

SIKKIM



GOVERNMENT

GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Friday 02nd September, 2022

No. 343

GOVERNMENT OF SIKKM
LABOUR DEPARTMENT

No. 28/DL

Dated: 05.08.2022

NOTIFICATION

The following draft rules, which the Government of Sikkim proposes to make in exercise of the powers conferred by Section 154, 156 and 158 of the Code on Social Security, 2020 (36 of 2020), is hereby published for the information of all persons likely to be affected thereby and notice is hereby given that the said draft rules will be taken into consideration after the expiry of 45 (forty five) days from the date of publication of the notification in the Official Gazette.

Any objections or suggestions which may be received by the Joint Labour Commissioner, Labour Department, Government of Sikkim from any person with respect to draft rules before the expiry of the above mentioned period shall be considered by the State Government.

DRAFT RULES

PRELIMINARY

CHAPTER I

- | | |
|--|--|
| Short title, extent and commencement. - | 1. (1) These rules may be called the Sikkim Code on Social Security Rules, 2022.
(2) They shall extend to the whole of Sikkim.
(3) They shall come into force on the date notified by the State Government. |
| Definitions.- | 2. (1) In these rules, unless the subject or context otherwise requires,—
(a) "Appellate authority" means the State Government or the authority specified by the State Government under sub-section (8) of section 56 or an officer, senior in rank to the Assessing Officer for the purpose of section 105 of the Code, appointed by the State Government, as the case may be; |

- (b) "Authority" means the State Government or the authority specified by the State Government under sub-section (3) of section 72 for making appeal against the order of the Inspector-cum-Facilitator;
 - (c) "Board" in relation to Chapter III means the Sikkim Unorganised Workers Social Security Board and in relation to Chapter III means Sikkim Building and Other Construction Workers Welfare Board;
 - (d) "cess collector" means an officer appointed by the State Government for collection of cess under the Code ;
 - (e) "chairperson" means the Chairperson of the State Social Security Board and the Welfare Board;
 - (f) "Code" means the Code on Social Security, 2020 (36 of 2020);
 - (g) "electronically" means any information submitted by email or uploading on the designated portal or digital payment in any mode for the purpose of Code;
 - (h) "form" means a form appended to these rules;
 - (i) "fund" means the Social Security Fund.
 - (j) "member" means member of the Board;
 - (k) "nomination" means nomination made under section 55 of the code;
 - (l) "schedule" means the schedule of the Code;
 - (m) "Social Security Board" means the Sikkim Unorganized Workers Social Security Board Constituted under Rule 3;
 - (n) "year" shall mean the financial year, that is to say, beginning from the first of April and ending with the thirty first of March of the year following.
- (2) The words and expressions used in these rules which are not defined therein, but are defined in the Code, shall have their respective meaning as assigned to them in the Code.

CHAPTER II

SIKKIM UNORGANISED WORKERS SOCIAL SECURITY BOARD

**Sikkim
Unorganised
Workers Social
Security Board
under section 6 of
Code.-**

3. (1) The Board Constituted under sub-section (9) of section 6 shall be called as 'Sikkim Social Security Board for Unorganised Workers'.
- (2) (a) A member, other than an ex-officio member, shall hold office for a period not exceeding three years from the date of his nomination.
- (b) A member shall be eligible for re-nomination, provided that a member shall not hold the office for more than total of two terms.
- (3) A member nominated under Sub-clauses (i), (ii) and (iv) of clause (d) of sub-section (10) of the section 6, shall cease to be a member of the Board if he ceases to represent the category of interest from which he was so nominated:

Provided that out of seven persons nominated under sub-clause (i), one member each from the Scheduled Caste, the Scheduled Tribe, the Minorities and Women shall be represented.

- (4) A member nominated under sub-clause (iii) of clause (d) of sub-section (10) of the section 6 shall cease to be a member of the Board if he ceases to be a member of the State Legislative Assembly by which he was so elected.
- (5) No person shall be chosen as, or continue to be, a member of the Board, if such person attracts any provision(s) of section 8.

**Manner of
exercising powers
and performance
of the functions of
the Social
Security Board.-**

4. (1) The Board, for discharging its functions as assigned to it, under sub-section (15) of section 6, may constitute a Committee to deliberate and recommend on the specific issue(s) as may be assigned to such committee.
- (2) Such committee(s) may co-opt Members from the Board or outside as the case may be, from the field(s) of the experts, on which committee is required to deliberate.

**Reconstitution of
Social Security
Board. -**

5. (1) The State Government shall initiate the process for reconstitution of the State Social Security Board, prior to six months of expiry of the term of the Board.
- (2) If the new Social Security Board is not re-constituted after completion of the term of the Board, such arrangements may be made for discharging and function of the board as may be decided by the State Government for the period till the new Board is constituted, through a notification.
- (3) Consequent upon institution of such arrangement, all actions taken shall have the same effect as if it has been carried out by the Board itself.

Resignation.-

6. (1) A member of the Social Security Board, not being an ex-officio member, may resign by a letter in writing addressed to the State Government.
- (2) The seat of such a member shall fall vacant from the date on which his resignation is accepted or on the expiry of thirty days from the date of receipt of intimation of resignation, whichever is earlier.
- (3) The power to accept the resignation of a member shall vest with the State Government.

Change of Address.-

7. If a member changes his address, he shall notify his new address to the Member- Secretary of the Board who shall thereupon enter his new address in the official records:

Provided that if a member fails to notify his new address, the address in the official records shall for all purposes be deemed to be the member's correct address.

Manner of filling vacancies.-

8. When a vacancy occurs or is likely to occur in the membership of the Board, Member Secretary of the Board shall submit a report to the State Government and on receipt of such report, the State Government may, by notification, nominate a person to fill that vacancy and the person so nominated shall hold office for the remainder of the term of office of the member in whose place he is nominated.

Procedure for removal of a Member from the Social Security Board.-

9. The decision of the State Government, on the debarment, disqualification and removal of any member under section 8, shall be final.

