiction shall complete the verification work and shall send verified list or result to the Labour Commissioner, Odisha for compiling the provisional results and the Labour Commissioner, Odisha shall intimate the provisional result of all the participating Trade Unions or federation of Trade Unions. Each participating Trade Union or federation of Trade Unions shall be allowed to bring errors or omissions in the notice of Labour Commissioner, Odisha in respect of their own Unions only for rectification within one month from the date, when the provisional results

were collected or received and shall be placed before the Standing Committee and efforts shall be made to resolve the disputes, if any.

(17) The Joint Labour Commissioner having jurisdiction shall compile and prepare a final result and it shall be submitted to the Labour Commissioner, Odisha.

(18) On receipt of final result of verification of membership of Trade Unions or federation of Trade Unions, the Labour Commissioner, Odisha shall accord recognition to the Trade Union(s) or federation(s) of Trade Unions under section (2) of section 27 of the Code.

CHAPTER- IV

STANDING ORDERS

31. Forwarding information to the Certifying Officer under sub-section (3) of Section 30 and period within which the amendment of standing order is to be done.-

(1) If the employer adopts the model standing orders of the Central Government referred to in section 29 with respect to matters relevant to his industrial establishment or undertaking, then, the employer shall intimate the concerned Certifying Officer, electronically or in person or by speed post or by registered post, the specific date from which the provisions of the model standing orders which are relevant to his establishment or undertaking have been adopted.

(2) The model standing order adopted under sub-rule (1) shall apply to all units of the industrial establishment located in the country which has adopted the model standing order:

(3) On receipt of information under sub-rule (1), the certifying officer shall enter the details of the industrial establishment which has adopted the model standing order in the register maintained under rule 38.

(4) In the event, the certifying officer observes that the industrial establishment which has intimated adoption of model standing orders is also engaged in activities other than for which model standing orders have been adopted then, he shall within a period of thirty days from such receipt of intimation of model standing orders so adopted may give his observation, if any, that the employer is required to include or adopt certain provisions which are relevant to his industrial establishment and indicate those relevant provisions and direct the employer of the industrial establishment that he shall, within a period of thirty days from the date of the receipt of such direction, comply with the direction and send compliance report only in respect of those provisions which the certifying officer observes to get included and the provisions of the model standing orders so adopted shall remain in force with effect from the date specified in sub-rule (1).

(5) If no observation is made by certifying officer within a period of thirty days of the receipt of the information as specified in sub-rule (1) then, the standing order shall be deemed to have been certified by the certifying officer.

Explanation.- For removal of doubt, it is clarified that certifying officer shall not raise any observation in the event the industrial establishment is engaged in activities which are wholly covered by the activities of the industrial establishment to which the standing orders apply.

32. Choosing of representatives of workers of the industrial establishment or undertaking for issuing notice by certifying officer where there is no Trade Union under clause (ii) of sub-section (5) of Section 30. – (1) Where there is no Trade Union as is referred to in clause (i) of sub-section (5) of Section 30, then, the certifying officer or any authorized officer in his behalf, shall call a meeting of the workers to elect three representatives, to whom he shall, issue notice with a copy of the standing order or modification, as the case may be, requiring comments, if any, which the workers may desire to make on the draft standing orders to be submitted within fifteen days from the receipt of the notice.

(2) Trade Union or negotiating Union or constituent of negotiating council shall be given a copy of the draft standing orders or modification, as the case may be, in English as well as in Odia language for seeking their comments, if any, within fifteen days from the date of the receipt of the notice.

33. Authentication of certified standing orders under sub-section (8) of Section 30.-Standing orders or modification in the standing orders –

- (i) certified in pursuance of sub-section (8) of Section 30; or
- (ii) referred to in sub-section (1) of Section 33,

shall be authenticated by the certifying officer or the appellate authority, as the case may be, and shall be sent electronically and a hard copy by registered post or speed post within a week from the date of such authentication to the employer and all the registered Trade Unions or elected representative of workers:

Provided that there shall not be any requirement of certification in cases of deemed certification under sub-section (3) of Section 30 and in cases where the employer has certified adoption of model standing orders.

34. Statement to be accompanied with draft standing orders under sub-section (9) of Section 30.- In pursuance of sub-section (9) of Section 30, a statement shall be accompanied with, -

(i) the draft standing orders, which shall contain, the particulars such as name of the industrial establishment or undertaking concerned, address, e-mail address, contact number and strength and details of workers employed therein including particulars of Trade Union to which such workers belong; and

(ii) the draft modification in the existing standing orders, shall contain, the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provision of standing order in force and proposed modification therein and reasons thereof and such statement shall be signed by a person authorized by the industrial establishment or undertaking:

Provided that model standing orders, if amended, shall also apply to all the units of the industrial establishment or undertaking in the country.

35. Conditions for submission of draft standing order in similar establishment under sub-section (10) of Section 30.- In case of group of employers engaged in similar industrial establishments, they may submit a joint draft standing orders under Section 30 and for the purpose of proceedings specified in sub-sections (1), (5), (6), (8) and (9) of Section 30 thereof after consultation with the concerned Trade union.

Provided that the joint draft standing orders, in cases of group of employers engaged in similar industrial establishments, shall be drafted and submitted to the Labour Commissioner, Odisha who shall, in consultation with the concerned Certifying Officers, certify or refuse to certify the said joint draft standing orders, after recording reasons there for:

Provided further that the certifying officer shall give notice to all concerned parties, and ensure reasonable opportunity of hearing before certifying the standing orders.

36. Disposal of appeal by appellate authority under Section 32:- (1) An employer or Trade Union or any person desirous of preferring an appeal against the order of the Certifying Officer given under sub-section (5) of Section 30 shall within sixty days of the receipt of such order draw up a memorandum of appeal in tabular form stating therein the provisions of the standing orders which are required to be altered or modified or deleted or added and reasons thereof which shall be filed electronically or in person to the Appellate Authority.

(2) The Appellate Authority shall fix a date for hearing of the appeal and issue notice,

(a) where the appeal is filed by the employer or a worker, to Trade Union of the workers of the industrial establishment or to the representative body of the workers concerned or to the employer, as the case may be;

(b) where the appeal is filed by a Trade Union, to the employer and all other Trade Unions of the workers of the industrial establishment; and

(c) where the appeal is filed by the representative of the workers, to the employer and any other worker whom the Appellate Authority joins as a party to the appeal.

(3) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.

(4) The Appellate Authority may at any stage of the proceeding call for any evidence, if it considers necessary, for disposal of the appeal.

(5) On the date fixed under sub-rule (2) for the hearing of the appeal, the Appellate Authority shall take such evidence as it may have called or considers it to be relevant if produced and after hearing the parties dispose of the appeal.

37. Sending of order and maintaining of standing orders under sub-sections

(1) and (2) of Section 33.-(1) The order of the appellate authority shall be sent electronically or otherwise to the worker or Trade Union or the negotiating union or negotiating council or any union or representative body of the workers, as the case may be, by whom the appeal has been filed.

(2) The text of the standing orders as finally certified or deemed to have been certified or adopted model standing orders under this Chapter shall be maintained by the employer in English and in Odia language and the certified standing orders shall be displayed a special board to be maintained for the purpose at the entrance or near the entrance through which majority of workers enter the industrial establishment.

38. Register for final certified copy of Standing Orders under Section 34.-(1)

The Certifying Officer shall maintain electronically or otherwise, a register in **Form-XII** of all standing orders certified or deemed to have been certified or adopted model standing orders of all the concerned industrial establishments, *inter-alia*, containing the details of, –

- (a) unique number assigned to each standing orders;
- (b) name of the industrial establishment;
- (c) nature of the industrial establishment;
- (d) date of certification or deemed certification or date of adoption of model standing order by each establishment or undertaking;
- (e) areas of operation of the industrial establishment; and
- (f) such other details as may be relevant and helpful in retrieving the standing orders and create a data base of all such standing orders.

(2) The Certifying Officer shall furnish a copy of the certified standing orders or deemed certified standing orders to any person applying there for on payment of two

rupees per page of the certified standing orders or deemed certified standing orders, as the case may be and the payment for such purpose may also be made through electronic mode.

39. Application for modification of Standing Orders under sub-section (2) of Section 35.-An application for modification of an existing standing orders under sub-section (2) of section 35 shall be submitted electronically or in person or by registered post or speed post and contain the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provisions of standing orders in force, and proposed modifications therein, reasons thereof and the details of registered Trade Union(s) operating therein, and such statement shall be signed by a person authorized by the industrial establishment or undertaking or workers or a Trade Union or other representative body of the workers, as the case may be, who has submitted such application for modification.

CHAPTER- V

NOTICE OF CHANGE

40. Notice for change proposed to be effected under clause (i) of Section 40.-

(1) Any employer intending to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule to the Code, shall give notice in **Form-XIII** to such worker affected by such change and such notice may also be posted on the designated portal of the industrial establishment, if any.

(2) The notice referred in sub-rule (1) shall be displayed conspicuously by the employer on the notice board or on the electronic notice board at the main entrance of the industrial establishment:

Provided that where there is a registered Trade Union or registered Trade Unions or a negotiating union or negotiating council relating to the industrial establishment, a copy of such notice shall also be served electronically or in person or by registered post or speed post or in person, on the Secretary of such Trade Union or each of the Secretaries of such Unions or secretary of the negotiating union or constituent of negotiating council, as the case may be.

CHAPTER- VI

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

41. Form of arbitration agreement and the manner thereof under sub-section (3) of Section 42. - (1) Where the employer and workers agree to refer the dispute to arbitration, the Arbitration Agreement shall be in Form-XIV and shall be signed by the parties to the agreement and such agreement shall be accompanied by the consent either in writing or electronically of arbitrator or arbitrators,-

(2) The Arbitration Agreement referred to in sub-rule (1) shall be signed.-

(i) in case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other officer of the corporation authorized for such purpose;

(ii) in the case of the workers, by the officer of the registered Trade Union authorized in this behalf or by three representatives of the workers duly authorized in this behalf at a meeting of the concerned workers held for such purpose;

(iii) in the case of an individual worker, by the worker himself or by an officer of registered Trade Union of which the worker is a member or by another worker in the same establishment duly authorized by him in this behalf:

Explanation.-For a purpose of this rule the expression “officer” means,-

(a) in case of an association of the employees means any officer of such association of the employers authorized for such purpose; and

(b) in case of a registered Trade Union, any of the following officers of such Trade Union authorized for such purpose, namely:—

(A) the President;

(B) the Vice-President;

(C) the Secretary (including the General Secretary);

(D) a Joint Secretary;

(E) any other officer of such Trade Union authorized in this behalf by the President and Secretary of such union.

42. Issue of notification under sub-section (5) of Section 42.- Where an industrial dispute has been referred to arbitration and the State Government is satisfied that the persons making the reference represent the majority of each party, it shall publish a notification in this behalf in the Odisha Gazette and on the website of the Labour & ESI Department, Government of Odisha for information of the employers and workers who are

not parties to the arbitration agreement but are concerned in the dispute and they may present their case before the arbitrator or arbitrators appointed for such purpose.

43. Choosing representatives of workers where there is no Trade Union under clause (c) of sub-section (5) of Section 42.- Where there is no Trade Union, the representative of workers to present their case before the arbitrator or arbitrators in pursuance of clause (c) of the proviso to sub-section (5) of section 42, shall be chosen by a resolution passed by the majority of concerned workers in **Form-XV** authorizing therein to represent the case and such workers shall be bound by the acts of representatives who have been authorized to represent before the arbitrator or arbitrators, as the case may be.

CHAPTER- VII

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

44. Conditions of service and filling up of the vacancy of the post of Judicial Member of Industrial Tribunal under Section 44.-(1) If, for any reason, a vacancy (other than a temporary absence) occurs in the post of the Judicial Member of the Industrial Tribunal then, such vacancy shall be filled up under sub-section (9) of Section 44 by the State Government on the recommendation of the High Court of Orissa and no such appointment shall be called in question in any manner, and no act or proceeding before any Court shall be called in question in any manner on the ground merely of the existence of any vacancy in , or defect in constitution of such Court.

(2) A person shall not be qualified for appointment as the Judicial Member of a Tribunal unless-

- (a) he is, or has been, a Judge of High Court of Orissa ; or
- (b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge;
- (c) he has been the Presiding Officer of a Labour Court constituted under the Industrial Disputes Act., 1947 (14 of 1947), for not less than five years.

