The Industrial Disputes Act, 1947

Act 14 of 1947. 81 sections, repealed. Bare Act with the official footnotes.

Source: India Code, Legislative Department, Ministry of Law and Justice, as updated to 15 July 2026. This is the official text as held in Law Maker's Bare Acts library, checked against the official file; for use in court or an exam hall, check the Gazette or India Code copy.

Official file: https://indiacode.gov.in/server/api/core/bitstreams/9b1aca9f-8eb6-4c91-83e6-94c0d5f24134/content

Every section online, with the old and new law side by side and exam questions:
https://www.lawmaker.in/bare-acts/industrial-disputes-act-1947

Repealed by the Industrial Relations Code, 2020 (35 of 2020) with effect from 21 November 2025.

Contents

CHAPTER I PRELIMINARY (Sections 1 to 2A)
CHAPTER II AUTHORITIES UNDER THIS ACT (Sections 3 to 9)
CHAPTER IIA NOTICE OF CHANGE (Sections 9A to 9B)
CHAPTER IIB GRIEVANCE REDRESSAL MACHINERY (Sections 9C)
CHAPTER III REFERENCE OF DISPUTES TO BOARDS, COURTSOR TRIBUNALS (Sections 10 to 10A)
CHAPTER IV PROCEDURE, POWERS AND DUTIES OF AUTHORITIES (Sections 11 to 21)
CHAPTER V STRIKES AND LOCK-OUTS (Sections 22 to 25)
CHAPTER VA LAY-OFF AND RETRENCHMENT (Sections 25A to 25J)
CHAPTER VB SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS (Sections 25K to 25S)
CHAPTER VC UNFAIR LABOUR PRACTICES (Sections 25T to 25U)
CHAPTER VI PENALTIES (Sections 26 to 31)
CHAPTER VII MISCELLANEOUS (Sections 32 to 40)
Schedules (5): see the end of this PDF

[11th March, 1947.]

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing;

It is hereby enacted as follows:-

CHAPTER I PRELIMINARY

Section 1. Short title, extent and commencement

(1) This Act may be called the Industrial Disputes Act, 1947.

[1][(2) It extends to the whole of India:

[2]* * * * *]

(3) It shall come into force on the first day of April, 1947.

[1] Subs. by Act 36 of 1956, s. 2, for the sub-section (2) (w.e.f. 29-8-1956).
[2] Omitted by Act 51 of 1970, s. 2 and the Schedule (w.e.f. 1-9-1971).

Section 2. Definitions

In this Act, unless there is anything repugnant in the subject or context,-

(a) "appropriate Government" means-

(i) in relation to any industrial dispute concerning [1]*** any industry carried on by or under the authority of the Central Government, [2]*** or by a railway company [3][or concerning any such controlled industry as may be specified in this behalf by the Central Government] [4]*** or in relation to an industrial dispute concerning [5][[6][[7][[8][a Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), or [9][the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956)], or the Employees' State Insurance Corporation

established under section 3 of the Employees' State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), [10]***, or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or [11][the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956)], or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporation of India established under section 3 or a Board of Management established for two or more contiguous States under section 16 of the Food Corporations Act, 1964 (37 of 1964), or [12][the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994)],or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India [13][the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or [14][[15][an air transport service, or a banking or an insurance company], a mine, an oil-field] [16][, a Cantonment Board,] or a [17][major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and]

[18][(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government: Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment;] [17][(aa) "arbitrator" includes an umpire;] [19][[20][(aaa)] "average pay" means the average of the wages payable to a workman-

(i) in the case of monthly paid workman, in the three complete calendar months,

(ii) in the case of weekly paid workman, in the four complete weeks,

(iii) in the case of daily paid workman, in the twelve full working days, preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked;]

[21][(b) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under section 10A;]

[22][(bb) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949 (10 of 1949), having branches or other establishments in more than one State, and includes [23][the Export-Import Bank of India,] [24][the Industrial Reconstruction Bank of India,] [25][[26]***,] [27][the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989),] the Reserve Bank of India, the State Bank of India [28][,a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) [29][, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), and any subsidiary bank]] as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);]

(c) "Board" means a Board of Conciliation constituted under this Act;

[30][(cc) "closure" means the permanent closing down of a place of employment or part thereof;]

(d) "conciliation officer" means a conciliation officer appointed under this Act;

(e) "conciliation proceeding" means any proceeding held by a conciliation officer or Board under this Act;

[31][(ee) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;]

[32]* * * * *

(f) "Court" means a Court of Inquiry constituted under this Act;

(g) "employer" means,-

(i) in relation to an industry carried on by or under the authority of any department of [33][the Central Government or a State Government], the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

[34][(gg) "executive", in relation to a trade union, means the body, by whatever name called, to which the management of the affairs of the trade union is entrusted;]

[35]* * * * *

(i) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute:

[36][Provided that no person shall cease to be independent by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by, such industrial dispute; but in such a case, he shall disclose to the appropriate Government the nature and extent of the shares held by him in such company;]

[37][(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

[38][(ka) "industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on:

Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,-

(a) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking, such unit shall be deemed to be a separate industrial establishment or undertaking;

(b) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking;]

[39][(kk) "insurance company" means an insurance company as defined in section 2 of the Insurance Insurance Act, 1938 (4 of 1938), having branches or other establishments in more than one State;]

[40][(kka) "khadi" has the meaning assigned to it in clause (d) of section 2 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956);]

[41][[42][(kkb)] "Labour Court" means a Labour Court constituted under section 7;]

[43][(kkk) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery [44][or natural calamity or for any other connected reason] to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.

Explanation.-Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;]

(l) "lock-out" means the[45][temporary closing of a place of employment], or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

[46][(la) "major port" means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(lb) "mine" means a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952)];

[41][(ll) "National Tribunal" means a National Industrial Tribunal constituted under section 7B;]

[47][(lll) "office bearer", in relation to a trade union, includes any member of the executive thereof, but does not include an auditor;]

(m) "prescribed" means prescribed by rules made under this Act;

(n) "public utility service" means-

(i) any railway service [46][or any transport service for the carriage of passengers or goods by air];

[47][(ia) any service in, or in connection with the working of, any major port or dock;]

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;

(iii) any postal, telegraph or telephone service;

(iv) any industry which supplies power, light or water to the public;

(v) any system of public conservancy or sanitation;

(vi) any industry specified in the [48][First Schedule] which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of the appropriate Government public emergency or public interest requires such extension;

(o) "railway company" means a railway company as defined in section 3 of the Indian Railways Act, 1890 (9 of 1890);

[49][(oo) "retrenchment" means the termination by the employer of the service of a workman for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include-

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

[50][(bb) termination of the service of the workman as a result of the non-renewal of the contract contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or]

(c) termination of the service of a workman on the ground of continued ill-health;]

[51][(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to [52][an officer authorised in this behalf by] the appropriate Government and the conciliation officer;]

(q) "strike" means a cessation of work by a body of persons employed in any industry acting in combination or a concerned refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

[53][(qq) "trade union" means a trade union registered under the Trade Unions Act, 1926 (16 of 1926);]

[54][(r) "Tribunal" means an Industrial Tribunal constituted under section 7A and includes an Industrial Tribunal constituted before the 10th day of March, 1957, under this Act;]

[55][(ra) "unfair labour practice" means any of the practices specified in the Fifth Schedule;

(rb) "village industries" has the meaning assigned to it in clause (h) of section 2 of the Khadi and Village Industries

Commission Act, 1956 (61 of 1956);]

[56][(rr) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes-

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply offoodgrains or other articles;

(iii) any travelling concession;

[57][(iv) any commission payable on the promotion of sales or business or both;]

but does not include-

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service;]

[58][(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

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

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

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

(iv) who, being employed in a supervisory capacity, draws wages exceeding [59][ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

[1] Certain words omitted by Act 36 of 1964, s. 2 (w.e.f. 19-12-1964).