Procedure of the Sikkim Board and Committees thereof.-**10. (1) Meetings.-**

- (a) The Social Security Board or any Committee thereof shall, subject to the provisions of sub-rule (2), meet at such place and time as may be decided by the Chairperson.
- (b) The Chairperson of the Board or any Committee thereof may whenever he thinks fit, and shall within fifteen days of receipt of a requisition in writing from not less than one half of the members of the body concerned call for a special meeting thereof. A requisition so made shall specify the object of the meeting proposed to be called.

Notice of meeting and list of business.-

- (2) (a) A notice of not less than fifteen days from the date of issue, containing the date, time and place of every ordinary meeting of the Board or any Committee thereof, together with a list of business proposed to be transacted approved by the Chairperson shall be sent to every member of the Board or any Committee thereof, as the case may be, through e-mail or

registered post or by special messenger. A brief note on each item of the agenda shall be sent along with the agenda as soon as thereafter possible.

- (b) In case when the Chairperson calls an emergency meeting of the Board or any Committee thereof for considering any matter which in his opinion is urgent, a notice giving such reasonable time as he may consider necessary shall be deemed sufficient.
- (c) No business other than for which the meeting of the Board or any Committee thereof has been convened shall be considered at the meeting except with the permission of the Chairperson of the meeting.

Chairperson to preside at meetings.-

- (3) The Chairperson or in his absence the Vice-Chairperson of the Sikkim Social Security Board, as the case may be, shall preside the meeting. In event of absence of both the Chairperson and the Vice-Chairperson, the meeting shall be presided over by such Trustee or Member as may be nominated by the Chairperson.

Quorum.-

- (4) No business shall be transacted at any meeting of the Board or any Committee thereof unless a quorum of:
 - (a) Ten members in case of Social Security Board are present.
 - (b) one-third members in case of the Committee of the Social Security Board are present.

Provided that if at any meeting there are not a sufficient number of members, as the case may be, present to form quorum, the Chairperson of the meeting shall adjourn the meeting for an hour and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending.

Nomination of a substitute during the absence of a Member.-

- (5) (a) If a member is unable to attend any meeting of the Board or any Committee thereof, he may, by a written instrument, signed by him, addressed to the Chairperson of the concerned body and explaining the reasons for his inability to attend the meeting, appoint any representative of the organisation, which he represents on the Social Security Board or any Committee thereof, as his substitute for attending that meeting thereof in his place:

Provided that no such appointment shall be valid unless—

- (i). Such appointment has been approved by the Chairperson of the body concerned; and
 - (ii). the instrument making such appointment has been received by the Chairperson of the body concerned before the date fixed for the meeting.
- (b) A substitute validly appointed under clause (a) shall have all the rights and powers of the member, as the case may be, in

relation to the meeting of the body concerned, in respect of which he is appointed and shall receive allowances, and be under obligations as if he were a member appointed under the Code.

- (c) A member appointing a substitute for attending any meeting of the Board or any Committee thereof, shall, notwithstanding anything contained in this sub-rule, continue to be liable for the misappropriation or misapplication of the Fund by the substitute and shall also be liable for any act of misfeasance or non-feasance committed in relation to the Fund by the substitute appointed by him.

Disposal of business.-

- (6) Every question considered at a meeting of the Sikkim Social Security Board or any Committee thereof shall be decided by a majority of the votes of the members of the body concerned present and voting. In the event of an equality of votes the Chairperson shall exercise an additional casting vote:

Provided that the Chairperson may, if he thinks fit, direct that any question shall be decided by the circulation of necessary papers to members of the Social Security Board or any Committee thereof and by securing their opinions in writing. Any such question shall be decided in accordance with the opinion of the majority of the members received within the time-limit allowed and if the opinions are equally divided, the opinion of the Chairperson shall prevail:

Provided further that any member of the Social Security Board or any Committee thereof may request that the question referred to the members of the concerned body, as the case may be, for written opinion be considered at a meeting of the Social Security Board or any Committee thereof and thereupon the Chairperson may, and if the request is made by not less than three members of the concerned body, shall direct that it be so considered.

Minutes of meetings.-

- (7) (a) The minutes of each meeting showing *inter-alia* the names of the member present there, shall be forwarded to each member of the Board or any Committee thereof as the case may be and to the State Government as soon as possible and in any case not later than four weeks after the meeting.
- (b) The minutes of the meeting shall be confirmed with such modification considered necessary at the next meeting.
- (c) The minutes of a meeting of the Social Security Board or any Committee thereof shall be kept in separate Books (hereinafter referred to as minute-books) and shall be signed by the Chairperson of the meeting at which the proceedings are confirmed.
- (d) A copy of the minutes so confirmed shall be forwarded to the State Government within fifteen days from the date of such confirmation.

- (e) The minute-books shall be kept open at the head quarter of the Social Security Board during office hours on working days for inspection free of charge by any of the respective member.

Fees and allowances.-

11. (1) Every non-official member of the Social Security Board or any Committee thereof, as the case may be, shall be allowed travelling and daily allowance for attending its meetings at the rates admissible to officers of the State Government holding a post in Level 12 in the Pay Matrix.

- (2) Where such member, who is a Member of Parliament or a Member of State Legislature shall be paid travelling allowance and daily allowance in accordance with the provisions of the law pertaining to the members of the State Legislature, as the case may be:

Provided that when a Minister is appointed as Chairperson of the State Social Security Board or any Committee thereof and attends a meeting, his travelling and daily allowance shall be governed by the rules applicable to him for journeys performed on official duties and shall be paid by the authority paying his salary.

- (3) No daily or travelling allowance in respect of any day of journey, as the case may be, shall be claimed by a member of the Social Security Board or by any Committee thereof if he has drawn or will draw allowance for the same from his employer or as a member of the Committee or any Legislature or of any Committee or Conference constituted or convened by Government and no travelling allowance shall be claimed if he uses a means of transport provided at the expense of Government or his employer.
- (4) The daily and travelling allowance shall also be payable in respect of the meetings of any sub-committee set up by the Social Security Board or by any Committee thereof.
- (5) For attending a meeting of the Social Security Board or any Committee thereof or meetings of a Sub-Committee set up by the Social Security Board or any Committee thereof, or member of the State or Central Government shall draw his travelling allowance from his department on a scale admissible to him under the State or Central Government Rules and the amounts so drawn shall, on a demand being made therefore by the State Government, be reimbursed by Social Security Board or Committee thereof to that Government.
- (6) Payments shall not be made to a non-official member earlier than the last date up to which the allowance is claimed. The travelling allowance for both the onward and return journeys will be included in the travelling allowance bill and the payment made thereof treated as final, irrespective of the date of completion of the journey.