(3) No person shall be appointed to, or continue in, the office of the Judicial Member of a Tribunal, if- (a) he is holding any office; or

- (b) he has attained the age of sixty-five years.

(4) In case of appointment on deputation of serving Judge as Judicial Member, the normal period of appointment on deputation shall be for a period of three years and in case of retired Judges, the appointment shall be till the age of 65 (sixty-five) years.

(5) The Salary and allowances of the Judicial Member of the Industrial Tribunal shall be at the rate as admissible under the applicable Service Rules or as decided by the State Government from time to time, as the case may be:

Provided that in the case of an appointment of a person as a Judicial Member, who has retired from Judicial Service and who is in receipt of or has received or has become entitled to receive any retirement benefit by way of pension, the pay of the Judicial Member shall be reduced by the gross amount of Pension from the Pay so fixed.

(6) Matters relating to the terms and conditions of service of the Judicial Member with respect to which no express provisions has been made in these rules, shall be referred by the Industrial Tribunal to the State Government for its decision, and the decision of the State Government thereon shall be final.

45. Conditions of service and filling up of the vacancy of the post of Administrative Member of Industrial Tribunal under Section 44.-(1) If, for any reason, a vacancy (other than a temporary absence) occurs in the post of the Administrative Member of the Industrial Tribunal then, such vacancy shall be filled up under sub-section (9) of Section 44 by the State Government and no such appointment shall be called in question in any manner, and no act or proceeding before any Court shall be called in question in any manner on the ground merely of the existence of any vacancy in , or defect in constitution of such Court.

(2) A person shall not be qualified for appointment as the Administrative Member of a Tribunal unless-

- (a) he is, or has been, a Additional Labour Commissioner under the State Government; or
- (b) he has, for a period of not less than three years, been a Joint Labour Commissioner under the State Government;

Provided that no such Additional Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigned from the service under the State Government, before being appointed as the Administrative Member.

(3) No person shall be appointed to, or continue in, the office of the Administrative Member of a Tribunal, if-

- (a) he is holding any office; or
- (b) he has attained the age of sixty-five years.

(4) The Salary of the Administrative Member of the Industrial Tribunal shall be at the rate as admissible under the applicable Service Rules or as decided by the State Government from time to time, as the case may be:

Provided that in the case of an appointment of a person as an Administrative Member, who has retired from service and who is in receipt of or has received or has become entitled to receive any retirement benefit by way of pension, the pay of the Administrative Member shall be reduced by the gross amount of Pension from the Pay so fixed.

(5) The Administrative Member of a Tribunal shall, be entitled to such allowances at the rate as admissible under the applicable Service Rules or as decided by the State Government from time to time, as the case may be.

(6) Matters relating to the terms and conditions of service of the Administrative Member with respect to which no express provisions has been made in these rules, shall be referred by the Industrial Tribunal to the State Government for its decision, and the decision of the State Government thereon shall be final.

46. Holding of conciliation proceedings under sub-section (1), full report under sub-section (4), and application and the manner of deciding such application under sub-section (6) of Section 53.- (1)Where the conciliation officer, –

- (a) receives a notice of a strike or lockout given under rule 49 or rule 50; or
- (b) receives application in respect to existing industrial dispute; or
- (c) receives information regarding apprehended industrial dispute,

then, he shall in case of clause (a) hold conciliation proceedings and inform the concerned parties the date of sitting for such purpose and in case of clause (b) examine the application and if he finds that such dispute pertains to the jurisdiction of State Government, transfer the application to the concerned authority otherwise proceed with the application and hold the conciliation in respect thereof and in case of clause (c) issue fresh notice to the parties concerned declaring his intention to commence conciliation proceedings.

(2) The employer or the workers representative in the first meeting shall submit their respective statement in the matter of said dispute.

(3) The conciliation officer shall hold conciliation proceedings for the purpose of bringing about a settlement of the dispute and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement.

(4) If no such settlement is arrived at in the conciliation proceeding referred to in sub-rule (1), the conciliation officer shall submit a report to the State Government electronically or by Registered Post or by Speed Post or on the designated portal of the Labour & ESI Department, Government of Odisha within seven days from the date on which the conciliation proceedings are concluded.

(5) If a settlement of dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Conciliation Officer shall, apart from sending a report thereof to the State Government or an officer authorized in this behalf by the State Government, send a memorandum of the settlements signed by the parties to the dispute, electronically or by Registered Post or by Speed Post or on the designated portal of the Labour & ESI Department, Government of Odisha.

(6) The report referred to in sub-rule (2) shall be sent to the parties concerned electronically or by Registered Post or by Speed Post or shall be accessible to the parties on the designated portal of the Labour & ESI Department, Government of Odisha.

(7) The report referred to in sub-rule (2) shall contain inter-alia the submissions of the employer, worker or Trade Union, as the case may be, and it shall also contain the efforts made by the conciliation officer to bring the parties to the amicable settlement, reasons for refusal of the parties to resolve the dispute and the conclusion of the conciliation officer.

(8) The conciliation officer shall send his report to the concerned parties within a period of forty-five days from the commencement of the conciliation proceedings.

(9) All the evidences before the conciliation officer, except the documentary evidence, shall be filed in the form of affidavit and the opposite party shall be given opportunity to file reply thereof in the affidavit form.

47. Proceedings before Tribunal.-(1) Any dispute which is not settled during the conciliation proceedings, then, either of the concerned party may make an application in **Form-XVI**, before the Tribunal electronically or by Registered Post or by Speed Post or on the designated portal of the Labour & ESI Department, Government of Odisha within ninety days from the date of the report under sub-rule (4) of rule 46.

(2) On receipt of the application referred to in sub-rule(1), the Tribunal shall direct the party raising the dispute to file a statement of claim with complete details along with relevant documents, list of supporting documents and witnesses within thirty days from the date on which application is filed and a copy of such statement may be sent electronically or by Registered Post or by Speed Post or uploaded on the designated portal of the Labour & ESI Department, Government of Odisha for service on each of the opposite parties in the dispute.

(3) The Tribunal, after ascertaining that the copies of statement of claim and other related documents are furnished to the other side by the party raising the dispute, shall fix the first hearing as soon as possible and within a period of one month from the date of receipt of the application and the opposite party or parties shall file their written statement

together with supporting documents and the list thereof and list of witnesses, if any, within a period of thirty days from the date of first hearing and simultaneously forward a copy thereof to the opposite party or parties for service.

(4) Where the Tribunal finds that the party raising the dispute, despite its directions, did not forward the copy of the statement of claim and other documents to the opposite party or parties, it shall give directions to the concerned party to furnish the copy of the statement to the opposite party or parties, granting extension of fifteen days for filing the statement, if the Tribunal finds sufficient cause for not filing the statement of claim and other documents within time.

(5) Evidence shall be recorded either in Tribunal or may be filed on affidavit or recorded in the Tribunal on oath, but in the case of affidavit, the opposite party shall have the right to cross-examine each of the deponents filing the affidavit. Where the oral examination of each witness proceeds, the Tribunal shall make a memorandum of the substance of what is being deposed and while recording the oral evidence, the Tribunal shall follow the procedure laid down in rule 5 of Order XVIII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

(6) On completion of evidence, arguments may be heard immediately or a date may be fixed for arguments, which shall not be beyond a period of fifteen days from the closure of evidence.

(7) The Tribunal shall not ordinarily grant an adjournment for a period exceeding a week at a time, but not in any case more than three adjournments in all, at the instance of the parties to the dispute, shall be granted:

Provided that the Tribunal for reasons to be recorded in writing, grant an adjournment exceeding a week at a time but not in any case more than three adjournments, at the instance of any one of the parties to the dispute, shall be granted.

(8) A Tribunal or Arbitrator may at any time correct any clerical or arithmetical mistake or error arising from an accidental slip or omission in any proceedings, report, award or decision either on his own motion or on application of any of the parties.

(9) In case any party defaults or fails to appear at any stage, the Tribunal may proceed with the case ex-parte, and decide the application or reference, as the case may be, in the absence of the defaulting party:

Provided that the Tribunal may on the application of either party filed before the submission of the award, revoke the order that the case shall proceed ex- parte, if it is satisfied that the absence of the party was on justifiable grounds, and proceed further to decide the matter as contested.

(10) The Tribunal shall communicate its Award electronically or by Registered Post or by Speed Post to the parties concerned and the State Government or upload on the designated portal of the Labour & ESI Department, Government of Odisha within one month from the date of the award.

(11) The Tribunal may summon and examine any person whose evidence appears to it to be material for deciding the case and shall be deemed to be a civil court within the meaning of Sections 345, 346 and 348 of the Code of Criminal Procedure, 1973 (1 of 1974).

(12) Where assessors are appointed to advise a Tribunal under sub-section (5) of Section 49 in relation to proceeding before it, the Tribunal shall obtain the advice of such assessors, but such advice shall not be binding on such Tribunal.

(13) A party in an award, who wants to obtain a copy of the award or other document, may obtain a copy of the award or other document after depositing the fee electronically or by bank draft in the Tribunal in the following manner, namely :-

- (a) Fee for obtaining a copy of an award or the document filed in any proceedings of Tribunal be charged at the rate of Rs. Two per page.
- (b) For certifying a copy of any such award or order or document, a fee of Rs. Two per page shall be payable
- (c) Copying and certifying fees shall be payable electronically.
- (d) Where a party applies for immediate delivery of a copy of any such award or document, an additional fee equal to one-half of the fee leviable under this rule shall be payable.

(14) The representatives of the parties appearing before a Tribunal or an Arbitrator shall have the right of examination, cross-examination and of addressing the Tribunal or an Arbitrator when evidence has been called.

(15) The proceedings before Tribunal shall be held in open court:

Provided that the proceedings before the Tribunal may be, at the request of the parties or of the directions of the Tribunal, held by video conferencing:

Provided further that the Tribunal may at any stage of the proceeding direct that any witness shall be examined or its proceedings be held in-camera.

(16) A conciliation officer, Judicial Member or Administrative Member of the Tribunal or any person authorized in writing by the conciliation officer or Tribunal in this behalf may, for the purposes of any conciliation or adjudication under the Code at any time between the hours of sunrise and sunset and in the case of person so authorized after giving reasonable notice in writing, may enter any building, factory, workshop, or other

place or premises whatsoever, and inspect the same or any work, machinery, appliance or article therein or interrogate any person therein in respect of anything situated therein or any matter relevant to the subject matter of conciliation or adjudication, as the case may be.

(17) A Tribunal may, in the interest of justice and after recording reasons there-for, admit or accept any evidence at any stage of the proceeding before it.

48. Application for recovery of dues under Section 59.- (1) Where any money is due from an employer to a worker or a group of workers under a settlement or an award or under the provisions of Chapter IX or Chapter X of the Code, the worker or the group of workers, as the case may be, may apply in **Form-XVII** for the recovery of the money due:

Provided that in the case of a person authorized in writing by the worker, or in the case of the death of the worker the assignee or heir of the deceased worker, the application shall be made in **Form-XVIII**.

(2) Where any worker or a group of workers is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money, the worker or the group of workers, as the case may be, may apply to the Tribunal having jurisdiction, in **Form-XIX** for the determination of the amount due or, as the case may be, the amount at which such benefit should be computed and such Tribunal shall decide the application within a period not exceeding three months from the date on which the application is filed;

Provided that in the case of the death of a worker, application shall be made in **Form-XX** by the assignee or heir of the deceased worker.

CHAPTER- VIII

STRIKES AND LOCK-OUTS

49. Number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given and the manner of giving such notice under sub-section (4) of Section 62. - The notice of strike referred to in sub-section (1) of Section 62 shall be given to the employer of an industrial establishment in **Form-XXI** which shall be duly signed by the Secretary of the concerned registered Trade Union or where there is no registered Trade Union, by five elected representatives of the registered Trade Union relating to such industrial establishment endorsing the copy thereof electronically or by Registered Post or by Speed Post or in person to the concerned conciliation officer, Labour Commissioner, Odisha and the Secretary, Labour and ESI Department, Government of Odisha and the date of receipt of such notice by the

conciliation officer shall be the date of receiving the notice for the purpose of clause (a) of sub-rule (1) of rule 46.