[2] The words "by the Federal Railway Authority" omitted by the A.O. 1948.

[3] Ins. by Act 65 of 1951, s. 32.

[4] The words "operating a Federal Railway" omitted by the A.O. 1950.

[5] Ins. by Act 47 of 1961. s. 51 and the Second Schedule, Part III (w.e.f. 1-1-1962).

[6] Subs. by Act 36 of 1964, s. 2, for "the Deposit Insurance Corporation established" (w.e.f. 19-12-1964).

[7] Subs. by Act 45 of 1971, s. 2 (w.e.f. 15-12-1971).

[8] Subs. by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).

[9] Subs. by Act 24 of 1996, s. 2, for "the Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948)" (w.e.f. 11-10-1995).

[10] The words and figures "or the "Indian Airlines" and "Air India" Corporations established under section 3 of the Air Corporations Act, 1953 (27 of 1953)" by s. 2, ibid. (w.e.f. 11-10-1995).

[11] Subs. by Act 24 of 1996, s. 2, for "the Oil and Natural Gas Commission established under section 3 of the Oil and Natural Gas Commission Act, 1959 (43 of 1959)" (w.e.f. 11-10-1995).

[12] Subs. by Act 24 of 1996,s. 2, for "the International Airports Authority of India constituted under section 3 of the International Airports Authority of India Act, 1971 (48 of 1971)" (w.e.f. 11-10-1995).

[13] Ins. by Act 53 of 1987, s. 56 and the Second Schedule (w.e.f. 9-7-1988).

[14] Subs. by Act 54 of 1949, s. 3, for "a mine oil-field".

[15] Subs. by Act 24 of 1996, s. 2, for "a banking or an insurance company" (w.e.f. 11-10-1996).

[16] Ins. by Act 36 of 1964, s. 2 (w.e.f. 19-12-1964).

[17] Subs. by Act 24 of 2010, s. 2, for "major port, the Central Government, and" (w.e.f 15-9-2010).

[18] Subs. by s. 2, ibid., for sub-clause (ii) (w.e.f. 15-9-2010).

[19] Ins. by Act 43 of 1953, s. 2 (w.e.f. 24-10-1953).

[20] Clause (aa) re-lettered as clause (aaa) by Act 36 of 1964, s. 2 (w.e.f. 19-12-1964).

[21] Subs. by Act 36 of 1956, s. 3, for clause (b) (w.e.f. 10-3-1957).

[22] Subs. by Act 38 of 1959, s. 64 and the third Schedule, Part II, for clause (bb).

[23] Ins. by Act 28 of 1981, s. 40 and the Second Schedule (w.e.f. 4-1-1982).

[24] Ins. by Act 62 of 1984, s. 71 and the Third Schedule (w.e.f. 20-3-1985).

[25] Ins. by Act 18 of 1964, s. 38 and the Second Schedule, Part II (w.e.f. 1-7-1964).

[26] The words "the Industrial Development Bank of India" omitted by Act 53 of 2003, s. 12 and the Schedule (w.e.f. 2-7-2004).

[27] Ins. by Act 39 of 1989, s. 53 and the Second Schedule (date to be notified).
[28] Subs. by Act 5 of 1970, s. 20, for "and any subsidiary bank" (w.e.f. 19-7-1969).
[29] Subs. by Act 40 of 1980, s. 20 (w.e.f. 15-4-1980).
[30] Ins. by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).
[31] Ins. by Act 65 of 1951, s. 32.
[32] Omitted by Act 36 of 1964, s. 2 (w.e.f. 19-12-1964).
[33] Subs. by the A.O. 1948, for "a Government in British India".
[34] Ins. by Act 45 of 1971, s. 2 (w.e.f. 15-12-1971).
[35] Clause (h) omitted by the A.O. 1950.
[36] Ins. by Act 18 of 1952, s. 2.
[37] Clause (j) shall stand substituted as follows when clause (c) of section 2 of the Industrial Disputes (Amendment) Act, 1982 (46 of 1982) will come into force:- (j) "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,- (i) any capital has been invested for the purpose of carrying on such activity; or (ii) such activity is carried on with a motive to make any gain or profit, and includes- (a) any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948); (b) any activity relating to the promotion of sales or business or both carried on by an establishment, but does not include- (1) any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one. Explanation:-For the purposes of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951); or (2) hospitals or dispensaries; or (3) educational, scientific, research or training institutions; or (4) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or (5) khadi or village industries; or (6) any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or (7) any domestic service; or (8) any activity, being a profession practised by an individual or body of individuals, if the number of persons employed by the individual or body of individuals in relation to such profession is less than ten; or (9) any activity, being an activity carried on by a co-operative society or a club or any other like body of individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten;
[38] Ins. by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).
[39] Ins. by Act 54 of 1949, s. 3.
[40] Ins. by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).
[41] Ins. by Act 36 of 1956, s. 3 (w.e.f. 10-3-1957).
[42] Clause (kka) re-lettered as clause (kkb) by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).
[43] Ins. by Act 43 of 1953, s. 2 (w.e.f. 24-10-1953).
[44] Subs. by Act 46 of 1982, s. 2, for "or for any other reason" (w.e.f. 21-8-1984).
[45] Subs. by s. 2, ibid., for certain words (w.e.f. 21-8-1984).
[46] Ins. by Act 36 of 1964, s. 2 (w.e.f. 19-12-1964).
[47] Ins. by Act 45 of 1971, s. 2 (w.e.f. 15-12-1971).
[48] Subs. by Act 36 of 1964, s. 2 for "Schedule" (w.e.f. 19-12-1964).
[49] Ins. by Act 43 of 1953, s. 2 (w.e.f. 24-10-1953).
[50] Ins. by Act 49 of 1984, s. 2 (w.e.f. 18-8-1984).
[51] Subs. by Act 36 of 1956, s. 3, for clause (p) (w.e.f. 7-10-1956).
[52] Ins. by Act 35 of 1965, s. 2 (w.e.f. 1-12-1965).
[53] Ins. by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).
[54] Subs. by Act 18 of 1957, s. 2, for clause (r) (w.e.f. 10-3-1957).
[55] Ins. by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).
[56] Ins. by Act 43 of 1953, s. 2 (w.e.f. 24-10-1953).
[57] Ins. by Act 46 of 1982, s. 2 (w.e.f. 21-8-1984).
[58] Subs. by s. 2, ibid., for clause (s) (w.e.f. 21-8-1984).
[59] Subs. by Act 24 of 2010, s. 2, for "one thousand six hundred rupees" (w.e.f. 15-9-2010).