CHAPTER III

SIKKIM BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE BOARD

Appointment of Chairperson and members of the Board.-

12. The Minister (Labour Department) shall be ex-officio Chairman of the Welfare Board. The term of office of the members of the Welfare Board constituted under section 7 shall be three years.

Conditions for appointment of members of Welfare Board under sub-section (4) of section 7.-

13. (1) No person shall be appointed or continued to be a member of the Welfare Board, who,-
- (a) is a salarised officer of the Welfare Board; or
 - (b) is or at any time has been adjudged insolvent; or
 - (c) is found to be lunatic or become of unsound mind; or
 - (d) is or has been convicted of any offence involving moral turpitude.
- (2) The State Government may remove from office any member, who is or has become subject to any of the disqualifications mentioned in sub-rule (1) or is absent without leave of the Board for more than three consecutive meetings of the Board.
- (3) If, in the opinion of the State Government,-
- (a) the member representing the employer or the building workers ceases to represent the employer, or as the case may be, the building workers.
 - (b) having regard to the exigencies of circumstances or service in the State Government, a member cannot continue to represent the State Government, the Government may remove such member from the Board.

Resignation of Office by Chairperson or member.—

14. The Chairperson or any member of the Welfare Board may, at any time resign from his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of resignation, become vacant.

Vacation of office.-

15. A member constituted under Rule 12 shall be deemed to have vacated his office, if -
- (i) He is declared to be of unsound mind or an undischarged insolvent by a competent court, or
 - (ii) He is convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
 - (iii) He is absent from three consecutive meetings of the Board without leave of absence from the Chairperson or
 - (iv) He ceases to represent the interest for representing which he was appointed.
 - (v) He is removed by the State Government

**Filling up of
vacancy.—**

16. In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Welfare Board shall forthwith communicate the occurrence of the vacancy to the State Government, and the vacancy shall be filled in not later than ninety days from the date of occurrence of the vacancy and the person so appointed, shall hold the office so long only as the member in whose place he is nominated would have held it if the vacancy had not occurred.

**Allowances
payable to
members.—**

17. The Chairperson and the members attending the meetings of the Welfare Board, other than the Government representatives, shall be paid travelling allowance and meeting allowance at such rates as may be fixed by the Welfare Board, from time to time.

**Terms and
conditions of
service of
Secretary, Other
Officers and
employees of
Board under
clause (c) of sub-
section (5) of
section 7.—**

18. The terms and conditions of service and salaries, allowances of Secretary, other officers and employees of the Board shall be such as may be determined by the Board, from time to time, subject to the following :—
- (a) The Secretary, Labour Department shall be the Secretary of the Welfare Board.
 - (b) In case the employees of the Welfare Board are not drawn from amongst the services of the State Government, the Welfare Board may make appointments subject to such terms and conditions of service as it may determine, subject to the approval of the State Government.
 - (c) Subject to the provisions contained in clause (b) of sub-section (2) of section 108 of the Code, the salaries and allowances payable to the employees of the Welfare Board shall not be higher than those admissible to the State Government employees of equivalent status.

CHAPTER IV

EMPLOYEE INSURANCE COURT

**Manner and time
within which
second appeal
may be filed to
the Employees'
Insurance Court
by the Insured
Person or the
Corporation under
clause (b) of
subsection (7) of
Section 37. —**

19. (1) The Insured Person or the Corporation may appeal to the Employees' Insurance Court by presenting an application within ninety days of the date of communication of the decision of the Medical Board or of the Medical Appeal Tribunal to the Insured Person or the Corporation, as the case may be:

Provided that the Employees' Insurance Court may entertain an application after the period of ninety days, if it is satisfied that the appellant had sufficient reasons for not presenting the application for appeal within the said period.

Procedure to be followed by the Employees' Insurance Court under section 50.-

20. (1) To verify that the application shall contain the following particular namely:-
- (a) The Name of the Court in which Application is brought;
 - (b) Full name, description including age, occupation;
 - (c) Where the applicant or the opposite party is a minor or a person of unsound mind, a statement to that effect and the full name, age, occupation and full postal address of his or her guardian, next-of-kin, or any other person authorized to act on his or her behalf;
 - (d) The fact constituting the cause of action and the date when it arose;
 - (e) The facts showing that the court has jurisdiction; and
 - (f) The relief which the applicant claims.
- (2) Every application shall be verified in the same manner as a pleading in a Civil Court.
- (3) All documents on which the application is based or has desired by applicant shall be appended to application with an accurate list thereof;
- (4) All applications shall be entered in a separate register to be maintained by the Court.
- (5) Every application to the Court shall be brought within three years on which the cause of action arose or as the case may be, the claim becomes due;
- (6) Where at any stage it appears to the Court that the application should be presented to another Court, or should be entertain by the another Court, the first mention Court shall transfer the application along with the file of the case to the Court empowered to deal with it and shall inform the applicant and the opposite party accordingly and the Court to which the application along with the file is transferred shall continue the proceedings as if the previous proceedings or any part of it had been taken before it.
- (7) The Court shall follow the rules of Code of Civil Procedure (5 of 1908) in respect of summoning of the parties, service of summon, procedure of hearing, framing of issues, statement and production of evidence, method of recording evidence, cross examination of witness and other related matters.
- (8) The fee payable on an application in respect of any matter referred to in Section 49 shall be Rs. 100/- (rupees one hundred), however, the State Government may enhance the fees by notification, from time to time.
- (9) The fee and costs payable in respect of any other matters shall be Rs. 100/- (rupees one hundred), however, the State Government may enhance the fees by notification, from time to time.

- (10) All fees and costs referred to in this rule shall be collected by way of Court fee stamps.

CHAPTER V

GRATUITY

Bank or other financial institution in which the gratuity shall be invested for the benefit of minor under the third proviso to sub-section (1) of section 53.-

21. In the case of nominee, or an heir, who is minor, the competent authority shall invest the gratuity amount deposited with him for the benefit of such minor in term deposit with the State Bank of Sikkim or any Nationalised Bank.