(2) If the employer of an industrial establishment receives from any person employed by him any notice of strike as referred to in sub-section (1) of section 62 then he shall within five days from the date of receiving of such notice, intimate the same electronically or by registered post or speed post or in person to the concerned conciliation officer and Labour Commissioner, Odisha.

50. Notice of lock-out under sub-section (5) and authority under sub-section (6) of Section 62. – (1) The notice of lock-out referred to in sub-section (2) of Section 62 shall be given by the employer of an industrial establishment in **Form-XXII** to the Secretary of every registered Trade Union relating to such industrial establishment electronically or by registered post or speed post or in person endorsing a copy thereof to the concerned conciliation officer, Labour Commissioner, Odisha and the Secretary, Labour and ESI Department, Government of Odisha electronically or by Registered Post or by Speed Post or in person. The notice shall be displayed in a conspicuous place by the employer on a notice board or on electronic board at the main entrance to the industrial establishment and the notice may also be posted on the designated portal of the industrial establishment, if any, and the date of receipt of such notice by the conciliation officer shall be the date of receiving the notice for the purpose of clause (a) of sub-rule (1) of rule 46.

(2) If the employer gives to any person employed by him a notice of lock-out, then he shall within five days from the date of such notice, intimate electronically or by Registered Post or by Speed Post or in person the same to the concerned conciliation officer and the Labour Commissioner, Odisha.

CHAPTER- IX

LAY-OFF, RETRENCHMENT AND CLOUSURE

51. Service of notice before retrenchment of the worker under clause (c) of section 70. - If any employer desires to retrench any worker employed in his industrial establishment who has been in continuous service for not less than one year under him then, such employer shall give prior notice of intimation of such retrenchment, in **Form-XXIII** to the State Government, and the concerned Divisional Labour Commissioner through e-mail or, by registered or speed post or in person in the following manner, namely:-

- (a) where notice is given to a worker, notice of retrenchment shall be sent within three days from the date on which notice is served on the worker;

- (b) where no notice is given to the worker, and he is paid one month's wages in lieu thereof, notice of retrenchment shall be sent within three days from the date on which such wages are paid; and
- (c) where retrenchment is carried out under an agreement which specifies a date for the termination of service, notice of retrenchment shall be sent so as to reach the State Government and the Divisional Labour Commissioner, at least one month before such date:

Provided that if the date of termination of service agreed upon is within thirty days of the agreement, the notice of retrenchment shall be sent to State Government and the Divisional Labour Commissioner concerned within three days of the agreement.

52. Manner of giving an opportunity for re-employment to the retrenched workers under Section 72.-(1) The employer shall prepare a list of all workers in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

(2) At least fifteen days before the date on which the vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post or speed post or through e-mail to every one of all the retrenched workers eligible to be considered therefore, to the latest address or e-mail, given by each of them at the time of retrenchment or at any time thereafter:

Provided that when the number of such vacancies is less than the number of retrenched workers, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workers in the list referred to in sub-rule (1) and the number of such senior-most workers being double the number of such vacancies:

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

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

(3) Immediately after complying with the provisions of sub-rule (2), the employer shall also inform the negotiating union or the constituent of negotiating council or Trade Unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workers to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where intimation is sent to every one of the workers mentioned in the list prepared under sub-rule (1).

(4) When any vacancy occurs in an industrial establishment and there are workers of such industrial establishment retrenched within one year prior to the proposal for filling such vacancies, then, employer of such industrial establishment shall, if such workers are citizens of India and have given their willingness for employment, give them preference over other on the basis of their service seniority.

53. Service of notice by the employer to the State Government for intended closure under sub-section (1) of Section 74. — If an employer intends to close down an industrial establishment, he shall give notice, within the time as specified in sub-section (1) of Section 74, of such closure in **Form-XXIII** to the State Government and a copy thereof to the concerned Divisional Labour Commissioner, by e-mail or registered post or speed post or in person and a copy of the notice shall also be sent to the registered Trade Unions or authorised representatives of workers, as the case may be, operating in the Industrial establishments.

CHAPTER- X

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

54. Application to the State Government by the employer for the intended lay-off and the manner of serving copy of such application to workers under sub-section (2) of section 78.— An application for permission under sub-section (1) of Section 78 shall be made by the employer in **Form XXIV** stating clearly therein the reasons for the intended lay off and a copy of such application shall be served simultaneously to the worker concerned electronically or by registered post or speed post or in person and shall also be displayed in a conspicuous place by the employer on a notice board or on electronic board at the main entrance of the industrial establishment concerned.

55. Time-limit for review under sub-section (7) of Section 78.-(1) The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (4) of the Section 78.

(2) The employer or any worker concerned, along with the order referred to in sub-rule (1), may make an application, within thirty days from the date on which the order is made, to the State Government for reviewing the order and the State Government shall within two months from the date on which the application is made dispose of the application after providing the concerned parties an opportunity of being heard.

(3) Where the State Government takes step, to review the order referred to in sub-rule (1), on its own motion, it may take such step within one month from the date on which the order is made and after providing the concerned parties the opportunity of being heard dispose of such review within two months from the date on which such step is taken.

56. Manner of making application to the State Government by the employer for the intended retrenchment and manner of serving copy of such application to workers under sub-section (2) of Section 79.- An application for prior permission referred to in clause (b) of sub-section (1) of Section 79 shall be made by the employer in **Form-XXIV** stating clearly therein the reasons for the intended retrenchment electronically and a copy of such application shall also be sent to concerned workers electronically and by registered post or speed post or in person and shall also be displayed in a conspicuous place by the employer on a notice board or on electronic board at the main entrance to the industrial establishment.

57. Time-limit for review under sub-section (6) of Section 79.-(1) The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (3) of Section 79.

(2) The employer or any worker concerned, along with the order referred to in sub-rule (1), may make an application, within thirty days from the date on which the order is made, to the State Government for reviewing the order and the State Government shall within two months from the date on which the application is made dispose of the application after providing the concerned parties an opportunity of being heard.

(3) Where the State Government takes step, to review the order referred to in sub-rule (1), on its own motion, it may take such step within one month from the date on which the order is made and after providing the concerned parties the opportunity of being heard dispose of such review within two months from the date on which such step is taken.

58. Application to the State Government by the employer for intended closing down of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (1) of section 80.-

An employer who intends to close down an industrial establishment to which Chapter X of the Code applies shall apply electronically and by registered post or speed post in **Form-XXIV** for prior permission at least ninety days before the date on which intended closure is to become effective to the State Government, stating clearly therein the reasons for the intended closure of the industrial establishment and simultaneously a copy of such application shall also be sent to the representatives of the workers electronically and by registered post or speed post or in person.

59. Time-limit for review under sub-section (5) of section 80.-(1) The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (2) of Section 80.

(2) The employer or any worker concerned, along with the order referred to in sub-rule (1), may make an application, within thirty days from the date on which the order is made, to the State Government for reviewing the order and the State Government shall within two months from the date on which the application is made dispose of the application after providing the concerned parties an opportunity of being heard.

(3) Where the State Government takes step, to review the order referred to in sub-section (1), on its own motion, it may take such step within one month from the date on which the order is made and after providing the concerned parties the opportunity of being heard dispose of such review within two months from the date on which such step is taken.

CHAPTER- XI

WORKER RE-SKILLING FUND

60. Contribution from such other sources to be made to the worker re-skilling fund under clause (b) of sub-section (2) of Section 83.-The worker re-skilling fund shall consist of the contribution from such other sources as may be notified by the State Government from time to time.

61. Manner of utilization of fund under sub-section (3) of Section 83.- Every employer who has retrenched a worker or workers under this Code, shall, within ten days from the date of retrenching a worker or workers in the industrial establishment shall electronically transfer an amount equivalent to fifteen days of last drawn wages of such retrenched worker or workers in the account to the worker re-skilling fund to be maintained by the State Government. Bank account details of the said Fund shall be displayed on the website of the Labour & ESI Department, Government of Odisha and the Labour Commissioner, Odisha. The fund so received shall be transferred by the State Government to each worker or workers' account, as the case may be, electronically within forty five days of receipt of funds from the employer and the worker workers shall utilize such amount for his/her re-skilling. The employer shall also submit the list containing the name of each retrenched worker, the amount equivalent to fifteen days of wages last drawn in respect of such worker along with his/her bank account details to enable the State Government to transfer the amount in his/her respective account.

(2) The enforcement, administration , accounting, audit and reporting of the worker re-skilling fund shall be in such manner as may be notified by the State Government from time to time.

CHAPTER- XII

OFFENCES AND PENALTIES

62. Manner of composition of offence specified under sub-section (1) of Section 89 and the manner of making application for the compounding of an offence specified under sub-section (4) thereof.-(1) The officer notified by the State Government for the purposes of compounding of offences under sub-section (1) of Section 89 (hereinafter referred to as the Compounding Officer), shall in the offences under this Code in which prosecution is not instituted for which the compounding is permissible under Section 89, send a notice electronically or by registered post or speed post or in person or by any designated portal of the Labour & ESI Department, Government of Odisha to the accused in **Form-XXV** consisting of three parts. In part I of such Form, the compounding officer shall inter-alia specify the name of the offender and his other particulars, the details of the offence and the section under which the offence has been committed, the compounding amount required to be paid towards the composition of the offence. Part II of the Form shall specify the consequences if the offence is not compounded and part III of the Form shall contain the application to be filed by the accused if he desires to compound the offence. Each notice shall have a continuous unique number containing alphabets or

numeric and other details such as Compounding Officer concerned, industrial establishment, year, place, type of inspection for the purpose of easy identification.

(2) The accused to whom the notice referred to in sub-rule (1) is served, may send the part III of the Form duly filled by him to the Compounding Officer electronically and by registered post or speed post or in person and deposit the compounding amount electronically or otherwise, within fifteen days of the receipt of the notice, in the account specified by the compounding officer in the notice.

(3) Where the prosecution has already been instituted against the accused in the competent Court, the accused may make an application to the Court to allow composition of the offence against him and the Court, after considering the application, may allow composition of the offence by the Compounding Officer in accordance with the provisions of Section 89 and procedure specified in this rule.

(4) If the accused complies with the requirement of sub-rule (2), the Compounding Officer shall compound the offence for the amount of money deposited by the accused and-

- (a) if the offence is compounded before the institution of prosecution, then no complaint for prosecution shall be instituted against the accused and if the offence is compounded pending proceeding under section 85, the Compounding Officer shall intimate the composition to the officer referred to in that section who shall after intimation close the proceeding in respect of the accused person of such offence; and
- (b) if the offence is compounded after the institution of prosecution under sub-rule (3) with the permission of the Court, then, the Compounding Officer shall treat the case as closed and intimate the composition of offence to the competent Court by which such composition was allowed and after receiving such intimation, the Court shall discharge the accused person and close the prosecution.

(5) The Compounding Officer shall exercise the powers to compound the offence under this rule, subject to the direction, control and supervision of the State Government.

CHAPTER- XIII

MISCELLNEOUS

63. Protected workers under sub-sections (3) and (4) of Section 90.—(1) Every registered Trade Union connected with an industrial establishment, to which the Code applies, shall communicate to the employer before the 30th April of every year, the names

and addresses of such of the officers of such Union who are employed in that establishment and who, in the opinion of the Union should be recognised as “protected workers” and any change in the incumbency of any such officer shall be communicated to the employer by the union within fifteen days of such change.

(2) The employer shall, subject to sub-section (3) and sub-section (4) of Section 90, recognise such workers to be “protected workers” for the purposes of Section 90 and communicate to the Union, in writing, within fifteen days of the receipt of the names and addresses under sub-rule (1), the list of workers recognised as protected workers for the period of twelve months from the date of such communication.

(3) Where the total number of names received by the employer under sub-rule (1) exceeds the maximum number of protected workers, admissible for the industrial establishment, under sub-section (4) of Section 90, the employer shall recognise as protected workers only such maximum number of workers:

Provided that where there is more than one registered Trade Union in the industrial establishment, the maximum number shall be so distributed by the employer among the Unions that the numbers of recognised protected workers in individual Unions bear practicably by the same proportion to one another as the membership figures of the Unions and the employer shall in that case intimate in writing to the President or the Secretary of each concerned Union, the number of protected workers allotted to it:

Provided further that where the number of protected workers allotted to such a Trade Union under this sub-rule falls short of the number of officers of the Union seeking protection, the union shall be entitled to select the officers to be recognised as protected workers and such selection shall be made by the Union and communicated to the employer within five days of the receipt of the employer’s letter in this regard.