Section 2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute

[1][[2][(1)]Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

[3][(2)Notwithstanding anything contained in section l0, any such workman as is specified in sub-section (1)may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of

three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).]

[1] Ins. by Act 35 of 1965, s. 3 (w.e.f. 1-12-1965).
[2] Section 2A numbered as sub-section (1) thereof by Act 24 of 2010, s. 3 (w.e.f. 15-9-2010).
[3] Ins. by s. 3, ibid. (w.e.f. 15-9-2010).

CHAPTER II AUTHORITIES UNDER THIS ACT

Section 3. Works Committee

(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (16 of 1926).

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

Section 4. Conciliation officers

(1) The appropriate Government may, by notification in the Official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Section 5. Board of Conciliation

(1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

Section 6. Courts of Inquiry

(1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

Section 7. Labour Courts

[1][(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless-

[2][(a) he is, or has been, a Judge of a High Court; or

(b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or

[3]* * * * *

[4][(d)] he has held any judicial office in India for not less than seven years; or

[4][(e)] he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

[5][(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(g) he is an officer of Indian Legal Service in Grade Ili with three years' experience in the grade.]

[1] Subs. by Act 36 of 1956, s. 4, for section 7 (w.e.f. 10-3-1957).
[2] Ins. by Act 36 of 1964, s. 3 (w.e.f. 19-12-1964).
[3] Clause (c) omitted by Act 46 of 1982, s. 3 (w.e.f. 21-8-1984).
[4] Clauses (a) and (b) re-lettered as (d) and (e) respectively by Act 36 of 1964, s. 3 (w.e.f. 19-12-1964).
[5] Ins. by Act 24 of 2010, s. 4 (w.e.f. 15-9-2010).

Section 7A. Tribunals

(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule [1][and for performing such other functions as may be assigned to them under this Act].

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless-

(a) he is, or has been, a Judge of a High Court; or

[2][(aa) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; [3]***]

[4][(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department,, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(c) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.]

[5]* * * * *

(4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

[1] Ins. by Act 46 of 1982, s. 4 (w.e.f. 21-8-1984).
[2] Ins. by Act 36 of 1964, s. 4 (w.e.f. 19-12-1964).
[3] The word "or" omitted by Act 46 of 1982, s. 4 (w.e.f. 21-8-1984).
[4] Ins. by Act 24 of 2010, s. 5 (w.e.f. 15-9-2010).
[5] Clause (b) omitted byAct 46 of 1982, s. 4 (w.e.f. 21-8-1984).

Section 7B. National Tribunals

(1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions

of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(2) A National Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal [1][unless he is, or has been, a Judge of a High Court].

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

[1] Subs. by s. 5, ibid., for certain words (w.e.f. 21-8-1984).

Section 7C. Disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals

No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if-

(a) he is not an independent person; or

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

Section 8. Filling of vacancies

[1][If, for any reason a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Labour Court, Tribunal or National Tribunal or in the office of the chairman or any other member of a Board or Court, then, in the case of a National Tribunal, the Central Government and in any other case, the appropriate Government, shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be continued before the Labour Court, Tribunal, National Tribunal, Board or Court, as the case may be, from the stage at which the vacancy is filled.

[1] Subs. by Act 36 of 1956, s. 5, for sections 8 and 9 (w.e.f. 10-3-1957).

Section 9. Finality of orders constituting Boards, etc

(1) No order of the appropriate Government or of the Central Government appointing any person as the chairman or any other member of a Board or Court or as the presiding officer of a Labour Court, Tribunal or National Tribunal shall be called in question in any manner; and no act or proceeding before any Board or Court shall be called in question in any manner on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Board or Court.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 12 or sub-section (5) of section 13, as the case may be.

(3) Where the report of any settlement arrived at in the course of conciliation proceeding before a Board is signed by the chairman and all the other members of the Board, no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members (including the chairman) of the Board during any stage of the proceeding.]

CHAPTER IIA NOTICE OF CHANGE

Section 9A. Notice of change

No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,-

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change-

(a) where the change is effected in pursuance of any [1][settlement or award]; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

[1] Subs. by Act 24 of 2010, s. 6, for Chapter IIB (w.e.f. 15-9-2010).

Section 9B. Power of Government to exempt

Where the appropriate Government is of opinion that the application of the provisions of section 9A to any class of industrial establishments or to any class of workmen employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification in the Official Gazette, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workmen employed in any industrial establishment.]

CHAPTER IIB GRIEVANCE REDRESSAL MACHINERY

Section 9C. Setting up of Grievance Redressal Machinery

(1) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

(2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.

(3) The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed more than six:

Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.

(6) The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.

(7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.

(8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment.]

CHAPTER III REFERENCE OF DISPUTES TO BOARDS, COURTSOR TRIBUNALS

Section 10. Reference of disputes to Boards, Courts or Tribunals

(1) [1][Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing,-

(a) refer the dispute to a Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

[2][(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c):]

[3][Provided further that] where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced:

[4][Provided also that where the dispute in relation to which the Central Government is the appropriate Government, it shall be competent for that Government to refer the dispute to a Labour Court or an Industrial Tribunal, as the case

may be, constituted by the State Government.]

[5][(1A) Where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a National Tribunal for adjudication.]

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, [6][Labour Court, Tribunal or National Tribunal], the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

[7][(2A) An order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section shall specify the period within which such Labour Court, Tribunal or National Tribunal shall submit its award on such dispute to the appropriate Government:

Provided that where such industrial dispute is connected with an individual workman, no such period shall exceed three months:

Provided further that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, to the Labour Court, Tribunal or National Tribunal for extension of such period or for any other reason, and the presiding officer of such Labour Court, Tribunal or National Tribunal considers it necessary or expedient to extend such period, he may for reasons to be recorded in writing, extend such period by such further period as he may think fit:

Provided also that in computing any period specified in this sub-section, the period, if any, for which the proceedings before the Labour Court, Tribunal or National Tribunal had been stayed by any injunction or order of a Civil Court shall be excluded:

Provided also that no proceedings before a Labour Court, Tribunal or National Tribunal shall lapse merely on the ground that any period specified under this sub-section had expired without such proceedings being completed.]

(3) Where an industrial dispute has been referred to a Board, [7][Labour Court, Tribunal or National Tribunal] under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

[8][(4) Where in an order referring an industrial dispute to [9][a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [10][the Labour Court or the Tribunal or the National Tribunal, as the case may be], shall confine its adjudication to those points and matters incidental thereto.