Explanation.- "Nationalised Bank" means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).]

Time, form and manner of filing nomination by an employee under sub-section (1), the time to make fresh nomination under sub-section (4), the form and manner of modification of a nomination under sub-section (5) and the form for fresh nomination under sub-section (6) of section 55.-

22. (1) A nomination shall be in **Form-I** and submitted in duplicate by the employee either by personal service, after taking proper receipt or by registered post acknowledgement due or electronically to the employer,
- (i) in the case of an employee who is already in employment for a year or more on the date of commencement of these rules but not submitted the nomination, ordinarily, within ninety days from such date; and
- (ii) in the case of an employee who completes one year of service after the date of commencement of these rules, ordinarily within thirty days of the completion of one year of service:

Provided that nomination in **Form-I** shall be accepted by the employer after the specified period, if filed and no nomination so accepted shall be invalid merely because it was filed after the specified period.

- (2) Within thirty days of the receipt of nomination in **Form-I** under sub-rule (1), the employer shall get the service particulars of the employee, as mentioned in the form of nomination, verified with reference to the records of the establishment and return to the employee, after obtaining a receipt thereof, the duplicate copy of the nomination in **Form-I** duly attested either by the employer or an officer authorised in this behalf by him, as a token of recording of the nomination by the employer and the other copy of the nomination shall be recorded.
- (3) An employee who has no family at the time of making a nomination shall, within ninety days of acquiring a family submit in the manner specified in sub-rule (1), a fresh nomination, as required under sub-section (4) of section 55, in duplicate in

Form-I to the employer and thereafter the provisions of sub-rule (2) shall apply *mutatis mutandis* as if it was made under sub-rule (1).

- (4) A notice of modification of a nomination, including cases where a nominee predeceases an employee, shall be submitted in duplicate in **Form-I** to the employer in the manner specified in sub-rule (1), and thereafter the provisions of sub-rule (2) shall apply *mutatis mutandis*.
- (5) A nomination or a fresh nomination or a notice of modification of nomination shall be, signed by the employee or, if illiterate, shall bear his thumb impression and shall be submitted by the employee electronically or by registered post acknowledgement due.
- (6) A nomination, fresh nomination or notice of modification of nomination shall take effect from the date of receipt thereof by the employer.

Time within which and the form in which a written application shall be made under sub-section (1) and the form of application to the competent authority under clause (b) of sub-section (5) of section 56.-

23. (1) **Application for Gratuity.-**

- (a) An employee who is eligible for payment of gratuity under the Code, or any person authorised, in writing, to act on his behalf, shall apply, ordinarily within thirty days from the date the gratuity became payable, in **Form-II** to the employer:

Provided that where the date of superannuation or retirement of an employee is known, the employee may apply to the employer before thirty days of the date of superannuation or retirement:

Provided further that an employee on fixed term employment shall be eligible for gratuity, if he renders service under the contract for a period of one year and he shall be paid gratuity at the rate of fifteen days' wages, based on the rate of wages last drawn by him, for every completed year of service or part thereof in excess of six months.

- (b) A nominee of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 53 shall apply, ordinarily within thirty days from the date of gratuity became payable to him, in **Form-II** to the employer:

Provided that an application in plain paper with relevant particulars shall also be accepted. The employer may obtain such other particulars as may be deemed necessary by him.

- (c) A legal heir of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 53 shall apply, ordinarily within one year from the date of gratuity became payable to him, in **Form-II** to the employer.
- (d) Where gratuity becomes payable under the Code before the commencement of these rules, the periods of limitation specified in clauses (a), (b) and (c) sub-rule (1) shall be deemed to be operative from the date of such commencement.

- (e) An application for payment of gratuity filed after the expiry of the periods specified in this rule shall also be entertained by the employer, if the applicant adduces sufficient cause for the delay in preferring his claim, and no claim for gratuity under the Code shall be invalid merely because the claimant failed to present his application within the specified period. Any dispute in this regard shall be referred to the competent authority for his decision.
- (f) An application under this rule shall be presented to the employer either by electronically or personal service or by registered post acknowledgement due.
- (2) **Notice for payment of gratuity.-**
 - (a) Within fifteen days of the receipt of an application under sub-rule (1) for payment of gratuity, the employer shall-
 - (i) if the claim is found admissible on verification, issue a notice in **Form-III** to the applicant employee, nominee or legal heir, as the case may be, specifying the amount of gratuity payable and fixing a date, not being later than the thirtieth day after the date of receipt of the application, for payment thereof, or
 - (ii) if the claim for gratuity is not found admissible, issue a notice in **Form-III** to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible. In the case of denial of gratuity a copy of the notice shall be endorsed to the competent authority.
 - (b) In case payment of gratuity is due to be made in the employer's office, the date fixed for the purpose in the notice in **Form-III** under sub-clause (i) of clause (a) sub-rule (2) shall be re-fixed by the employer, if a written application in this behalf is made by the payee explaining why it is not possible for him to be present in person on the date specified.
 - (c) If the claimant for gratuity is a nominee or a legal heir, the employer may ask for such witness or evidence as may be deemed relevant for establishing his identity or maintainability of his claim, as the case may be. In that case, the time limit specified for issuance of notices under clause (a) of sub-rule (2) shall be operative with effect from the date such witness or evidence, as the case may be, called for by the employer is furnished to the employer.
 - (d) A notice in **Form-III** shall be served on the applicant either by personal service after taking receipt or by registered post with acknowledgement due or electronically.
 - (e) A notice under sub-section (2) of section 56 shall be in **Form-III**.
- (3) **Mode of payment of gratuity.-** The gratuity payable under the Code shall be paid through Demand Draft or by crediting in the

bank account of the eligible employee, nominee or legal heir, as the case may be:

Provided that intimation about the details of payment shall also be given by the employer to the competent authority of the area.