(4) When a dispute arises between an employer and any registered Trade Union in any matter connected with the recognition of “protected workers’ under this rule, the dispute shall be referred to the Joint Labour Commissioner having jurisdiction, whose decision thereon shall be final.

64. Complaint by an aggrieved worker under section 91.- (1) Every complaint under Section 91 of the Code shall be made electronically or by registered post or speed post in **Form-XXVI** and shall be accompanied by as many copies as there are opposite parties mentioned in the complaint.

(2) Every complaint under sub-rule (1) shall be verified by the worker making the complaint or by authorized representative of the worker proved to the satisfaction of the conciliation officer, arbitrator, Tribunal to be acquainted with the facts of the case.

65. Authorization of worker for representing in any proceeding under sub-section (1) of Section 94.- Where the worker is not a member of any Trade Union, then, any member of the executive or other office-bearer of any Trade Union connected with or by any other worker employed in the industry in which the worker is employed may be authorized by such worker to represent him in any proceeding under the Code relating to a dispute in which the worker is a party in Form-XV.

66. Authorization of employer for representing in any proceeding under sub-section (2) of Section 94.- Where the employer, is not a member of any association of employers, may authorize in **Form-XV** an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged to represent him in any proceeding under the Code relating to a dispute in which the employer is a party.

67. Expenses of witness.- Every person who is summoned and duly attends or otherwise appears as a witness before a Tribunal or arbitrator shall be entitled to an allowance for expenses according to scale for the time being in force with respect to witnesses in the civil court in the State where the enquiry, adjudication or arbitration, as the case may be, is being conducted.

68. Publication for communication.- The State Government, the Tribunal, every employer for which the State Government is the appropriate Government, every Trade Union or negotiating union or the constituents of negotiating council and every authority referred to in these rules shall adequately disclose their e-mail id or website or portal or any or all of them, as the case may be, by specifying in the letter-head, for the purposes of every communication to effect service of messages and documents under these rules.

69. Maintenance of records, registers, forms, notice, and display on board- All records, registers, forms, notice, display board and other documents which are required to be maintained under the code may be maintained in electronic manner and retained in the required format or containing the information as is required and they shall be produced and shown as and when required by the authority or Inspector-cum-Facilitator under this Code and rules framed thereunder.

70. Appointment of Commissioner under sub-section (3) of Section 59.— Where it is necessary to appoint a Commissioner under sub-section (3) of Section 59, the Tribunal may appoint a person with experience in the particular industry, trade or business involved in question referred to in sub-section (2) of Section 59 or a person with experience as a judge of civil court, or as a Magistrate or as a Registrar or Secretary of a Tribunal constituted under any State Act or Tribunal constituted under the Code.

71. Fees for the Commissioner, etc.— (1) The Tribunal shall, after consultation with the parties, estimate the probable duration of the enquiry and fix the amount of the Commissioner's fees and other incidental expenses and direct the payment thereof into the nearest treasury, within a specified time, by such party or parties and in such proportion as it may consider fit.

Provided that the Tribunal may from time to time direct that any further sum or sums be deposited into the treasury within such time and by such parties as it may consider fit:

Provided further that the Tribunal may in its discretion, extend the time for depositing the sum into the treasury.

(2) The Tribunal may, at any time, for reasons to be recorded in writing, vary the amount of the Commissioner's fees in consultation with the parties.

(3) The Tribunal may direct that the fees shall be disbursed to the Commissioner in such installments and on such date as it may consider fit.

(4) The undisbursed balance, if any, of the sum deposited shall be refunded to the party or parties who deposited the sum in the same proportion as that in which it was deposited.

72. Time for submission of report.— (1) Every order for the appointment of Commissioner under sub-section (3) of Section 59 shall indicate a date, allowing sufficient time, for the Commissioner to submit his report.

(2) If for any reason the Commissioner anticipates that the date fixed for the submission of his report is likely to be exceeded, he shall apply, before the expiry of the said date, for extension of time setting forth grounds thereof and the Tribunal shall take such grounds into consideration in passing orders on the application:

Provided that the Tribunal may grant extension of time notwithstanding that no application for such extension has been received from the Commissioner within the reasonable time limit.

73. Adoption of procedure prescribed by Central Government.—Notwithstanding anything contained in these Rules, wherein the State Government is the appropriate Government, but the Central Government has been empowered to prescribe any procedure under the Code, the State Government shall adopt the same procedure as prescribed by the Central Government.

Form-I**[See rule 3]**

**(Memorandum of Settlement Arrived at during Conciliation Proceeding or
Settlement Arrived at between the Employer and his Workers otherwise than in the
course of Conciliation Proceeding)**

Names of Parties:

..... Representing employer(s);

..... Representing worker(s);

Short recital of the case

.....

Terms of settlement

.....

Signature of the parties

Witnesses:

(1)

(2)

***Signature of Conciliation Officer**

**In case the settlement arrived at between the employer and his workers otherwise than in the course of conciliation proceeding, the copy of the memorandum shall be marked to the concerned District Labour Officer and Divisional Labour Commissioner.*

FORM-II
[See rule II]
(Register of membership and subscription)

1. Serial No.
2. Taken on works No.
3. Name
4. Date of admission
5. Occupation
6. Rate of Pay
7. Rate of Subscription
8. Subscription paid---
 (a) January, (b) February, (c) March, (d) April, (e) May, (f) June, (g) July,
 (h) August, (i) September, (j) October, (k) November, (l) December
9. Total
10. Amount outstanding at the end of the year

FORM-III

(See rule 14 and rule 15)
(APPLICATION FOR REGISTRATION OF TRADE UNION)

Date the..... day of..... 20.....

1. We hereby apply for the registration of a Trade Union under the name of
2. The address of the head office of the Union is
3. The Union came into existence on the day of
4. The Union is a Union of employers /workers engaged in the industry (or profession).
5. The particulars given in Schedule II show the provisions made in the rules for the matters detailed in section 7 of the Industrial Relations Code, 2020.
7. The particulars required by section 8(2) of the Industrial Relations Code, 2020, are given in Schedule III.
(To be struck out in the case of unions which have not been in existence for one year before the date of application).

8. We have been duly authorized to make this application by*.

		Signature	Occupation	Address
Signed	1			
	2			
	3			
	4			
	5			
	6			
	7			

*State here whether the authority was given by a resolution of a general meeting of the Union, if not in what other way it was given.

**To the Registrar of Trade Unions
SCHEDULE I
LIST OF OFFICERS**

Title	Name	Age	Address	Occupation

Note:- Enter in this Schedule the names of all members of the executive of the Union showing in column 1 the names of any posts held by them (e.g. President, Secretary, Treasurer, etc.) in addition to their offices as members of the executive.

**SCHEDULE II
REFERENCE TO RULES**

The numbers of the rules-making provision for the several matters detailed in column 1 are given in column 2 below:

Matter	Number of Rules
1	2
The name of the Trade Union	
The whole of the objects for which the union has been established.	
The whole of the purposes for which the general funds of the union shall be applicable.	
The maintenance of a list of members.	
The facilities provided for the inspection of the list of members by officers and members.	
The admission of ordinary members.	
The admission of honorary or temporary members.	
The payment of a subscription by members	
The conditions under which members are entitled to benefit assured by the rules.	
The conditions under which fines or forfeitures can be imposed on any member.	
The annual general body meeting of the members,	
The business to be transacted at annual general body meeting including election of office bearers.	
The manner in which the members of the executive and the other officers of the union shall be elected and removed and filling of casual	

vacancies.	
The safe custody of the funds	
The annual audit of the accounts.	
The facilities for the inspection of the account books by officers and members.	
The manner in which the rules shall be amended, varied or rescinded.	
The manner in which the union may be dissolved.	

SECHEDULE III
GENERAL STATEMENT OF ASSETS AND LIABILITIES
ON THE DAY OF.....

(This need not be filled in if the Union came into existence less than one year before the date of application for registration.)

Liabilities	Rs.	Assets	Rs.
Amount of General fund		Cash	
Amount of political fund		In hands of Treasurer	
Loans.... from		In hands of Secretary	
Other liabilities (to be Specified)		In hands of-	
		In the Bank	
		In the Bank	
		Securities as per list below	
		Unpaid subscription due	
		Loans to-	
		Immovable property	
		Goods and furniture	
		Other assets (to be specified)	
Total Liabilities		Total Assets	

LIST OF SECURITIES

Particulars	Nominal	Market value	In hands of	Signed
1.				
2.				
3.				
4.				
5.				
6.				
7.				

FORM-IV**[See rule 16 and 27]****(CERTIFICATE OF REGISTRATION OF TRADE UNION)**

No.

It is hereby certified that the has been registered under the Indian Trade Unions Act, 1926, this ----- Day of -----

Seal

**Registrar of State Trade Unions in
the State of Odisha**

FORM-V
[See rule 17 and 27]
(Register of Trade Unions)

1. Serial number
2. Date of Registration
3. (a) Name of the members making the application
(b) Occupations of the members making the application
(c) Address of the members making the application
4. Name of Trade Union
5. Address of the head office of Trade Union.
6. Date of establishment of Trade Union
7. Officer of Trade Union
 - Title
 - Name
 - Age
 - Occupation
 - Address
8. Signature of the Registrar
9. (a) Whether the provision has been made for separate fund under Section 15(2) and, if so from what date.
(b) Initials of the Registrar
10. (a) Date of intimation of alteration of Rules
(b) Date of registration of alteration of rules and its notification in the Secretary of the Trade Union.
(c) Initials of Registrar
11. (a) Date of Registration of change of address of registered office.
(b) Address of the Trade Union as changed.
(c) If the changed address is in another State whether extracts of registration sent to the State.
(d) Initials of the Registrar
12. (a) Date of registration of change or name
(b) Name of the Trade Unions as changed
(c) Initials of the Registrar

13. (a) Date of registration of amalgamation
(b) Name of amalgamated Union
(c) Registration number of the amalgamated Union
(d) Initials of the Registrar
14. (a) Date of application for cancellation of registration under Section 9(5)
(b) Date of giving notice for cancellation or withdrawal under Section 9(5)
(c) Date of issue of order withdrawing or cancelling registration.
(d) Initials of the Registrar.
15. (a)(1) Name of the members applying for dissolution.
(2) Occupation of the members applying for dissolution.
(3) Address of the members applying for dissolution.
(b) Date of registration or of dissolution and issue of certificate to that effect.
(c) Number and date of Registrar's proceeding ordering distribution of funds, if any.
(d) Initial of the Registrar.

****Note-one page shall be allotted for each union.***

FORM-VI
[See rule 18]
(Office of the Registrar of Trade Unions in the State of Odisha)

Place -----

Notice before withdrawal or cancellation of Certificate of Registration
under Sub-section (5) of Section 9 of the Industrial Relations Code, 2020
(No. 35 of 2020)

.....Trade Union.

Register No.

Notice is hereby given to the above mentioned Trade Union that it is the intention of the Registrar to proceed the date* of 20....., to withdraw (or cancel) the certificate of registration of the Trade Union, unless cause be shown to the contrary in the meantime.

The ground of such proposed withdrawal (or cancellation) is that you have submitted the application for the withdrawal (or cancellation) as per sec. 9(5)(1) // you have wilfully contravened the provisions of the Code or the rules made there under or the constitution or rules of the Trade Union as per sec. 9(5)(2) // the members of the Trade Union has fallen below 10% of total workers (or 100 workers, whichever is less) as per sec. 9(5)(3). (The facts should be briefly specified where practicable.)

Seal

(Signature)
Registrar

Date----- day of-----20

To

The Secretary of
 (Here enter name of Trade Union)

* The date entered here shall not be less than two months from the date of notice.