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a [11][Labour Court, Tribunal or National Tribunal] under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.]

[12][(6) Where any reference has been made under sub-section (1A) to a National Tribunal, then notwithstanding anything contained in this Act, no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly,-

(a) if the matter under adjudication before the National Tribunal is pending a proceeding before a Labour Court or Tribunal, the proceeding before the Labour Court or the Tribunal, as the case may be, in so far as it relates to such matter, shall be deemed to have been quashed on such reference to the National Tribunal; and

(b) it shall not be lawful for the appropriate Government to refer the matter under adjudication before the National Tribunal to any Labour Court or Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.

[13][Explanation.-In this sub-section, "Labour Court" or "Tribunal" includes any Court or Tribunal or other authority constituted under any law relating to investigation and settlement of industrial disputes in force in any State.]

(7) Where any industrial dispute, in relation to which the Central Government is not the appropriate Government, is

referred to a National Tribunal, then notwithstanding anything contained in this Act, any reference in section 15, section 17, section 19, section 33A, section 33B and section 36A to the appropriate Government in relation to such dispute shall be construed as a reference to the Central Government but, save as aforesaid and as otherwise expressly provided in this Act, any reference in any other provision of this Act to the appropriate Government in relation to that dispute shall mean a reference to the State Government.]

[14][(8) No proceedings before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceedings and submit its award to the appropriate Government.]

[1] Subs. by Act 18 of 1952, s. 3, for "If any industrial dispute exists or is apprehended, the appropriate Government may".
[2] Subs. by Act 36 of 1956, s. 7, for clause (c) (w.e.f. 10-3-1957).
[3] Subs. by s. 7, ibid., for "Provided that" (w.e.f. 10-3-1957).
[4] Ins. by Act 46 of 1982, s. 8 (w.e.f. 21-8-1984).
[5] Ins. by Act 36 of 1956, s. 7 (w.e.f. 10-3-1957).
[6] Subs. by s. 7, ibid.,for "or Tribunal" (w.e.f. 10-3-1957).
[7] Ins. by Act 46 of 1982, s. 8 (w.e.f. 21-8-1984).
[8] Ins. by Act 18 of 1952, s. 3.
[9] Subs. by Act 36 of 1956, s. 7, for "a Tribunal" (w.e.f. 10-3-1957).
[10] Subs. by s. 7, ibid., for "the Tribunal" (w.e.f. 10-3-1957).
[11] Subs. by s. 7, ibid., for "Tribunal" (w.e.f. 10-3-1957).
[12] Ins. by s. 7, ibid. (w.e.f. 10-3-1957).
[13] Ins. by Act 36 of 1964, s. 5 (w.e.f. 19-12-1964).
[14] Ins. by Act 46 of 1982, s. 8 (w.e.f. 21-8-1984).

Section 10A. Voluntary reference of disputes to arbitration

[1][(1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

[2][(1A) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Act.]

(2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(3) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer and the appropriate Government shall, within [3][one month] from the date of the receipt of such copy, publish the same in the Official Gazette.

[2][(3A) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may, within the time referred to in sub-section (3), issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workmen who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators.]

(4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

[2][(4A) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (3A), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.]

(5) Nothing in the Arbitration Act, 1940 (10 of 1940), shall apply to arbitration under this section.]

[1] Ins. by Act 36 of 1956, s. 8 (w.e.f. 10-3-1957).
[2] Ins. by Act 36 of 1964, s. 6 (w.e.f. 19-12-1964).
[3] Subs. by s. 6, ibid., for "fourteen days" (w.e.f. 19-12-1964).

CHAPTER IV PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

Section 11. Procedure and powers of conciliation officers, Boards, Courts and Tribunals

[1][(1) Subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.]

(2) A conciliation officer or a member of a Board, [2][or Court or the presiding officer of a Labour Court, Tribunal or National Tribunal] may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, Court, [3][Labour Court, Tribunal and National Tribunal] shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters, namely:-

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and material objects;

(c) issuing commissions for the examination of witnesses;

(d) in respect of such other matters as may be prescribed;

and every inquiry or investigation by a Board, Court, [4][Labour Court, Tribunal or National Tribunal], shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

(4) A conciliation officer [5][may enforce the attendance of any person for the purpose of examination of such person or call for] and inspect any document which he has ground for considering to be relevant to the industrial dispute [6][or to be necessary for the purpose of verifying the implementation of any award award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), [7][in respect of enforcing the attendance of any person and examining him or of compelling the production of documents]].

[8][(5) A Court, Labour Court, Tribunal or National Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it.

(6) All conciliation officers, members of a Board or Court and the presiding officers of a Labour Court, Tribunal or National Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(7) Subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entited, be recovered by that Government in the same manner as an arrear of land revenue.]

[9][(8) Every [10][Labour Court, Tribunal or National Tribunal] shall be deemed to be Civil Court for the purposes of [11][sections 345, 346 and 348 of the Code of Criminal Procedure, 1973 (2 of 1974)].]

[12][(9) Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure, 1908 (5 of 1908).

(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.]

[1] Subs. by Act 36 of 1956, s. 9, for sub-section (1) (w.e.f. 10-3-1957).
[2] Subs. by s. 9, ibid., for "Court or Tribunal" (w.e.f. 10-3-1957).
[3] Subs. by s. 9, ibid., for "and Tribunal" (w.e.f. 10-3-1957).
[4] Subs. by s. 9,ibid.,for "or Tribunal" (w.e.f. 10-3-1957).
[5] Subs. by Act 46 of 1982, s. 9, for "may call for" (w.e.f. 21-8-1984).
[6] Ins. by Act 36 of 1956, s. 9 (w.e.f. 17-9-1956).
[7] Subs. by Act 46 of 1982, s. 9, for certain words (w.e.f. 21-8-1984).
[8] Subs. by Act 36 of 1956, s. 9, for sub-sections (5) to (7) (w.e.f. 10-3-1957).
[9] Ins. by Act 48 of 1950, s. 34 and the Schedule.
[10] Subs. by Act 36 of 1956, s. 9, for "Tribunal" (w.e.f. 10-3-1957).
[11] Subs. by Act 46 of 1982, s. 9, for certain words (w.e.f. 21-8-1984).
[12] Ins. by Act 24 of 2010, s. 7 (w.e.f 15-9-2010).

Section 11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in in case of discharge or dismissal of workmen

[1][Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.]

[1] Ins. by Act 45 of 1971, s. 3 (w.e.f. 15-12-1971).

Section 12. Duties of conciliation officers

(1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof 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 of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate Government [1][or an officer authorised in this behalf by the appropriate Government] together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board, [2][Labour Court, Tribunal or National Tribunal], it may make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

[3][Provided that, [4][subject to the approval of the conciliation officer,] the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.]