(4) **Application to competent authority for direction under clause (b) of sub-section (5) of section 56.-**

(a) If an employer-

- (i) refuses to accept a nomination under rule 21 or to entertain an application sought to be filed under sub-rule (1), or
- (ii) issues a notice under clause (a) of sub-rule (2) of rule 22 either specifying an amount of gratuity which is considered by the applicant less than what is payable or rejecting eligibility to payment of gratuity, or
- (iii) having received an application under sub-rule (1) fails to issue notice as required under sub-rule (2) within the time specified therein, the claimant employee, nominee or legal heir, as the case may be, may, within one hundred eighty days of the occurrence of the cause for the application, apply in **Form-IV** to the competent authority for issuing a direction under sub-section (5) of section 56 with as many extra copies as are the opposite party:

Provided that the competent authority may accept any application under this sub-rule, on sufficient cause being shown by the applicant, after the expiry of the specified period.

- (b) Application under clause (a) sub-rule (4) and other documents relevant to such an application shall be presented in person to the competent authority or shall be sent by registered post acknowledgement due or electronically.

(5) **Procedure for dealing with application for direction.-**

- (a) On receipt of an application under sub-rule (4) the competent authority shall, by issuing a notice in **Form-V**, by electronically or registered post acknowledgment due or in person call upon the applicant as well as the employer to appear before him on a specified date, time and place, either by himself or through his authorised representative together with all relevant documents and witnesses, if any.
- (b) Any person desiring to act on behalf of an employer or employee, nominee or legal heir, as the case may be, shall present to the competent authority a letter of authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act together with a written statement explaining his interest in the matter and praying for permission so to act. The competent authority shall record thereon an order

either according to his approval or specifying, in the case of refusal to grant the permission prayed for, the reasons for the refusal.

- (c) A party appearing by an authorised representative shall be bound by the acts of the representative.
- (d) After completion of hearing on the date fixed under clause (a), or after such further evidence, examination of documents, witnesses, hearing and inquiry, as may be deemed necessary, the competent authority shall record his finding as to whether any amount is payable to the applicant under the Code. A copy of the finding shall be given to each of the parties.
- (e) If the employer concerned fails to appear on the specified date of hearing after due service of notice without sufficient cause, the competent authority may proceed to hear and determine the application ex parte. If the applicant fails to appear on the specified date of hearing without sufficient cause, the competent authority may dismiss the application:

Provided that an order under clause (e) of sub-rule (5) may, on good cause being shown within thirty days of the said order, be reviewed and the application re-heard after giving not less than fourteen days' notice to the opposite party of the date fixed for rehearing of the application.

- (6) **Place and time of hearing.-** The sittings of the competent authority shall be held at such times and at such places as he may fix and he shall inform the parties of the same in such manner as he thinks fit.
- (7) **Administration of oath.-** The competent authority may authorise a clerk of his office to administer oaths for the purpose of making affidavits.
- (8) **Summoning and attendance of witnesses.-** The competent authority may, at any stage of the proceedings before him, either upon or without an application by any of the parties involved in the proceedings before him, and on such terms as may appear to the competent authority just, issue summons to any person in **Form-V** either to give evidence or to produce documents or for both purposes on a specified date, time and place.
- (9) **Service of summons or notice.-**
 - (a) Subject to the provisions of clause (b) any notice, summons, process or order issued by the competent authority may be served either personally or by registered post acknowledgement due or electronically or in any other manner as prescribed under the Code of Civil Procedure, 1908 (5 of 1908).
 - (b) Where there are numerous persons as parties to any proceeding before the competent authority and such persons are members of any trade union or association or are represented by an authorised person, the service of notice on the Secretary, or

where there is no Secretary, on the principal officer of the trade union or association, or on the authorised person shall be deemed to be service on such persons.

(10) Maintenance of records of cases by the competent authority.-

- (a) The competent authority shall record the particulars of each case under section 56 and at the time of passing orders shall sign and date the particulars so recorded.
- (b) The competent authority shall, while passing orders in each case also record the findings on the merits of the case and file it together with the memoranda of evidence with the order sheet.
- (c) Any record, other than a record of any order or direction, which is required by these rules to be signed by the competent authority, may be signed on behalf of and under the direction of the competent authority by any subordinate officer appointed in writing for this purpose by the competent authority.

(11) Direction for payment of gratuity.- If a finding is recorded under clause (d) of sub-rule (5) that the applicant is entitled to payment of gratuity under the Code, the competent authority shall issue a notice to the employer concerned in **Form-VI** electronically or registered post acknowledgment due or in person specifying the amount payable and directing payment thereof to the applicant under intimation to the competent authority within thirty days from the date of the receipt of the notice by the employer. A copy of the notice shall be endorsed to the applicant employee, nominee or legal heir, as the case may be.

(12) Appeal.-

- (a) The Memorandum of appeal under sub-section (8) of section 56 of the Code shall be submitted to the appellate authority with a copy thereof to the opposite party and the competent authority either through delivery in person or under registered post acknowledgement due or electronically.
- (b) The Memorandum of appeal shall contain the facts of the case, the decision of the competent authority, the grounds of appeal and the relief sought.
- (c) There shall be appended to the Memorandum of appeal a certified copy of the finding of the competent authority and direction for payment of gratuity.
- (d) On receipt of the copy of Memorandum of appeal, the competent authority shall forward records of the case to the appellate authority.
- (e) Within fourteen days of the receipt of the copy of the Memorandum of appeal, the opposite party shall submit his comments of each paragraph of the memorandum with additional

pleas, if any, to the appellate authority with a copy to the appellant.

- (f) The appellate authority shall record its decision after giving the parties to the appeal a reasonable opportunity of being heard. A copy of the decision shall be given to the parties to the appeal by electronically or registered post or in person and a copy thereof shall be sent to the competent authority returning his records of the case.
 - (g) The competent authority shall, on receipt of the decision of the appellate authority, make necessary entry in the records of the case maintained by him.
 - (h) On receipt of the decision of the appellate authority, the competent authority shall, if required under that decision, modify his direction for payment of gratuity and issue a notice to the employer concerned in **Form-VI** specifying the modified amount payable and directing payment thereof to the applicant, under intimation to the competent authority within fifteen days of the receipt of the notice by the employer. A copy of the notice be endorsed to the appellant employee, nominee or legal heir, as the case may be, and to the appellate authority.
- (13) **Application for recovery of gratuity.-** Where an employer fails to pay the gratuity due under the Code in accordance with the notice by the competent authority under sub-rule (11) or sub-rule (12) , as the case may be, the employee concerned, his nominee or legal heir, as the case may be, to whom the gratuity is payable may apply to the competent authority in duplicate in **Form VII** for recovery thereof under section 129 of the Code.

Qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 58.-

24. The competent authority shall be appointed by the State Government by notification from amongst the Officer under the Sikkim Labour Service Cadre.

CHAPTER VI MATERNITY BENEFIT

Authority to whom an appeal may be preferred under sub-section (3) of section 72.-

25. (1) **Complaint under section 72. -**
- (a) A complaint under sub-section (1) of section 72 shall be made in writing in **Form-VIII**.
 - (b) When a complaint referred to in section 72 is received by an Inspector-cum-Facilitator, he shall examine the relevant records maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary

statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 63, as the case may be, immediately or within a specified period.

(2) **Appeal under section 72. -**

- (a) An appeal against the decision of the Inspector-cum-Facilitator under sub-section (2) of section 72, shall lie to the Competent Authority.
- (b) The aggrieved person shall prefer an appeal in writing to the prescribed Authority in **Form-IX** and file other supporting documents.
- (c) When an appeal is received, the prescribed Authority shall call from the Inspector-cum-Facilitator before a fixed date, the record of the case. The prescribed Authority shall, if necessary, also record the statements of the aggrieved person and of the Inspector-cum-Facilitator and seek clarification if any is required.
- (d) Taking into account the documents, the evidence produced before him and the facts presented to him or ascertained by him, the prescribed Authority shall give his decision.

CHAPTER-VII

EMPLOYEES COMPENSATION

Deposition of Funeral expenditure under sub-section (7) of Section 76.-

26. An amount, not below Rs. 20,000/- (Twenty Thousand) shall be deposited to the Commissioner for Employees Compensation Court for immediate disbursement to the eldest surviving dependant or person who actually incurred such expenditure.

Provided that, the State Government may, by notification from time to time, enhance the amount specified above.

Conditions when application for review is made without certificate of a medical practitioner under sub-section (1) of Section 79.-

27. Application for review of half-monthly payment under sub-section (1) of Section 79, may be made without being accompanied by a medical certificate,-
- (i) by the employer, on the ground that since the right to compensation was determined, the employee's wages have increased;
 - (ii) by the employee, on the ground that since the right to compensation was determined, his wages have diminished;
 - (iii) by the employee, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no change in the employee's condition such as to warrant such cessation;

- (iv) either by the employer or by the employee, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means;
- (v) either by the employer or by the employee on the ground that in the determination of compensation there is a mistake or error apparent on the face of the record.

Class of employers and the form of notice-book under sub-section (4) of section 82.

28. Every employer to which the Code applies shall maintain a notice book in accordance with sub-section (4) of Section 82 in **Form-X**.

Interval for medical examination under the proviso to sub-section (1) of section 84.

29. An employee who is in receipt of a half monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident or more than once in any subsequent month.

Form of statement to be submitted by the employer under sub-section (1) of section 88.

30. The statement required under sub section (1) of section 88 shall be in **Form-XI**.

Manner of recording the memorandum in a register by the competent authority under sub-section (1) of section 89.

31. (1) The Memorandum of agreement sent to the Competent Authority under sub-section (1) of section 89 shall, unless the Competent authority otherwise directs, be in duplicate, and shall be in as close conformity as the circumstances of the case admit with, **Form-XII**, or **Form-XIII**, or **Form-XIV**, as the case may be.
- (2) On receiving a memorandum of agreement, the Competent authority shall, for taking decision to record memorandum or refusing to record, shall issue notice to parties to agreement in **Form-XV** fixing the date and place of hearing that in default of objections he proposes to record the memorandum on the date so fixed and the notice under this sub-rule may be sent personally or through registered post or speed post or electronically:

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

- (3) On the date so fixed, the Competent Authority, after hearing the parties to agreement shall take decision to record or refuse to record the memorandum: Provided that the issue of a notice under sub-rule (2) shall not be deemed to prevent the Competent

authority from refusing to record the memorandum on the date so fixed even if no objection is made by any party concerned.

- (4) If on such date the Competent authority decides that the memorandum ought not to be recorded, he shall inform his decision to the parties present and of the reasons thereof and if any party desiring the memorandum to be recorded is not present, he shall send information to that party.
- (5) In recording a memorandum of agreement, the Competent authority shall cause the same to be entered in a register in **Form-XVI** and shall cause an endorsement to be entered under his signature on a copy of a memorandum to be retained by him in the following terms, namely:-

"The memorandum of agreement bearing Serial No. of 20 in the register has been recorded this day of 20 _____.

(Signature)
Competent Authority"

Other experience and qualifications for appointment as a competent authority under sub-section (1) of section 91."

32. The State Government may, by notification, appoint any Group-A or B officer of the Labour Department, not below the rank of Deputy Labour Commissioner having educational qualification as determined for the post by the State Government, as the Competent Authority for employee's compensation within specified jurisdiction.

Manner in which matters may be dealt with by or before a competent authority under sub-section (1) of section 92."

33. When the application for relief is based upon a document, the document shall be appended to the application.

Provided that with the prior permission of the competent authority, documents may be submitted during hearing of application.

Time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93."

34. (1) The competent authority shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.
- (2) Cost." All costs, incidental to any proceedings before a competent Authority, shall, subject to rules made under this Act, be in the discretion of the Commissioner.

Provided that with the prior permission of the competent authority, documents may be submitted during hearing of application.

Application presented to wrong competent authority.

35. (1) If it appears to the Competent authority on receiving application that it should be presented to another Competent authority, he shall return it to the applicant after endorsing upon it the date of the presentation and the reason for returning it and designation of the competent authority to whom it should be presented.
- (2) If at any stage of case it appears to competent authority the application should be entertained by another competent authority, he shall send file of the case to that authority who has the jurisdiction, and inform to applicant and other parties.
- (3) The competent authority to whom the case has been transferred, shall continue to proceed as if the previous proceedings were done before him, if he is satisfied that it will not adversely affect the interest of parties.
- (4) Summary dismissal of application. (a) The Competent authority may after considering the application and the result of any examination of the applicant, summarily dismiss the application, if, for reasons to be recorded, he is of opinion that there are no sufficient grounds for proceeding thereon:

Provided that dismissal of the application shall not preclude the applicant from presenting a fresh application for the settlement of the same matter.