FORM-VII**[See rule 23(13)(b)(ii)]****Certificate of membership strength of trade unions functioning in**

..... (Name of Industrial Establishment)

1. Total number of workers employed in the industrial establishment as on (date of reckoning)
2. Total number of workers covered by the check off system:
3. The membership strength of each union of workers in the industrial establishment based on check of mandate for the salary/wages for the monthof relevant year,(as fixed in the meeting) is as follows :-

Sl. No.	Name and Address of the Union	Registration No. and date of Registration of Union	Affiliation		Name of the President, General Secretary, Treasurer of the Union with their postal Address	Total Membership in Industrial Establishment as check off mandate
			Central Organisation	State/ All India Federation		
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Certified that the above information is true and correct as per records available in and maintained by the employer of the industrial establishment.

Date:

Place:

Authorized person/Employer of Industrial Establishment

Enclose copy of the list(s) of members of trade unions

FORM-VIII
[See rule 23 (m) B (ii) and (iv)]

(Notice to Trade Unions under Check off System)

First Notice/Second Notice

By Regd. AD/Email/Speed Post/by hand

Dated the 20.....

No.

To,

The General Secretary,

.....

Subject: Verification of membership of Union operating in industrial establishment.

Dear Sir,

I am to invite the reference to the procedure for verification of membership of union operating in the industrial establishment/copy enclosed and I am enclosing herewith a detailed list of membership of Union based on the salary for the month of for the relevant year showing the name of each member designation section or office where working, as provided by the employer based on the check off mandates given by the workers.

2. I request you to peruse the list and convey your acceptance thereof as to the correctness of the list, within 30 days from the date of receipt of this letter.

3. In case you have any objection to the presence or otherwise of a worker in the list, you may raise objection by stating your specific objections and forward it to the undersigned within a period of 30 days from the date of receipt of this letter. Please note that you shall not raise any general or vague objection like inflated membership and the objection should give names of persons, whose membership of the union is not reflected in the list as also the name of persons, whose membership in the union is objected to and the reason therefore.

Kindly acknowledge receipt of this letter.

Yours faithfully,

Verification Officer

Copy forwarded to:

- (1) The president(Name and address of the Union)
- (2) The Treasurer(Name and address of the union)
- (3) The employer of the industrial establishment

Enclosure: As Above

FORM-IX**(See rule 26)****(Application for Adjudication of disputes of Trade Unions)****Before the Industrial Tribunal..... (Name and Place)**

Whereas dispute arises between

(A) Name & Address & Applicant(s)

Versus

(B) Name and Address of Opposite Party(ies).

Over the matter (statement regarding specific issues of dispute may be mentioned) which are connected with relevant to the dispute under sub section (1) of Section 22 of Industrial Relations Code, 2020.

The applicant(s) pray(s) that instant application may please be admitted for adjudication and request to pass appropriate award in the matter.

**Name and Signature of the
worker(s) or Officer of Trade
Union raising the dispute**

Place :.....

Date :.....

FORM-X**[See rule 10 and 29]**

**(Annual returns prescribed under Section 26(1) of the Industrial Relations Code,
2020**

To be forwarded by a registered Trade Union for the year ending the 31st

December.....)

PART A

1. Name of the Union
 2. Address of the Union
 3. Registered Head Office
 4. Number and date of certificate of registration
 5. Classification of industry (to be shown as per schedule of industries attached)
 6. Classification of Sector
 [Please state to which of the following four categories, the Trade Union belongs : (a) Public Sector—Central Sphere , (b) Public Sector—State Sphere, (c) Private Sector – Central Sphere and (d) Private Sector—State Sphere.]
 7. Name of the All India Body / Federation to which affiliated
 8. Affiliation number
 9. Affiliation fee paid during the year
 10. Number and date of receipt for payment of affiliation fee.
 11. Membership fee per month
 12. Number of members on books at the beginning of the years.
 13. Number of members admitted during the year
 14. Number of members who left during the year
 15. Number of members on books at the end of the year (i.e. on the 31st December....).
- | | | |
|------|--------|-------|
| Male | Female | Total |
|------|--------|-------|
16. Number of members contributing to political fund.
 17. Number of members who paid their subscription for the whole year
 18. A copy of the rules of the Trade Union corrected up to the date of despatch of his return is appended.
 19. Part B of the return below has been duly completed.

Date the**Secretary**

*If the Union falls under more than one category, the membership claimed in each category may be shown separately.

PART B**Statement of Liabilities and Assets on the 31st day of March.....**

Liabilities	Rs.	P.	Assets	Rs.	P.
Amount of General Fund			Cash- In hands of Treasury In hands of Secretary In hand of		
Amount of Political Fund			In the --- --- Bank In the --- --- Bank Security as per list below		
Loans from-			Unpaid subscription due for (a) the year (b) previous year (c)		
Debts due to-			Loans to- (a) Officers (b) Members (c) Others Immoveable property		
Other liabilities (to be specified.)			Goods and furniture Other assets (to be specified)		
Total- Liabilities			Total- Assets		

List of Securities

Particulars	Face Value	Cost Price	Market Value date on which accounts have been made up	In hand of

Treasurer**General Fund Account**

Income	Rs.	Expenditure	Rs.
Balance at beginning of year		Salaries and allowances of Officers.	
Subscription from members (including unpaid subscriptions due for the year)		Travelling allowance, salaries allowances and expenses of establishment.	
(a) Subscription received		Auditor's fees	
(b) Subscription in arrears for three months or less.		Legal expenses	
		Expenses in conducting trade disputes.	
		Compensation paid to members for loss arising out of trade disputes.	

(c) Subscription in arrears for more than three months

Donations
Sale of periodicals, books, rule, etc.
Interest on investments
Income from miscellaneous sources (to be specified)

Funeral, old age, sickness, un-employments benefits, etc.

Educational, social and religious benefits

Cost of publishing periodicals

Rents, rates and taxes

Stationery, printing and postage

{Expenses incurred under Section 15 (1) of the Industrial Relations Code, 2020 read with Rule 18(1) of the Odisha Industrial Relations Rules (to be clearly specified)}.

Other expenses (to be specified)

Balance at the end of year

Total

Total

Political Fund Account

Income
Balance at the beginning of the year

Contributions from members @ ... per member

Rs.

Expenditure
Payments made on objects specified in Section 15 (2) of the Industrial Relations Code, 2020 read with Rule 18(2) of the Odisha Industrial Relations Rules (to be specified).
Expenses of management (to be fully specified) @ ... per member
Balance at the end of year

Rs.

Total

Total

Auditor Declaration

The undersigned, having access to all the books and accounts of the ----- Union, and having examined the foregoing statements and verified the same with the account vouchers relating thereto, now sign the same as found to be correct, duly vouchered and in accordance with the law, subject to remarks if any appended hereto and also certify that the ----- Union had properly maintained its membership register and its accounts and the members had paid their membership subscriptions to the ----- Union as shown in the foregoing statements of the General Fund Account of the Union, subject to the remarks, if any, appended here to.....

Auditor
Auditor

The following changes of officers have been made during the year ----- Officers Relinquishing Office

Name	Office	Date of relinquishing office

Officers appointed

Name	Date of birth	Private address	Personal Occupation	Title of position held in Union	Date on which appointment in column 5 was taken up	Other officers held in addition to membership of executive with date
1	2	3	4	5	6	7

Elections

Dated of last election of Office bearers

Date of next election office bearers

Secretary

FORM XI**[See rule 10 and 29]****(Annual returns prescribed under Section 26(1) of the Industrial Relations Code, 2020****To be forwarded by Federation of Trade Unions for the year ending the 31st****December.....)****PART-A**

1. Name of the Federation
2. Address of the Federation
3. Registered Head Office
4. Number and date of certificate of registration
5. Classification of industry (to be shown as per schedule of industries attached).
6. Classification of section
[Please state to which of the following four categories, the Federation belongs: (a) Public Sector- Central Sphere, (b) Public Sector- State Sphere, (c) Private Sector- Central Sphere and (d) Private Sector – State Sphere.]
7. Name of the All India Body to which affiliated.
8. Affiliation number
9. Affiliation fee paid to the All India body to which affiliated during the year
10. Date of payment of affiliation fee to the All India Body.
11. Membership fee charged from affiliated Unions by the Federation during the year.
12. Number of affiliated Unions at the beginning of the year and their membership
13. Number of Unions joining during the year and their membership.
14. Number of Union disaffiliated during the year and their membership
15. Number of affiliated Unions at the end of the year and their membership
16. Number of members contributing to political Fund.
17. Number of Unions which paid their subscription for the whole year
18. A copy of the rules of the Trade Union Corrected upto the date of dispatch of this return is appended.
19. Part B of the return below has been duly completed.

Date.....**Secretary**

1. If the Federation falls under more than one category, the membership in each category may be shown separately.
2. Name of Unions should be given in separate statements marked 'A' 'B', 'C' and 'D'.

PART B**Statement of Liabilities and Assets on the 31st day of March**

Liabilities	Rs.	P.	Assets	Rs.	P.
Amount of General Fund			Cash- In hands of Treasury In hands of Secretary In hand of		
Amount of Political Fund			In the --- --- Bank In the --- --- Bank		
Loans from-			Security as per list below Unpaid subscription due for *(a)the year *(b)previous year		
Debts due to-			Loans to- *(a)Officers *(b)Members *(c)Others Immoveable property		
Other liabilities (to be specified.)			Goods and furniture Other assets (to be specified)		
Total- Liabilities			Total- Assets		

List of Securities

Particulars	Face Value	Cost Price	Market Value date on which accounts have been made up	In hand of

Treasurer**General Fund Account**

Income	Rs.	Expenditure	Rs.
Balance at beginning of year		Salaries and allowances of Officers.	
Subscription from members (including unpaid subscriptions due for the year)		Travelling allowance, salaries allowances and expenses of establishment.	
*(a)Subscription received		Auditor's fees	
*(b) Subscription in arrears for three months or less.		Legal expenses	
*(c) Subscription in arrears for more than three months		Expenses in conducting trade disputes.	
Donations		Compensation paid to members for loss arising out of trade disputes.	
		Funeral, old age, sickness, un-employments benefits, etc.	
		Educational, social and religious benefits	

Sale of periodicals,
books, rule, etc.
Interest on
investments
Income from
miscellaneous
sources (to be
specified)

Cost of publishing periodicals
Rents, rates and taxes
Stationery, printing and
postage
{Expenses incurred under
Section 15 (1) of the Industrial
Relations Code, 2020 read
with Rule 18(1) of the Odisha
Industrial Relations Rules (to
be clearly specified)}.
Other expenses (to be
specified)
Balance at the end of year

Total—**Total—**

Political Fund Account

Income
Balance at the
beginning of the
year

Contributions from
members @ ... per
member

Rs.

Expenditure
Payments made on
objects specified in
Section 15 (2) of the
Industrial Relations Code,
2020 read with Rule
18(2) of the Odisha
Industrial Relations Rules
(to be specified).
Expenses of
management (to be fully
specified)
@ ... per member
Balance at the end of
year

Rs.**Total—****Total—****Treasurer**

Auditor Declaration

The undersigned, having access to all the books and accounts of the -----
Union, and having examined the foregoing statements and verified the same with the
account vouchers relating there to, now sign the same as found to be correct, duly
vouchered and in accordance with the law, subject to remarks if any appended hereto and
also certify that the ----- Union had properly maintained its membership register and
its accounts and the members had paid their membership subscriptions to the -----
Union as shown in the foregoing statements of the General Fund Account of the Union,
subject to the remarks, if any, appended here to.....

Auditor
Auditor

The following changes of officers have been made during the year -----
Officers Relinquishing Office

Name	Office	Date of relinquishing office

Officers appointed

Name	Date of birth	Private address	Personal Occupation	Title of position held in Union	Date on which appointment in column 5 was taken up	Other officers held in addition to membership of executive with date
1	2	3	4	5	6	7

***Elections**

Dated of last election of Office bearers

Date of next election office bearers

Secretary

ANNEXURE II

Statistics of the trade unions registered under Industrial Relations Code, 2020

Return A

Registered Trade Unions

[illegible]

RETURN B
Registered Federation

Industry (as per revised classification)	Serial No.	Names and address of Federation and date of Registration	Number of member				General Fund				Political Fund				Whether the Federation is affiliated to any all India Organisation of workers		Affiliation fee per month
			At the beginning of year	Affiliated during year	Disaffiliated during year	At the end of year	Opening balance	Income	Expenditure	Closing Balance	Opening balance	Income	Expenditure	Closing Balance	No	Yes, give its name	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
							Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.				