[1] Ins. by Act 35 of 1965, s. 4 (w.e.f. 1-12-1965).
[2] Subs. by Act 36 of 1956, s. 10, for "or Tribunal" (w.e.f. 10-3-1957).
[3] Ins. by Act 36 of 1956, s. 10 (w.e.f. 17-9-1956).
[4] Ins. by Act 36 of 1964, s. 8 (w.e.f. 19-12-1964).

Section 13. Duties of Board

(1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a [1][Labour Court, Tribunal or National Tribunal] under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date [2][on which the dispute was referred to it] or within such shorter period as may be fixed by the appropriate Government:

Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

[1] Subs. by Act 36 of 1956, s. 11, for "Tribunal" (w.e.f. 10-3-1957).
[2] Subs. by Act 40 of 1951, s. 6, for "of the notice under section 22".

Section 14. Duties of Courts

A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

Section 15. Duties of Labour Courts, Tribunals and National Tribunals

[1][Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, [2][within the period specified in the order referring such industrial dispute or the further period extended under the second proviso to sub-section (2A) of section 10], submit its award to the appropriate Government.

[1] Subs. by Act 36 of 1956, s. 12, for sections 15, 16, 17 and 17A (w.e.f. 10-3-1957).
[2] Subs. by Act 46 of 1982, s. 10, for certain words (w.e.f. 21-8-1984).

Section 16. Form of report or award

(1) The report of a Board or Court shall be in writing and shall be signed by all the members of the Board or Court, as the case may be:

Provided that nothing in this section shall be deemed to prevent any member of the Board or Court from recording any minute of dissent from a report or from any recommendation made therein.

(2) The award of a Labour Court or Tribunal or National Tribunal shall be in writing and shall be signed by its presiding officer.

Section 17. Publication of reports and awards

(1) Every report of a Board or Court together with any minute of dissent recorded therewith, every arbitration award and every award of a Labour Court, Tribunal or National Tribunal shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

(2) Subject to the provisions of section 17A, the award published under sub-section (1) shall be final and shall not be called in question by any Court in any manner whatsoever.

Section 17A. Commencement of the award

(1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that-

(a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal,

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub- section (3), as the case may be.]

Section 17B. Payment of full wages to workman pending proceedings in higher courts

[1][Where in any case, a Labour Court, Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court:

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.]

[1] Ins. by Act 46 of 1982, s. 11 (w.e.f. 21-8-1984).

Section 18. Persons on whom settlements and awards are binding

[1][(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) [2][Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]

[3][(3)] A settlement arrived at in the course of conciliation proceedings under this Act [4][or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A] or [5][an award [6][of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on-

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, [7][arbitrator,] [8][Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

[1] Ins. by Act 36 of 1956, s. 13 (w.e.f. 7-10-1956).
[2] Subs. by Act 36 of 1964, s. 9, for "An arbitration award" (w.e.f. 19-12-1964).
[3] Section 18 re-numbered as sub-section (3) of that section by Act 36 of 1956, s. 13 (w.e.f. 7-10-1956).
[4] Ins. by Act 36 of 1964, s. 9 (w.e.f. 19-12-1964).
[5] Subs. by Act 48 of 1950, s. 34 and the Schedule, for "an award which is declared by the appropriate Government to be binding under sub-section (2) of section 15".
[6] Ins. by Act 36 of 1956, s. 13 (w.e.f. 10-3-1957).
[7] Ins. by Act 36 of 1964, s. 9 (w.e.f. 19-12-1964).
[8] Subs. by Act 36 of 1956, s. 13, for "or Tribunal" (w.e.f. 10-3-1957).

Section 19. Period of operation of settlements and awards

(1) A settlement [1]*** shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months [2][from the date on which the memorandum of settlement settlement is signed by the parties to the dispute], and shall continue to be binding on the parties after the expiry of the period aforesaid, until

the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

[3][(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year [4][from the date on which the award becomes enforceable under section 17A]:

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit:

Provided further that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or a part of it [5][to a Labour Court, if the award was that of a Labour Court or to a Tribunal, if the award was that of a Tribunal or of a National Tribunal] for decision whether the period of operation should not, by reason of such change, be shortened and the decision of [6][Labour Court or the Tribunal, as the case may be] on such reference shall, [7]*** be final.

(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

[8][(7) No notice given under sub-section (2) or sub-section (6) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be.]]

[1] The words "arrived at in the course of a conciliation proceeding under this Act" omitted by s. 14, ibid. (w.e.f. 7-10-1956).
[2] Ins. by s. 14, ibid. (w.e.f. 7-10-1956).
[3] Subs. by Act 48 of 1950, s. 34 and the Schedule, for sub-section (3).
[4] Ins. by Act 36 of 1956, s. 14 (w.e.f. 17-9-1956).
[5] Subs. by s. 14, ibid., for "to a Tribunal" (w.e.f. 10-3-1957).
[6] Subs. by s. 14, ibid., for "the Tribunal" (w.e.f. 10-3-1957).
[7] The words "subject to the provision for appeal omitted by s. 14, ibid. (w.e.f. 10-3-1957).
[8] Ins. by Act 36 of 1964, s. 10 (w.e.f. 19-12-1964).

Section 20. Commencement and conclusion of proceedings

(1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded-

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be; or

(c) when a reference is made to a Court, [1][Labour Court, Tribunal or National Tribunal] under section 10 during the pendency of conciliation proceedings.

(3) Proceedings [2][before an arbitrator under section 10A or before a Labour Court, Tribunal or National Tribunal] shall be deemed to have commenced on the date or the [3][reference of the dispute for arbitration or adjudication, as the case may be] and such proceedings shall be deemed to have concluded [4][on the date on which the award becomes enforceable under section 17A].

[1] Subs. by Act 36 of 1956, s. 15, for "or Tribunal" (w.e.f. 10-3-1957).
[2] Subs. by s. 15, ibid., for "before a Tribunal" (w.e.f. 10-3-1957).
[3] Subs. by s. 15, ibid., for "reference of a dispute for adjudication" (w.e.f. 10-3-1957).
[4] Subs. by Act 18 of 1952, s. 4, for certain words.

Section 21. Certain matters to be kept confidential

There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court, [1][Labour Court, Tribunal, Tribunal, National Tribunal or an arbitrator] in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such officer, Board, Court, [1][Labour Court, Tribunal, National Tribunal or an arbitrator], if the trade union, person, firm or company, in question has made a

request in writing to the conciliation officer, Board, Court, [1][Labour Court, Tribunal, National Tribunal or an arbitrator], as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board, [2][or Court or the presiding officer of the Labour Court, Tribunal or National Tribunal or the arbitrator] or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code (45 of 1860).

[1] Subs. by Act 36 of 1956, s. 16, for "or Tribunal" (w.e.f. 10-3-1957).
[2] Subs. by s. 16, ibid., for "Court or Tribunal" (w.e.f. 10-3-1957).