- (b) If the application is not summarily dismissed by the competent authority, he shall issue notice to the opposite party or parties against whom relief is sought together with the copy of application and other documents appended.
- (c) The opposite party, if desires to contest the claim, may file a written statement accompanied with documents, and if no written statement has been filed, the competent authority shall proceed to examine him upon the claim, and shall reduce the result of such examination to writing.
- (d) If the opposite party files the written statement, the applicant may file rejoinder with documents.

Framing of issues.

36. (1) After considering any written statement and the result of any examination of the parties, the Competent authority may frame issues for decision of the case, if he thinks necessary.
- (2) Where the issues of law and of facts are framed and if authority is of opinion that the case may be decided on issues of law, he shall proceed to hear on those issues and after decision on the issues of law, hearing on issues of facts shall be proceeded.

Diary.

37. The Competent authority shall cause to be maintained a brief diary of the proceedings on an application filed before him.

Special Provision relating to trial and disposal of application under the Code.

38. (1) Every application under the Act shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of service of notice of the application on the opposite party.
- (2) In the cases, where the period of six months has been expired, hearing shall be conducted day by day.

Evidence.

39. (1) After framing of issues, parties may submit their evidence on affidavit, on which opposite party shall have right to cross examination.
- (2) On application by any party to the proceedings and on deposit of fees and expenses fixed by the competent authority, the competent authority may summon any witness whose evidence, he thinks necessary for just decision of the case.
- (3) The evidence of all witnesses shall be recorded in the presence of competent authority and shall be authenticated by his signature and seal.

Fee.

40. Fees relating to proceedings of the case shall be such as may be determined by the State Government from time to time provided if in any matter the applicant for any reason is unable to pay the fee in advance, the competent authority may proceed without deposit of advance fee and may direct that payment of the fee shall be due after final decision in the case.

Incidental Costs.

41. (1) Any party to the dispute who desires to get certified copies of decision, decree, or other document may get decision, decree, or other document on payment of cost at the following rate, namely:-
- (i) The cost for the copies of any document of record or statement or order or decree shall be Rs. 2/- per page along with Rs. 10/- for the application for the copies;
- (ii) The cost of service or summons or notices or expenses of witnesses or the cost payable in respect of any matter not referred before shall be such amount as may be specified in each case by the Court and such amount or any other sum of money payable under this rule shall be paid in such manner and within such time as it may specify;
- (iii) The court may, whenever it finds either on applications of applicant or otherwise that the applicant is unable to pay the cost it may exempt the applicant from the payment of cost;
- (iv) Any person who is not a party to dispute, may get the certified copy of decision, decree or other documents except the confidential documents, on payment of the fees of Rupees 10 (ten) per page.

Procedure in connected cases.

42. (1) Where two or more cases pending before a Competent authority arise out of the same accident and any issue involved in common to two or more such cases, such cases may so far as the evidence bearing on such issue is concerned, be heard simultaneously.
- (2) Where action is taken under sub-rule (1) the evidence bearing on the common issue or issues shall be recorded on the record of one case, and the Competent authority shall certify under his hand on the record of any such other case the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and, if they were present, they shall have the right of cross examining the witnesses.

Manner of authentication of memorandum under section 97.

43. the method of recording evidence, examination of witness and memorandum shall be authenticated under the hand of the Competent Authority and the Competent Authority shall follow the procedure under the Code in discharging the said functions

CHAPTER VIII

CESS IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKERS

Time limit to pay amount of cess under section 101.-

44. Date of payment of cess shall be the date on which the amount is deposited with the Cess Collector or the date of deduction at source or the date on which the amount has been deposited.

Fees for appeal under sub-section (2) of section 105.-

45. Every appeal shall be accompanied by a non-refundable fee equivalent to one percent of the amount in dispute or penalty or both, as the case may be under such appeal.

CHAPTER IX

FINANCE AND ACCOUNTS

Conditions and manner of writing off irrecoverable dues under section 121.-

46. (1) Where the Social Security organisation is of the opinion that the amount of contribution, cess, interest and damages due to the Social Security organisation has become irrecoverable, the Social Security organisation or any other officer authorised by it in this behalf with prior approval of Government may sanction the writing off of the said amount, subject to the following conditions, namely: —
- (i) establishment has been closed for more than five years and the whereabouts of the employer cannot be ascertained, despite all possible efforts;

- (ii) decree obtained by the Social Security organisation could not be executed successfully for want of sufficient assets of the defaulting employer; or
- (iii) claim for contribution is not fully met by —
- (a) the Official Liquidator in the event of factories or establishments having gone into liquidation; or
- (b) the Competent Authority of payments in the event of unit being nationalised or taken over by the Government.

CHAPTER IX

INSPECTION SCHEME

Inspection Scheme.-

47. (1) The Government may by notification in the official Gazette appoint such persons as it thinks fit for such area as may be specified in the notification for the purpose of implementing all the provisions of the Code other than those contained in chapter III and IV.
- (2) The inspection scheme laid down by the State Government under sub-section (2) of section 122 of the Code shall make provisions for;
- (a) Fixing minimum number of establishments that need to be inspected in a specific month.
 - (b) Inspection of unregistered establishment which are not covered within the inspection scheme.
 - (c) Inspection of specific establishment based on the complaint of a substantial number of workmen of the establishment or a Trade Union as the case may be.
- (3) The Inspector-cum-Facilitator appointed under the code may call for any Register or record maintained by the Employer under;
- (a) The Industrial Relations Code, 2020 (Central Act 35 of 2020)
 - (b) The Code on Wages, 2019. (Central Act 29 of 2019)
 - (c) The Occupational Safety, Health and Working Conditions Code, 2020. (Central Act 37 of 2020)
 - (d) Any other legislations pertaining to social security or service conditions of workmen which he considers proper and necessary for the purpose of the Inspection.