N.B.---- Please show the Workers' Federations and Employers' Federation separately

RETURN C
Analysis of income by sources

Industry (as per revised classification)	Contribution from members	Donation	Sale of periodicals books, rules	Interest on investments	Income from miscellaneous sources	Total	Remarks
1	2	3	4	5	6	7	8

- (a) Central Unions Sub-classified as in Return A
(b) State Unions Column (a)
(c) Federations Major sources should be specified

N.B.----- Please show the workers' Federations and Employers' Union separately.

Industry (as per revised classification)	Salaries allowances and expenses of officer	*Expenses of establishment	Auditors fees	Legal expenses	Expenses in conducting trade disputes	Compensation paid to members for loss arising out of trade disputes	Funeral, old age, sickness employment benefit, etc.	Educational, social and religious benefits	Cost of publication periodicals	**Other expenses	Total Expenditure	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13
(a) Central Unions (b) State Unions (c) Federations	Sub-classification of each group as in Return A-- Vide column (a) *This should include, salaries, allowances and expenses of establishment, rents, taxes, stationery, printing and postage **Major items of expenditure should be specified											

N.B.---Please show the workers' Federations and Employers' Union separately.

SCHEDULE
The Schedule of Industries
(Please see column 5 of Part A of Form X or X-A)

Divison O. Agriculture, Forestry, Fishing, etc.

010. Agriculture and Livestock Production

- (a) Cultivation and tillage of soil, dairy farms, production of agricultural or horticultural; horticultural commodities, sugarcane, raising of livestock, bees or poultry farm, sericulture, wool sheering, etc.
- (b) Plantations—
 - 1. Tea
 - 2. Coffee
 - 3. Rubber
 - 4. Other including cinchona, caradum, cashew and pepper
- (c) Gins and presses—
 - 1. Cotton Ginning and befig
 - 2. Jute presses
 - 3. Wool Baling Pressing

021. Forestry

022. Logging

030. Hunting, Trapping and Game Propagatin

040. Fishing

Divison 1. Mining and Quarrying

110. Coal Mining

121. Iron Ore mining

122. Other metal mining

- (a) Manganese---
- (b) Gold
- (c) Others

130. Crude Petroleum and Natural Gas

141. Stone quarrying, clay and sand pits

190. Non metallic Mining and Quarrying not elsewhere classified

- (a) Mica Mining
- (b) Other Mining
- (c) Coal Quarries

- (d) Other Quarries

Divison 2-3. Manufacturing

- 200. Food (except Beverages)
- 201. Slaughtering, preparation and preserving of meat
- 202. Manufacturing of diary products
 - (a) Ghee and Ghee products
 - (b) Others
- 203. Canning and preservation of fruits and vegetables
- 204. Canning and preserving of fish and other sea foods
- 205. Grain Mill Products---
 - (a) Flour Mills
 - (b) Rice Mills
 - (c) Dal Mills
- 206. Bakery Products
- 207. Sugar Factories and Refineries
 - (a) Sugar
 - (b) Gur
- 208. Manufacture of cocoe, chocolates and sugar confectionery
- 209. Miscellaneous food preparations
 - (a) Edible Oils (other than Hydrogenated Oils)
 - (b) Hydrogenated Oil Industry
 - (c) Decortication of groundnuts
 - (d) Others

21. Beverages

- 211. and 213, Distilled and Breweries (including Power Alcohol Manufacturing)
- 212. Wine Industries
- 214. Soft Drinks and Carbonated Water Industries

22. Tobacco

- 220. Tobacco Manufactures :
 - (a) Bidi Industry
 - (b) Cigar
 - (c) Cigarette
 - (d) Snuff
 - (e) Jarda
 - (f) Others

23. Textiles

231. Spinning, Weaving and Finishing of Textiles---

- (a) Cotton Mills
- (b) Jute Mills
- (c) Silk Mills
 - (i) Artificial Silk and yarn
 - (ii) Others
- (d) Woolen Mills
- (e) Others

239. Manufacture of Textiles not elsewhere classified---

- (a) Coir Factories
- (b) Others

232-233. Others

24. Footwear, Other Wearing Apparel and Made-up Textile goods.

241. Footwear (except Rubber Footwear)

242-244 Others

25. Wood and Cork (except Furniture)

250. (a) Saw Mills
- (b) Plywood
 - (c) Others

26. Furniture and Fixtures**27. Paper and Paper Products**

271. (a) Pulp
- (b) Paper
 - (c) Paper, Card and Straw board
 - (d) Other Products

272. Manufacture of Articles of Pulp, Paper and Paper Board

28. Printing, Publishing and Allied Industries**29. Leather and Leather Products (Except Footwear)**

291. Tanneries and Leather Finishing

292. Manufacture of Leather Products (except Footwear and other Wearing Apparel.)

30. Rubber and Rubber Products---

- (a) Footwear
- (b) Types

- (c) Others

31. Chemical and Chemical Products

311. Basic Industrial Chemicals---

- (a) Heavy Chemicals---
 - (i) Acid
 - (ii) Alkalis
 - (iii) Salt
 - (iv) Others
- (b) Fertilizers---
 - (i) Bone Factories
 - (ii) Others
- (c) Ammunitions
- (d) Plastic Materials
- (e) Others

312. Vegetable and Animal Oils and Fats---

- (a) Vegetable Oils and Fats (except edible)
- (b) Animal Oils and Fats (except edible)

319. Miscellaneous

- (a) Medicinal and Pharmaceutical Products
- (b) Soaps
- (c) Paints, Varnishes, Lacquers, etc.
- (d) Matches
- (e) Lac (including Shellac)
- (f) Dyes
- (g) Others

32. Products of Petroleum and Coal

321. Petroleum Refineries---

- (a) Petroleum
- (b) Kerosene

322. Coke Ovens

329. Other Products

33. Non metallic Mineral Products (except products of Petroleum and Coal)

331. Structural Clay Products

- (i) Bricks
- (ii) Tiles

(iii) Others

332. Glass and Glass Products (except Optical Lenses)

333. Pottery, China and Earthen-ware

334. Cement

339. Non-metallic Mineral Products not elsewhere classified---

(a) Mica Industries

(b) Asbestos, Hume Pipes, Blocks, Prefabricated Products

(c) Others

34. Basic Metal Industries

341. Ferrous (Iron and Steel)

(a) Metal Extracting and Refining

(b) Metal Conversion, Metal Rolling, Tube and Wire Drawing

(c) Metal Founding

(d) Others

342. Non-ferrous—

(a) Metal Extracting and Refining

(b) Metal Conversion, Metal Tube and Wire Drawing

(c) Metal Founding

(d) Others

35. Manufacturer of Metal Products (except Machinery and Transport equipment)

350. Metal Products---

(a) Metal Containers and Steel Trunks, Cutlery, Locks, etc., Bolts, Nuts, Nails, Springs, Chains, etc., Metal Galvanizing, Tinning, Plating, Lacquering, Type Founding, Welding, Safes and Vaults.

(b) Gun and Shell Factories

(c) Others

36. Manufacture of Machinery (except Electrical Machinery)

(a) Hydraulic, Ventilating and Pneumatic Machinery, Prime Movers and Boilers and Agricultural Implements.

(b) Machine Tools and Accessories

(c) Combustion Engines and Power Driven Pumps

(d) E.M.E. Workshops

(e) Repair and Service Workshops

37. Electrical Machinery, Apparatus, Appliances Supplies

- 370. (a) Heavy Electric Motors and Machinery
- (b) Equipment for Generation, Storage, Transmission, Transformation and Distribution of Electric Energy.
- (c) Telegraph and Telephone Workshops
- (d) Electric Fans, Lamps, batteries, dry cells and storage, radio receivers, wireless apparatus, service meters and paid instruments.
- (e) Others

38. Transport Equipment

- 381. Ship Building
- 382. Manufacture and Repair of Rail Road Equipment—
 - (a) Railway Workshops
 - (i) Wagons
 - (ii) Others
 - (b) Tramway Workshops---
 - (i) Tramway Cars
 - (ii) Others
- 383. Motor Vehicles
- 384. Bicycles
- 386. Aircraft
 - (a) Aeroplanes, Aircraft Parts and Assemblage
 - (b) Others
- 387&389. Others

39. Miscellaneous

- 399 (a) Ordnance Factories not elsewhere classified

Division 4. Construction

- 400. (a) Construction, Reconstruction, Maintenance, Repair, Alteration and Demolition of Buildings—
 - (i) Undertaken by Central, Regional or Local Authorities or with the aid of Subsidies or Loans from such Authorities or supervised by them.
 - (ii) Others
- (b) Highways, Roads, Bridges, Sewarages, Drains and other public works---

- (i) Undertaken by Central, Regional or Local Authorities or with the aid of subsidies or Loans from such authorities or supervised by them.
- (ii) Others
- (c) Railroads, Railways Roadsheds, etc.
- (d) Tramways, Airports, Docks
- (e) Irrigation and River Vallay Projects
- (f) Others

Division 5. Electricity, Gas, Water and Sanitary Services

51. Electricity, Gas and Steam.

- 511. (a) Generation, Supply and Distribution
- (b) Others
- 521. Water Supply
- 522. Sanitary Services

Division 6. Commerce

- 611.612. Wholesale and Retail Trade---
- (a) Shop Employees
- (b) Others
- 620. Banks and other Financial Institutions---
- (a) Banks
- (b) Commercial Concerns
- (c) Others
- 630. Insurance
- (a) Life
- (b) Others
- 650. Others(real estate)

Division 7. Transport and Communication (Other than Workshops)

- 711. Railways---
- (a) Railway staff, porters, licensed coolies, hemals
- (b) Others
- 712. Tramway and Omnibus Operators---
- (a) Bus routes
- (b) Tramlines
- (c) Others
- 713. Motor Transport---

- (a) Text
- (b) Others
- 714. Road Transport not elsewhere classified---
- (a) Rickshaw Pullers
- (b) Carts and animal driven Vehicles
- (c) Lorry
- (d) Others
- 715. Ocean Transport (Seamen)—
- (a) Ocean Lines
- (b) Coastal shipping
- (c) Others
- 716. Water Transport (except Ocean Transport)
- (a) Steamer service, steamer ghats, boats man
- (b) Port trust, harbours and minors ports
- (c) Stevedoring
- (d) Work in ports and Docks not elsewhere classified
- (e) Others
- 717. Air Transport ---
- (a) Flying crew, Aerodrome Staff
- (b) Others
- 730. Communication ---
- (a) Posts and Telegraphs
- (b) Others

Division 8. Services

- 810. Government Services
- 820. Community and Business Services
- (a) Working Journalists
- (b) Others
- 821. Educational Services
- 822. Medical and other Public Health Services ---
- (a) Services of Local Bodies
- (b) Hospital and Dispensaries
- 830. Recreation Services
- 831. Motion Picture Productions, Distribution and Projection
- 832. Theatres and Related Services
- 833. Other Recreation Services

- 834. Personal Services
- 841. Domestic Services
- 842. Restaurants, Cafe, Hostels, etc.
- 843. Laundries and Laundry Service;
- 844. Cleaning and Dyeing
- 845. Barber and Beauty Shops
- 846. Other Personal Service

Division 9. Activities not adequately described

Form-XII**[See rule 38]****(Register for Certified Standing Orders)****Part I****Industrial Establishment**

Unique and continuous number	Name of the industrial establishment	Nature of the industrial establishment	Whether standing order is (a) model standing order, or (b) deemed standing order or (c) certified standing order	Date of adoption or date of deemed authentication or date of Certification / authentication of Standing Order
1	2	3	4	5

Date of Filing Appeal	Date and Nature of Decision	Amendment made on appeal, if any	Date of the dispatch of the copy of Standing Orders as settled on appeal	Any other relevant detail
6	7	8	9	10

FORM-XIII**[See rule 40]****(Notice of change of service conditions proposed by an employer)**

Name of employer.....

Address.....

Dated theday of 20.....

In accordance with section 40(1) of Industrial Relations Code, I/We hereby give notice to all concerned that it is my/our intention to effect the change/changes specified in the annexure, with effect from in the conditions of service applicable to workers in respect of the matters specified in the Third Schedule to this code

Signature.....