CHAPTER V STRIKES AND LOCK-OUTS

Section 22. Prohibition of strikes and lock-outs

(1) No person employed in a public utility service shall go on strike in breach of contract-

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen-

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

Section 23. General prohibition of strikes and lock-outs

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out-

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before [1][a Labour Court, Tribunal or National Tribunal] and two months after the conclusion of such proceedings; [2]***

[3][(bb) during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under sub-section (3A) of section 10A; or]

(c) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

[1] Subs. by Act 36 of 1956, s. 17, for "a Tribunal" (w.e.f. 10-3-1957).
[2] The word "or" omitted by Act 36 of 1964, s. 11 (w.e.f. 19-12-1964).
[3] Ins. by s. 11, ibid. (w.e.f. 19-12-1964).

Section 24. Illegal strikes and lock-outs

(1) A strike or a lock-out shall be illegal if-

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10 [1][or sub-section (4A) of section 10A].

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, [1][an arbitrator, a] [2][Labour Court, Tribunal or National Tribunal], the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10 [1][or sub-section (4A) of section 10A].

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

[1] Ins. by Act 36 of 1964, s. 12 (w.e.f. 19-12-1964).
[2] Subs. by Act 36 of 1956, s. 18, for "or Tribunal" (w.e.f. 10-3-1957).

Section 25. Prohibition of financial aid to illegal strikes and lock-outs

No person shall knowingly expend or apply any money in direct furtherance of support of any illegal strike or lock-out.

CHAPTER VA LAY-OFF AND RETRENCHMENT

Section 25A. Application of sections 25C to 25E

(1) Sections 25C to 25E inclusive [1][shall not apply to industrial establishments to which Chapter VB applies, or-]

(a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month; or

(b) to industrial establishments which are of a seasonal character or in which work is performed only intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

[2][Explanation.-In this section and in sections 25C, 25D and 25E, "industrial establishment" means-

(i) a factory as defined in clause (m) of section 2 of the Factories Act 1948 (63 of 1948); or

(ii) a mine as defined in clause (i) of section 2 of the Mines Act, 1952 (35 of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951).]

[1] Subs. by Act 32 of 1976, s. 2, for "shall not apply-" (w.e.f. 5-3-1976).
[2] Subs. by Act 48 of 1954, s. 2, for the Explanation (w.e.f. 1-4-1954).

Section 25B. Definition of continuous service

[1][Forthe purposes of this Chapter,-

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Explanation.-For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which-

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the

industrial establishment;

(ii) he has been on leave with full wages, earned in the previous years;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.]

[1] Subs. by Act 36 of 1964, s. 13, for section 25B (w.e.f. 19-12-1964).

Section 25C. Right of workmen laid-off for compensation

[1][Whenever a workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off:

Provided that if during any period of twelve months, a workman is so laid-off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days, if there is an agreement to that effect between the workman and the employer:

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the workman in accordance with the provisions contained in section 25F at any time after the expiry of the first forty-five days of the lay-off and when he does so, any compensation paid to the workman for having been laid-off during the preceding twelve months may be set off against the compensation payable for retrenchment.

Explanation.-"Badli workman" means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.]

[1] Subs. by Act 35 of 1965, s. 5, for section 25C (w.e.f. 1-12-1965).

Section 25D. Duty of an employer to maintain muster rolls of workmen

Notwithstanding that workmen in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll and to provide for the making of entries therein by workmen who may present themselves for work at the establishment at the appointed time during normal working hours.

Section 25E. Workmen not entitled to compensation in certain cases

No compensation shall be paid to a workman who has been laid-off-

(i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also;

(ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

(iii) if such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment.

Section 25F. Conditions precedent to retrenchment of workmen

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

[1]* * * * *

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen

days' average pay [2][for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government [3][or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

[1] The proviso omitted by Act 49 of 1984, s. 3 (w.e.f. 18-8-1984).

[2] Subs. by Act 36 of 1964, s. 14, for "for every completed year of service" (w.e.f. 19-12-1964).

[3] Ins. by s. 14, ibid. (w.e.f. 19-12-1964).

Section 25FF. Compensation to workmen in case of transfer of undertakings

[1][Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched:

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if-

(a) the service of the workman has not been interrupted by such transfer;

(b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and

(c) the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

[1] Subs. by Act 18 of 1957, s. 3, for section 25FF (w.e.f. 28-11-1956).

Section 25FFA. Sixty days' notice to be given of intention to close down any undertaking

[1][(1) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in the prescribed manner, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking:

Provided that nothing in this section shall apply to-

(a) an undertaking in which-

(i) less than fifty workmen are employed, or

(ii) less than fifty workmen were employed on an average per working day in the preceding twelve months,

(b) an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.]

[1] Ins. by Act 32 of 1972, s. 2.

Section 25FFF. Compensation to workmen in case of closing down of undertakings

(1) Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman under clause (b) of section 25F shall not exceed his average pay for three months.

[1][Explanation.-An undertaking which is closed down by reason merely of-

(i) financial difficulties (including financial losses); or

(ii) accumulation of undisposed of stocks; or

(iii) the expiry of the period of the lease or licence granted to it; or

(iv) in a case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which such operations are carried on;

shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.]

[2][(1A) Notwithstanding anything contained in sub-section (1), where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals in the area in which such operations are carried on, no workman referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 25F, if-

(a) the employer provides the workman with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive, and on the same terms and conditions of service as were applicable to him, immediately before the closure;

(b) the service of the workman has not been interrupted by such alternative employment; and

(c) the employer is, under the terms of such alternative employment or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment.

(1B) For the purposes of sub-sections (1) and (1A), the expressions "minerals" and "mining operations" shall have the meanings respectively assigned to them in clauses (a) and (d) of section 3 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957).]

(2) Where any undertaking set-up for the construction of buildings, bridges, roads, canals, dams or other construction work is closed down on account of the completion of the work within two years from the date on which the undertaking had been set-up, no workman employed therein shall be entitled to any compensation under clause (b) of section 25F, but if the construction work is not so completed within two

years, he shall be entitled to notice and compensation under that section for every [3][completed year of continuous service] or any part thereof in excess of six months.]

[1] Subs. by Act 45 of 1971, s. 4, for the Explanation (w.e.f. 15-12-1971).

[2] Ins. by s. 4, ibid. (w.e.f. 15-12-1971).

[3] Subs. by Act 36 of 1964, s. 15, for "completed year of service" (w.e.f. 19-12-1964).

Section 25G. Procedure for retrenchment

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

Section 25H. Re-employment of retrenched workmen

Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity [1][to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workman] who offer themselves for re-employment shall have preference over other persons.

[1] Subs. by s. 16, ibid., for certain words (w.e.f. 19-12-1964).

Section 25I. Recovery of moneys due fromemployres under this chapter

[Recovery of moneys due fromemployres under this chapter.] Rep. by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956), s. 19 (w.e.f. 10-3-1957).

Section 25J. Effect of laws inconsistent with this Chapter

(1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law [including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946)]:

[1][Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.]

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and

retrenchment shall be determined in accordance with the provisions of this Chapter.]