Designation

ANNEXURE

(Here specify the change/changes intended to be effected)

Copy forwarded to:

1. The Secretary of registered Trade Union, if any.
2. The Divisional Labour commissioner of the concerned area.

FORM-XIV
[See rule 41]
(Agreement for voluntary arbitration)

BETWEEN

.....Name of the parties representing employer (s)

And

.....Representing worker(s)

It is hereby agreed between the parties to refer the following dispute to the arbitration of
 [here specify the name(s) and address(es) of the arbitrator (s)].

- (i) Specific matters in dispute.
- (ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.
- (iii) Name of the worker in case he himself is involved in the dispute or the name of the union, if any, representing the worker or workers in question.
- (iv) Total number of workers employed in the undertaking affected.
- (v) Estimated number of workers affected or likely to be affected by the dispute.

*We further agree that the majority decision of the arbitrators) shall be binding on us in case the arbitrator(s) are equally divided in their opinion they shall appoint another person as umpire whose award shall be binding on us.

The arbitrator (s) shall make his/her (their) award within a period of (here specify the period agreed upon by the parties) from the date of publication of this agreement in the Official Gazette by the State Government or within such further time as is extended by mutual agreement between us in writing. In case, the award is not made within the period afore mentioned, the reference to the arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitrator.

Signature of the parties Representing employer] Representing worker/ workers.

Witnesses

1.

2.

Copy forwarded to:

- (i) The Conciliation Officer [here enter office address of the Conciliation Officer for the area concerned].
- (ii) The Labour Commissioner, Odisha, Bhubaneswar.
- (iii) The Secretary to Government, Labour & ESI Department, Odisha, Bhubaneswar.

FORM-XV**[See rule 43, 65 and 66]****(Authorization by a worker, group of workers, employer, group of employers to be represented in a proceeding before the authority under this Code)**

Before the Authority

(Here mention the Authority concerned)

In the matter of: (Mention the name of the proceeding)

.....worker(s)

Versus

.....Employer(s)

I/we hereby authorise/(if representatives are more than one)

1.....2.....3..... to represent me/us in the above matter.

Dated this.....day of.....20.....

Signature of person(s) nominating the representative(s)

Address

Accepted

FORM-XVI**[See rule 47]****(Application to be submitted before the Tribunal in the matter not settled by the Conciliation Officer)**

Before..... (here mention the name of the Tribunal having jurisdiction over the area) In the matter of:

..... Applicant

Address.....

Versus

..... Opposite party (ies)

Address.....

The above mentioned applicant begs to state as follows :-

(Here set out the relevant facts and circumstances of the case).

The applicant prays that the instant dispute may please be admitted for adjudication and request to pass appropriate Award.

Date

Place

Form-XVII**[See rule 48]****(Application for recovery of money due under sub-section (1) of section 59 of the Industrial Relations Code, 2020)**

To,

(1) The Secretary to the Government, Labour & ESI Department, Odisha, Bhubaneswar

(2) The Divisional Labour Commissioner (here insert the name of the region).

Sir,

I/We have to state that I am/we are entitled to receive from M/sa sum of Rs.(in words) on account of under the provisions of Chapter IX and X of the Industrial Relations Code, 2020/in terms of the award dated the..... given by..... /in terms of the settlement dated the arrived at between the said M/s and their worker through..... the duly elected representatives.

I/We further state that I/we served the management with a demand notice by registered post on for the said amount which the management has neither paid nor offered to pay to me/us even though a fortnight has since elapsed. The details of the amount have been mentioned in the statement hereto annexed.

I/We request that the said sum may kindly be recovered for the management under sub-section (1) of section 59 of the Industrial Relations Code, 2020 and paid to me/us as early as possible.

Signature of the applicant(s)

Address(es)

Station:

Date:.

ANNEXURE

(Here indicate the details of the amount(s) claimed.)]

Form XVIII**[See rule 48]**

(Application by a person authorised by a worker or by the assignee or heir of a deceased worker under sub-section (1) of section 59 of the Industrial Relations Code, 2020)

To,

(1) The Secretary to the Government, Labour & ESI Department, Odisha, Bhubaneswar

(2) The Divisional Labour Commissioner(here insert the name of the region).

Sir,

I Shri/Shrimati/Kumari.....have to state that Shri/ShrimatiKumari..... is/was entitled to receive from M/s..... a sum of Rs.(in words) on account of..... under the provisions of Chapter IX and X of the Industrial Relations Code, 2020 /in terms of the award dated the..... given by/in terms of the settlement, dated the.....arrived at between the said M/s..... and their worker through..... the duly elected representatives.

I further state that I served the management with a demand notice by registered post on.....for the said amount which the management has neither paid nor offered to pay to me even though a fortnight has since elapsed. The details of the amount have been mentioned in the statement hereto annexed.

I request that the said sum may kindly be recovered from the management under sub-section (1) of section 59 of the Industrial Relations Code, 2020, and paid to me as early as possible.

I have been duly authorised in writing by.....(here insert the name of the worker) to make this application and to receive the payment of the aforesaid amount due to him.

I am the assignee/heir of the deceased worker and am entitled to receive the payment of the aforesaid amount due to him.

Station.....

Signature of the authorized person/assignee/heirs

Date.....

Address.....

ANNEXURE

(Here indicate the details of the amount claimed.)

Form-XIX
[See rule 48]

**(Application for determination of the amount due under sub-section (2) of section 59
of the Industrial Relations Code, 2020 (35 of 2020))**

Before the State Government Industrial Tribunal at.

..... between..... and.

(1) Name of the applicant(s)

(2) Name of the employer

The petitioner(s)a worker ofM/s.of
.....The petitioner(s) undersigned, worker/workers of
..... is/are entitled to receive from the said M/s. the
money /benefits mentioned in the statement hereto annexed.

It is prayed that the Tribunal may be pleased to determine the amount /amounts due
to the petitioner (s).

Signature or Thumb Impression (s) of the applicant(s)

Address (es)

Place.....

Date.....

ANNEXURE

(Here set out the details of the money due or the benefits accrued together with the
case for their admissibility.)

Form-XX
[See rule 48]

(Application by a person who is an assignee or heir of a deceased worker under sub-section (2) of section 59 of the Industrial Relations Code, 2020 (35 of 2020))

Before the State Government Industrial Tribunal at Between

(i) Name of the applicant/applicants

(ii) Name of the employer

I am/We are the assignee(s) of the deceased worker and am/are entitled to make an application on his behalf.

Shri..... former worker of M/sof.....is entitled to receive from the said M/s..... the money/benefits mentioned in the statement hereto annexed;

It is prayed that the Tribunal be pleased to determine the amount/amounts due to the deceased worker.

Name and Address of worker.....

Signature of the assignee/heirs

Address (es)

Place.....

Date.....

ANNEXURE

(Herein set out the details of the money due or the benefits accrued together with the case for their admissibility).

Form-XXI**[See rule 49]****(Notice of Strike to be given by Union (Name of Union)/ Group of Workers)**

Name of five elected representatives of workers.....

Dated the.....day of.....20.....

To

(The name of the employer).

Dear Sir/Sirs,

In accordance with the provisions contained in sub-section (1) of section 62 of the Industrial Relation code I/We hereby give you notice that I propose to call a strike / we propose to go on strike on20....., for the reasons explained in the annexure.

Yours faithfully,

(Secretary of the Union)

Five representatives of the workers duly elected at a meeting held on
(date), vide resolution attached.]

ANNEXURE**Statement of the Case.**

Copy forwarded to;

- 1) The Joint Labour Commissioner of the concerned area.
- 2) The Labour Commissioner, Odisha, Bhubaneswar.
- 3) The Secretary, Government in Labour & ESI Department, Odisha, Bhubaneswar

FORM-XXII**(See rule 50)****(Notice of Lock-out to be given by an employer of an industrial establishment)**

Name of employer

Address.....

Dated the.....day of.....20.....

In accordance with the provisions of 62(6) of this code, I/we hereby give notice to all concerned that it is my/our intention to effect lock out in.....department(s), section(s) of my/our establishment with effect from.....for the reasons explained in the annexure.

Signature.....

Designation.....

ANNEXURE

1	Statement of reasons
----------	-----------------------------

Copy forwarded to:

(1) The Secretary of the Registered Union, if any

(2) Conciliation officer [Here enter office address of the District Labour Officer / Divisional Labour Commissioner / Joint Labour Commissioner of the concerned area.]

2) The Labour Commissioner, Odisha, Bhubaneswar.

3) The Secretary, Government in Labour & ESI Department, Odisha, Bhubaneswar.

Form- XXIII**[See rule 51 and 53]****(Notice of Intimation of Retrenchment/ Closure to be given by an employer to the State Government under the provisions of Chapter IX of the Industrial Relations Code, 2020)**

(To be submitted online. In case of exigencies, on paper in the prescribed format below)

Name of Industrial Establishment /Undertaking/ Employer.....

Labour Identification Number

Dated..... (Note: The intimation for Closure/Retrenchment to the appropriate government shall be served 60 days and 30 days before commencement of Closure/Retrenchment respectively)

To,

The Secretary to the Government of India,

Ministry of Labour & Employment,

New Delhi

1. *(Retrenchment) (a) Under Section 70(C) of this Code, I/ we* hereby intimate you that I*/we* have decided to retrench..... workers** out of a total of Workers** with effect from..... (DD/MM/YYYY)

Or

(Closure) (b) Under Section 74(1) of this Code, I / we hereby intimate you that I*/we* have decided to close down,.....(name of the industrial establishment or undertaking) with effect from..... (DD/MM/YYYY). The number of workers whose services would be terminated on account of the closure of the undertaking is..... (number of workers)

2. The reason for Retrenchment / Closure is.....
.....
.....

3. * The worker(s)* concerned were given on the..... (DD/MM/YYYY) one month's notice in writing as required under section 70(a)*/ section 75(1)* of this Code.

Or

* The worker(s) concerned have been given on the..... (DD/MM/YYYY) one month's pay in lieu of the notice as required under section 70(a)*/ section 75(1)* of this Code.

4. * I*/We* hereby declare that the worker(s) concerned have been*/will be* paid all their dues along with the compensation due to them under section 70* / section 75* of this Code before or on the expiry of the notice period.

Or

I/We hereby state that currently Insolvency proceedings are on in respect of the said Industrial Establishment/Undertaking/Employer, and that I*/we* will pay all the dues along with the compensation due to them under concerned laws.

5. (Retrenchment) I/we* hereby declare that the worker(s) concerned have been* / will be* retrenched in compliance to the Section 71 and section 72 of this Code.

6. I*/ we* hereby declare that no court case is pending before any Court in the matter, and if yes, the details thereof have been Annexed.

7. I*/ we* hereby declare that the above information given by me*/us* in this notice and the Annexures is true, I*/ we* am*/ are* solely responsible for its accuracy and no facts/ materials has been suppressed in the matter.

Yours faithfully,

(Name of Employer/ ***Authorized Representative with Seal)

(* Strike off which is not applicable.)

(** Indicate number in figures and words both)

(***Copy of Authorization letter issued by the employer shall be enclosed)

Copy forwarded to;

- 1) The Divisional Labour Commissioner of the concerned area.
- 2) The Labour Commissioner, Odisha, Bhubaneswar.
- 3) The Secretary, Government in Labour & ESI Department, Odisha, Bhubaneswar
- 4) To the Registered Unions/ Authorised Representatives of Workers operating in the establishments or undertakings.

FORM-XXIV**[See rule 54, 56 and 58]**

(Application for permission of Lay-off/ Continuation of Lay-off/ Retrenchment/ Closure to be given by an employer / Industrial establishment /Undertaking to the State Government under the provisions of Chapter X of the Industrial Relations Code, 2020 and rules made there under)

(To be submitted online. In case of exigencies on paper in the prescribed format below)

Name of Industrial Establishment or Undertaking or Employer.....

Labour Identification Number.....

Dated.....

(Note: The application to the State Government shall be served as indicated below:

Lay-off : at least 15 days before the intended Lay-off

Continuation of Lay-off – at least 15 days before the expiry of earlier Lay-off

Retrenchment – at least 60 days before the intended date of Retrenchment

Closure – at least 90 days before the intended date of Closure)

To

The Secretary to Government,

Labour & ESI Department, Odisha

1. *(Lay-off) (a). Under Section 78(2) of the Industrial Relations Code, 2020, I*/we* hereby apply for —permission to lay-offworkers** out of total of workers** employed in my*/our* establishment (details to be given in Annex-I) with effect from (DD/MM/YYYY).