[1] Subs. by s. 17, ibid., for the proviso (w.e.f. 19-12-1964).

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

Section 25K. Application of Chapter VB

(1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than [1][one hundred] workmen were employed on an average per working day for the preceding twelve months.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

[1] Subs. by Act 46 of 1982, s. 12, for "three hundred" (w.e.f. 21-8-1984).

Section 25L. Definitions

For the purposes of this Chapter,-

(a) "industrial establishment" means-

(i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(ii) a mine as defined in clause (i) of sub- section (1) of section 2 of the Mines Act, 1952 (35 of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);

(b) notwithstanding anything contained in sub-clause (ii) of clause (a) of section 2,-

(i) in relation to any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or

(ii) in relation to any corporation [not being a corporation referred to in sub-clause (i) of clause (a) of section 2] established by or under any law made by Parliament, the Central Government shall be the appropriate Government.

Section 25M. Prohibition of lay-off

(1) No workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except [1][with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion].

[2][(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workman (other than badli workmen or casual workmen) of an industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in the prescribed manner, to the appropriate Government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(6) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force

for one year from the date of such order.

(7) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.]

[3][(10)] The provisions of section 25C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

Explanation.-For the purposes of this section, a workman shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the workman) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the workman having regard to the facts and circumstances of his case, provided that the wages which would normally have been paid to the workman are offered for the alternative appointment also.

[1] Subs. by Act 49 of 1984, s. 4, for certain words (w.e.f. 18-8-1984).

[2] Subs. by s. 4, ibid., for sub-sections (2) to (5) (w.e.f. 18-8-1984).

[3] Sub-section (6) re-numbered as sub-section (10) by Act 49 of 1984, s. 4 (w.e.f. 18-8-1984).

Section 25N. Conditions precedent to retrenchment of workmen

[1][(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,-

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or

refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct, that the provisions of sub- section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

[1] Subs. by s. 5, ibid., for section 25N (w.e.f. 18-8-1984).

Section 25O. Procedure for closing down an undertaking

[1][(1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refused to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate Government may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is

deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

[1] Subs. by Act 46 of 1982, s. 14, for section 25-O (w.e.f. 21-8-1984).

Section 25P. Special provision as to restarting of undertakings closed down before commencement of the Industrial Disputes (Amendment) Act, 1976

If the appropriate Government is of opinion in respect of any undertaking of an industrial establishment to which this Chapter applies and which closed down before the commencement of the Industrial Disputes (Amendment) Act, 1976 (32 of 1976),-

(a) that such undertaking was closed down otherwise than on account of unavoidable circumstances beyond the control of the employer;

(b) that there are possibilities of restarting the undertaking;

(c) that it is necessary for the rehabilitation of the workmen employed in such undertaking before its closure or for the maintenance of supplies and services essential to the life of the community to restart the undertaking or both; and

(d) that the restarting of the undertaking will not result in hardship to the employer in relation to the undertaking,

it may, after giving an opportunity to such employer and workmen, direct, by order published in the Official Gazette, that the undertaking shall be restarted within such time (not being less than one month from the date of the order) as may be specified in the order.

Section 25Q. Penalty for lay-off and retrenchment without previous permission

Any employer who contravenes the provisions of section 25M or [1]*** of section 25N shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

[1] Certain words omitted by Act 49 of 1984, s. 6 (w.e.f. 18-8-1984).

Section 25R. Penalty for closure

(1) Any employer who closes down an undertaking without complying with the provisions of sub-section (1) of section 25-O shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

(2) Any employer, who contravenes [1][an order refusing to grant permission to close down an undertaking under sub-section (2) of section 25-O or a direction given under section 25P], shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and where the contravention is a continuing one, with a further fine which may extend to two thousand rupees for every day during which the contravention continues after the conviction.

[2]* * * * *

[1] Subs. by Act 46 of 1982, s. 15, for certain words (w.e.f. 21-8-1984).

[2] Sub-section (3) omitted by s. 15, ibid. (w.e.f. 21-8-1984).

Section 25S. Certain provisions of Chapter VA to apply to an industrial establishment to which this Chapter applies

The provisions of sections 25B, 25D, 25FF, 25G, 25H, and 25J in Chapter VA shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of this Chapter apply.]

CHAPTER VC UNFAIR LABOUR PRACTICES

Section 25T. Prohibition of unfair labour practice

No employer or workman or a trade union, whether registered under the Trader Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice.

Section 25U. Penalty for committing unfair labour practices

Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

CHAPTER VI PENALTIES

Section 26. Penalty for illegal strikes and lock-outs

(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Section 27. Penalty for instigation, etc

Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 28. Penalty for giving financial aid to illegal strikes and lock-outs

Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 29. Penalty for breach of settlement or award

[1][Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both [2][and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first] and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach.]

[1] Subs. by Act 36 of 1956, s. 20, for section 29 (w.e.f. 17-9-1956).

[2] Ins. by Act 35 of 1965, s. 6 (w.e.f. 1-12-1965).

Section 30. Penalty for disclosing confidential information

Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 30A. Penalty for closure without notice

[1][Any employer who closes down any undertaking without complying with the provisions of section 25FFA shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.]

[1] Ins. by Act 32 of 1972, s. 3.

Section 31. Penalty for other offences

(1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

CHAPTER VII MISCELLANEOUS

Section 32. Offence by companies, etc

Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Section 33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings

[1][(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before [2][an arbitrator or] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,-

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute [2][or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman],-

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, or discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute-

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.-For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being [3][a member of the executive or other office bearer] of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, [4][an arbitrator, a] labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, [5][within a period of three months from the date of receipt of such application], such order in relation thereto as it deems fit:]

[6][Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.]

[1] Subs. by Act 36 of 1956, s. 21, for section 33 (w.e.f. 10-3-1957).
[2] Ins. by Act 36 of 1964, s. 18 (w.e.f. 19-12-1964).
[3] Subs. by Act 45 of 1971, s. 5, for "an officer" (w.e.f. 15-12-1971).
[4] Ins. by Act 36 of 1964, s. 18 (w.e.f. 19-12-1964).
[5] Subs. by Act 46 of 1982, s. 17, for "as expeditiously as possible" (w.e.f. 21-8-1984).
[6] Ins. by s. 17, ibid. (w.e.f. 21-8-1984).

Section 33A. Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings

[1][Where an employer contravenes the provisions of section 33 during the pendency of proceedings [2][before a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal], any employee aggrieved by such contravention, may make a camplaint in writing, [2][in the prescribed manner,-

(a) to such conciliation officer or Board, and the conciliation officer or Board shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(b) to such arbitrator, Labour Court, Tribunal or National Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly.]]

[1] Ins. by Act 48 of 1950, s. 34 and the Schedule.

[2] Subs. by Act 46 of 1982, s. 18, for certain words (w.e.f. 21-8-1984).

Section 33B. Power to transfer certain proceedings

[1][(1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred:

Provided that where a proceeding under section 33 or section 33A is pending before a Tribunal or National Tribunal, the proceeding may also be transferred to a Labour Court.

(2) Without prejudice to the provisions of sub-section (1), any Tribunal or National Tribunal, if so authorised by the appropriate Government, may transfer any proceeding under section 33 or section 33A pending before it to any one of the Labour Courts specified for the disposal of such proceedings by the appropriate Government by notification in the Official Gazette and the Labour Court to which the proceeding is so transferred shall dispose of the same.

[1] Ins. by Act 36 of 1956, s. 23 (w.e.f. 10-3-1957).

Section 33C. Recovery of money due from an employer

[1][(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of [2][Chapter VA or Chapter VB], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; [3][within a period not exceeding three months:]

[3][Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.]

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the commissioner and other circumstances of the case.

(4) The decision of the Labour Court shall be forwarded by it to the appropriate Government and any amount found due by the Labour Court may be recovered in the manner provided for in sub-section (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit

capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation.-In this section "Labour Court" includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.]]

[1] Subs. by Act 36 of 1964, s. 19, for section 33C (w.e.f. 19-12-1964).
[2] Subs. by Act 32 of 1976, s. 4, for "Chapter VA" (w.e.f. 5-3-1976).
[3] Ins. by Act 46 of 1982, s. 19 (w.e.f. 21-8-1984).

Section 34. Cognizance of offences

(1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of [1][a Metropolitan Magistrate or a Judicial Magistrate of the first class], shall try any offence punishable under this Act.

[1] Subs. by s. 20, ibid., for certain words (w.e.f. 21-8-1984).

Section 35. Protection of persons

(1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

Section 36. Representation of parties

[1][(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by-

(a) [2][any member of the executive or office bearer] of a registered trade union of which he is a member:

(b) [2][any member of the executive or other office bearer] of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by [2][any member of the executive or other office bearer] of any trade union connected with, or by any other workman employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by-

(a) an officer of an association of employers of which he is a member;

(b) an officer of a federation of association of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceeding [3][before a Labour Court, Tribunal or National Tribunal], a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceedings and [4][with the leave of the Labour Court, Tribunal or National Tribunal, as the case may be].]

[1] Subs. by Act 48 of 1950, s. 34 and the Schedule, for section 36.
[2] Subs. by Act 45 of 1971, s. 6, for "an officer" (w.e.f. 15-12-1971).
[3] Subs. by Act 36 of 1956, s. 24, for "before a Tribunal" (w.e.f. 10-3-1957).
[4] Subs. by s. 24, ibid., for "with the leave of the Tribunal" (w.e.f. 10-3-1957).

Section 36A. Power to remove difficulties

[1][(1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Labour Court, Tribunal or National Tribunal as it may think fit.

(2) The Labour Court, Tribunal or National Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties.]

[1] Ins. by s. 25, ibid. (w.e.f. 10-3-1957).

Section 36B. Power to exempt

[1][Where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings carried on by a department of that Government that adequate provisions exist for the investigation and settlement of industrial disputes in respect of workmen employed in such establishment or undertaking or class of establishments or undertakings, it may, by notification in the Official Gazette, exempt, conditionally or unconditionally such establishment or undertaking or class of establishments or undertakings from all or any of the provisions of this Act.].

[1] Ins. by Act 46 of 1982, s. 21 (w.e.f. 21-8-1984).

Section 37. Protection of action taken under the Act

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Section 38. Power to make rules

(1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

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

(a) the powers and procedure of conciliation officers, Boards, Courts, [1][Labour Courts, Tribunals and National Tribunals] including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quroum and the manner of submission of reports and awards;

[2][(aa) the form of arbitration agreement, the manner in which it may be signed by the parties, [3][the manner in which a notification may be issued under sub-section (3A) of section 10A,] the powers of the arbitrator named in the arbitration agreement and the procedure to be followed by him;

(aaa) the appointment of assessors in proceedings under this Act;]

[4]* * * * *

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties;

[5][(c) the salaries and allowances and the terms and conditions for appointment of the presiding officers of the Labour Court, Tribunal and the National Tribunal including the allowances admissible to members of Courts, Boards and to assessors and witnesses;]

(d) the ministerial establishment which may be allotted to a Court, Board, [6][Labour Court, Tribunal or National Tribunal] and the salaries and allowances payable to members of such establishments;

(e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court, [6][Labour Court, Tribunal or National Tribunal];

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

[7][(4) All rules made under this section shall, as soon as possible after they are made, be laid before the the State Legislature or, where the appropriate Government is the Central Government, before both Houses of Parliament.]

[8][(5) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised

in one session or in [9][two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

[1] Subs. by Act 36 of 1956, s. 26, for "and Tribunals" (w.e.f. 10-3-1957).
[2] Ins. by s. 26, ibid. (w.e.f. 10-3-1957).
[3] Ins. by Act 36 of 1964, s. 20 (w.e.f. 19-12-1964).
[4] Clause (ab) omitted by Act 24 of 2010, s. 8 (w.e.f. 15-9-2010).
[5] Subs. by s. 8, ibid., for clause (c) (w.e.f. 15-9-2010).
[6] Subs. by 36 of 1956, s. 26, for "or Tribunal" (w.e.f. 10-3-1957).
[7] Ins. by s. 26, ibid. (w.e.f. 10-3-1957).
[8] Ins. by Act 36 of 1964, s. 20 (w.e.f. 19-12-1964).
[9] Subs. by Act 32 of 1976, s. 5, for certain words (w.e.f. 5-3-1976).

Section 39. Delegation of powers

[1][The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also,-

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government, or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.]

[1] Subs. by Act 36 of 1956, s. 27, for section 39 (w.e.f. 17-9-1956).

Section 40. Power to amend Schedules

[1][(1) The appropriate Government may, if it is of opinion that it is expedient or necessary in the public interest so to do, by notification in the Official Gazette, add to the First Schedule any industry, and on any such notification being issued, the First Schedule shall be deemed to be amended accordingly.

(2) The Central Government may, by notification in the Official Gazette, add to or alter or amend the Second Schedule or the Third Schedule and on any such notification being issued, the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly.

(3) Every such notification shall, as soon as possible after it is issued, be laid before the Legislature of the State, if the notification has been issued by a State Government, or before Parliament, if the notification has been issued by the Central Government.]

[1] Subs. by Act 36 of 1964, s. 21, for section 40 (w.e.f. 19-12-1964).

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

THE FIRST SCHEDULE (official file, page 41)
THE SECOND SCHEDULE (official file, page 42)
THE THIRD SCHEDULE (official file, page 42)
THE FOURTH SCHEDULE (official file, page 43)
THE FIFTH SCHEDULE (official file, page 43)

Prepared by Law Maker (lawmaker.in), operated by Bitola Industries Pvt Ltd, from the official text. Free judiciary mock tests, past papers, landmark judgments and the old and new criminal laws side by side: https://www.lawmaker.in