Or

(Continuation of lay-off) (b) Under section 78(3) of the Industrial Relations Code, 2020, I/we* hereby apply for permission to continue the Lay-offworkers** out of total of laid off workers** in my*/our* establishment (details to be given in Annex-I) with effect from (DD/MM/YYYY).

Or

(Retrenchment) (c) Under section 79(2) of the Industrial Relations Code, 2020, I/we* hereby apply for permission for intended retrenchment of..... workers out of total of workers** employed in my*/our* establishment (details to be given in Annex-I) with effect from (DD/MM/YYYY).

Or

(Closure) (d) Under Section 80(1) of the Industrial Relations Code, 2020, I / we hereby inform you that I*/we* intended to close down the undertaking.....
(name of the industrial establishment or undertaking or employer) (details to be given in Annex-1) with effect from..... (DD/MM/YYYY). The number of workers whose services would be terminated on account of the closure of the undertaking is..... (number of workers)

2. *(Lay-off/Continuation of Lay-off) The worker(s) concerned were given on (DD/MM/YYYY) notice in writing as required under section 78(2)*/ section 78(3)* of this Code.

Or

(Retrenchment/ Closure) The worker(s) concerned were given on..... (DD/MM/YYYY) one month's notice in writing as required under section 79/ section 80* of this Code.

Or

(Retrenchment/ Closure) The worker(s) have been given on..... (DD/MM/YYYY) one month's pay in lieu of notice as required under section 79/ section 80* of this Code.

3. The details of affected worker(s) is at Annexure II.

4. (Retrenchment) I*/we* hereby declare that the workers concerned will be retrenched in compliance to the Section 71 and section 72 of this Code.

5. *I/We* hereby declare that the worker(s) concerned have been*/will be* paid all the dues and compensation due to them under section 67, read with section 78(10)*/ section 79* / section 80* of this Code before or on the expiry of the notice period.

Or

I/We hereby state that currently Insolvency proceedings are on in respect of the said Industrial Establishment/Undertaking/Employer, and that I/we* will pay all the dues along with the compensation due to them under concerned laws.

6. I/ we* hereby declare that no court case is pending before any Court in the matter, and if yes, the details thereof have been Annexed.

7. I/ we hereby declare that the above information given by me/ us* in this notice and enclosures is/ are* true, I/ we am/ are solely responsible for its accuracy and no facts/ materials has been suppressed in the matter.

The permission sought for may please be granted.

Yours faithfully,

(Name of Employer/ ***Authorised Representative with Seal)

(* Strike off which is not applicable.)

(** Indicate number in figures and word both)

(***Copy of Authorization letter issued by the employer shall be enclosed)

ANNEXURE I
(Please give replies against each item)

1	Name of the undertaking with complete postal address, email, mobile and land line.	
	Status of undertaking— (i) Whether State public sector, (ii) Whether a private limited company/ partnership firm/ partnership firm (ii) Whether the undertaking is Licensed/registered and if so, name of licensing/ registration authority and licence/registration certificate numbers.	
3	(a) MCA Number	
	(b) GSTN Number	
4	(i) Annual production, item wise for preceding three years- (ii) Production figures, month-wise, for the preceding twelve months,	
5	Audit report of establishment/ undertaking including Balance sheets, profit and loss accounts for the last three years.	To be annexed
6	Names of the inter-connected companies or companies under the same management.	
7	Details of lay-off/ Retrenchment resorted to in the last three years including the periods of such lay-offs/ Retrenchment the number of workmen involved in each such lay-off/ Retrenchment / continuation of lay off	
8	Any other relevant details which have bearing on lay-off/ continuation of lay off/ retrenchment/ closure.	

ANNEXURE II
(Details of affected workers)

Sl. No	UAN/ CMPFO	Name of the Worker	Category (Highly Skilled / Skilled/ Semi-skilled / Unskilled)	Date from which in service in/with the said establishment /Undertaking/ Employer	Wage as on date of Application	Remark
1						
2						
3						

FORM –XXV**[See rule 62 and 65]**

**(Notice to the Employer who committed an offence for the first time under this code,
for compounding of offence under sub-section (4) of Section 89)**

The undersigned and the Compounding Officer under sub-section 1 of section 89 of the Industrial Relations Code, 2020 hereby intimates that the allegation has been made against you for committing offence for the violation of various provision of this Code as per the details given below:-

PART – I

1. Name and Address of the offender Employer-
2. Address of the Establishment
4. Particulars of the offence
5. Section of the Code under which the offence is committed
6. Compounding amount required to be paid towards composition of the offence.....

PART – II

You are advised to deposit the above mentioned amount within fifteen days from the date of issue of this notice for compounding the offence as per Section 89 (1) of the Industrial Relation Code, 2020, alongwith an application dully filled in part – III of this notice.

In case you fail to deposit the said amount within the specified time, no further opportunity shall be given and necessary direction for filing of prosecution under Section ----- shall be issued.

Date:

Place:

(Signature of the Compounding Officer)

FORM –XXVI**[See rule 64]****(Complaint under Section 91 of the Industrial Relations Code, 2020)**

Before the Conciliation officer/ Arbitrator/ Industrial Tribunal -----,

In the matter of :.....

Reference No.....

A..... Complainant(s);

Versus

B..... Opposite Party(ies).

Address:

The complainant(s) begs/beg to complain that the Opposite Party(ies) has/have been guilty of a contravention of the provisions of section 90 of the Industrial Relation code, as shown below:

(Here set out briefly the particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the management is challenged.)

The complainant(s) accordingly prays/pray that the Conciliation officer/ Arbitrator/ Industrial Tribunal may be pleased to decide the complaint set out above and pass such order or orders thereon as it may deem fit and proper.

The number of copies of the complaint and its annexure required under rule 91 of the Industrial Relation Code are submitted herewith.

Dated this.....day of.....20..... Signature of the Complainant(s)

Verification

I do solemnly declare that what is stated in paragraph..... above is true to my (our) knowledge and that what is stated in paragraphs..... above is stated upon information received and believed by me (us) to be true. This verification is signed by me (us) at..... onday of.....20.....

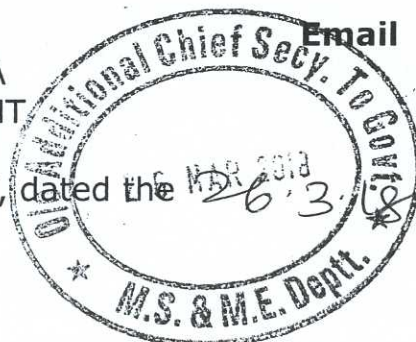
Complainant(s)
(Name and signature)

By Order of the Governor
CHITHRA ARUMUGAM
Principal Secretary to Government.

✓ AS-I/AS-II/AS-III/J.S/AFA

GOVERNMENT OF ODISHA
LABOUR & ESI DEPARTMENT

No. LL-I (III) 70/16 (O-154-17) 2456 /LESI,



From

Sri Damodar Gaipai,
Under Secretary to Government

To

The Additional Chief Secretary,
✓ MSME Department.

FP	MSME	✓ S&I	IRE	PSU
FE	OE	P&B	G&M	L&R
				LE

Sub: Self Certification for Startups

Sir,

I am directed to invite a reference to your Letter No. 1593 dtd. 07.03.18 on the above subject and enclose a copy of the Notification for self-certification of Startups under the six labour laws. This is for your information and necessary action.

Encl: As above

Yours Faithfully,


Under Secretary to Government
Government of Odisha
MSME Department

Memo No. 10 /MSME, Bhubaneswar, Dated 26.03.2018

Copy forwarded to CEO, IED, Bhubaneswar/ Evangelist, Startup Secretariat, IED, Bhubaneswar for information and necessary action.


Additional Secretary to Government

**GOVERNMENT OF ODISHA
LABOUR & ESI DEPARTMENT**

Notification

Bhubaneswar, dated the 26th March, 2018

No. LL-I (III)-70/16 2450/LESI., Whereas, as per the Startup Odisha Policy-2016, an entity shall be considered as a "Startup", provided that:

- (a) The date of its incorporation /registration is not prior to 7 years. In case of Biotechnology Startups, incorporation /registration should not be prior to 10 years;
- (b) Annual turnover not exceeding Rs. 25 Crore, for any preceding financial year;
- (c) Such entity is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property and makes it scalable for achieving commercial success ;
- (d) Registered in Odisha or employs at least 50 percent of its total qualified workforce in Odisha;
- (e) Such entity is not an extension of existing family business; or formed by splitting up or reconstruction of a business already in existence.

2. Whereas Department of MSME, Government of Odisha has highlighted the need for provisions, by State Government for self-certification for Startups under the following Acts :

- (i) The Building and Other Construction Workers (Regulation of Employment and Condition of service) Act, 1996.
- (ii) The Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979.
- (iii) The Payment of Gratuity Act, 1972.
- (iv) The Contract Labour (Regulation and Abolition) Act, 1970.
- (v) The Employee's Provident Funds and Miscellaneous Provisions Act, 1952.
- (vi) Employees' State Insurance Act, 1948

3. Whereas Labour & ESI Department, Government of Odisha already has a **"Voluntary Compliance Scheme for Industries and Commercial Establishments"**, introduced under various labour laws, vide Resolution No. 4870 dtd.30.05.2015 as part of initiatives under Ease of Doing Business. Now, after careful consideration, and in order to promote Startups, Government of Odisha is pleased to introduce a **Self-Certification Scheme** for "Startups", as defined in the Startup Odisha Policy - 2016. Since Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Employees' State Insurance Act, 1948 are implemented by the Central

Government; the scheme will allow Startups to self-certify compliance under the following labour laws implemented by the State Government:

- i. The Building and Other Construction Workers (Regulation of Employment and conditions of service) Act, 1996
- ii. The Inter-state Migrant Workmen (Regulation of Employment and Condition of service) Act, 1979
- iii. The Payment of Gratuity Act, 1972
- iii. The Contract Labour (Regulation and Abolition) Act, 1970

4. This **Self-Certification Scheme** will be implemented through the Labour & ESI Department in collaboration with department of MSME, Government of Odisha. This scheme aims to facilitate Startups registered/recognized under the Startup Odisha Initiative to comply voluntarily with the provisions of labour laws mentioned above while protecting the interest of workers to create a harmonious relationship between employers, workers and the labour administration.

5. The Startups registered/recognized under the Startup Odisha Initiative, desiring to opt for the **Self-Certification Scheme** shall apply online through the online portal startupodisha.gov.in and be eligible for the following:

(i) For the first year of setting up of the Startups, such establishments will not be inspected under any of the four labour laws mentioned above (viz. BoCW Act, ISMW Act, Payment of Gratuity Act and Contract Labour Act). They will submit online self-declaration instead.

(ii) Startups will be allowed to submit self-certified returns under the aforesaid Acts. From the second year onwards & up to three years from the setting up of the unit such Startups will be taken up for inspection only when very credible and verifiable complaint of violation is received in writing and the approval has been given from at least one level senior to the inspecting officer.

ORDER:

The order shall come into effect from the date of publication in the Odisha Gazette.

By Order of Governor


Principal Secretary to Government
Labour & ESI Department

26/3/18

Memo No. 2451 /LESI, Bhubaneswar, dated the 26.3.18

Copy forwarded to the Gazette Cell, Commerce and Transport Department, Secretariat with a request to publish the Notification in the extraordinary issue of the Odisha Gazette and furnish 20 spare copies to this Department early.

The above notification is statutory.

Xaipai
26/3/18

Under Secretary to Government

Memo No. 2452 /LESI, Bhubaneswar, dated the 26.3.18

Copy forwarded to the Labour Commissioner-cum-Member Secretary, Odisha Building and Other Construction Workers Welfare Board for information and necessary action.

Xaipai
26/3/18

Under Secretary to Government

Memo No. 2453 /LESI, Bhubaneswar, dated the 26.3.18

Copy forwarded to Director, Factory & Boilers, Odisha for information and necessary action.

Xaipai
26/3/18

Under Secretary to Government

Memo No. 2454 /LESI, Bhubaneswar, dated the 26.3.18

Copy forwarded to Guard File for information.

Xaipai
26/3/18

Under Secretary to Government