CHAPTER X

AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY

Form and manner for maintenance of records and registers and other particulars and details under clause (a), manner and form for display of notices at the work places of the employees under clause (b) and the manner and period of filing returns to the officers or authority under clause (d) of section 123.-

48. (1) The employer of every establishment shall maintain,-
 - (i) Register of employees in Form- **Form-XVII**
 - (ii) Register of attendance-cum-muster roll in Form- **Form-XVIII**
 - (iii) Register of wages, over time and deduction in Form- **Form-XIX**
 - (iv) Register of women employees in **Form-XX**
- (2) Registers under this chapter shall be maintained electronically or otherwise.
- (3) Entries in the registers shall be made in English or any local language.
- (4) Every employer shall produce records and registers, on demand before the Inspector cum-Facilitator or any person authorized in that behalf by the State Government.
- (5) All the registers and other records shall be preserved in original for a period of five calendar years from the date of last entry made therein.
- (6) Every employer shall issue wage slips, electronically or otherwise to the employees under clause (c) of section 123 before 24 hours of payment of wages in **Form-XXI**
- (7) In respect of establishment which are required to maintain register under the rules framed under the Code on Wages, 2019 or the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020), the following registers and wage slip required to be maintained by the employer of the establishment under those codes and the rules made there under shall be deemed to be maintained by the employer under these rules, namely:-
 - (i) Register of employees.
 - (ii) Register of Attendance-cum-Muster Roll.
 - (iii) Register of Wages, over time and deductions.
 - (iv) Wage slip.
- (8) All registers and other records required to be maintained under this Code and under these rules shall be maintained complete and up-to-date and unless otherwise provided for, shall be kept at an office or the nearest convenient building within the precincts of the work place or at a place within a radius of three kilometers.
- (9) The employer to which the provisions of Chapter V and Chapter VI of the Code applies, on or before the 28th or 29th day of February in each year, file a unified annual return in **Form-XXII**

electronically or upload through online mode on the designated web portal of the State Government in the Labour Department or otherwise giving information as to the particulars specified, in respect of the preceding year:

Provided that during inspection, the Inspector-cum-Facilitator may require the production of accounts, books, register and other documents maintained in electronic form or otherwise.

Explanation. - For the purposes of this sub-rule, the expression "electronic form" shall have the same meaning as assigned to it in clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000).

- (10) If the employer to which the provisions of Chapter V and Chapter VI of the Code applies, sells, abandons or discontinues the working of the establishment, then, he shall, within one month from the date of such sale or abandonment or four months of the date of such discontinuance, as the case may be, file electronically or upload through online mode on the designated web portal of the State Government in the Labour and Employee's State Insurance Department, a further unified return in **Form-XXII** referred to in sub-rule (9) in respect of the period between the end of the preceding year and the date of the sale, abandonment or discontinuance.

CHAPTER XI

OFFENCES AND PENALTIES

Manner of compounding of offences by the authorised officer specified under sub-section (1) of section 138 and the form and manner of making application for the compounding of an offence under sub-section (4) of section 138.-

49. (1) The officer authorized by the State Government by notification for the purposes of compounding of offences (except the offences relating to chapter III and chapter IV of the Code) under sub-section (1) of section 138 shall issue either in writing or otherwise, a compounding notice in **Form-XXIII** for the offences for which are compoundable under section 138.
- (2) The person so noticed may apply in Part III of the **Form-XXIII** to the officer electronically and deposit the entire compounding amount by electronic transfer or otherwise, within fifteen days of the receipt of the notice.
- (3) The Compounding Officer shall issue a composition certificate in Part IV of **Form-XXIII** within ten days of receipt of the composition amount, to such person from whom such amount has been received in satisfaction of the composition notice.
- (4) If a person so noticed fails to deposit the composition amount within the prescribed time, the prosecution shall be instituted before the competent Court or the offence in respect of which the compounding notice was issued, against such person.

(5) **Composition after institution of prosecution. -**

- (a) The Court may compound any compoundable offence at any time after filing of a complaint under section 138 of the Code.
- (b) The provisions of section 320 of the Code of Criminal Procedure, 1973 shall apply to such compositions.

CHAPTER XII

EMPLOYMENT INFORMATION AND MONITORING

Manner and form for reporting vacancies and form of filing the return by the employer, to the concerned career centre under sub-section (2) of section 139.-

50. (1) Reporting of Vacancies to Career Centres:

- (a) After the commencement of this Code, the employer in every establishment in public sector in the State or area shall, before filling up any vacancy in any employment in that establishment, report that vacancy or cause to be reported to such Career Centre as may be specified in the notification by the State Government.
- (b) The employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall, before filling up any vacancy in any employment in that establishment, report that vacancy or cause to be reported to such Career Centre (Regional) from such date as may be specified in the notification by the State Government.
- (c) State Government shall provide for mechanism (including digital) for receipt of vacancies reported by the employers. Career Centre to which the vacancies are reported, would provide a unique vacancy reporting number for the vacancy reported and convey it to the employer in writing, through email or digitally or through any other such media immediately but in any case not later than three working days from the date of receipt of reporting of vacancies.

Explanation: (A) establishment in "public sector" means an establishment owned, controlled or managed by-

- (i) The Government or a Department of the Government;
- (ii) A Corporation (including a cooperative society) or an autonomous organization or an authority or a body established by or under a Central or State Act, which is owned, controlled or managed by the Government

(B) "Establishment in private sector" means an establishment which is not an establishment in public sector and with ordinarily 50 or more employees or such number of employees as may be notified by the State Government.

(2) **Type of vacancies and respective Career Centre for reporting of vacancies.**-(i) the following vacancies, namely-

- (a) All vacancies in posts of Technical and Scientific nature carrying a minimum pay or pay level or both as notified by the Central Government, occurring in establishments in respect of which the Central Government is the appropriate Government under the Code; and
- (b) Vacancies which an employer may desire to be circulated to the Career Centers outside the State or Union Territory in which the establishment is situated shall be reported to such Career Centre (Central) as may be specified by the Central Government *by notification*.
- (ii) Vacancies other than those specified in clause (a) of sub-rule (2) above, shall be reported to the Career Centre (Regional) concerned.
- (iii) Vacancies which have been reported to the Career Centre (Regional) and for which recruitment is to be made on State or Inter-State or all India basis, shall also be reported to Career Centre(Central) or uploaded on a digital portal as specified by the Central Government by notification.

(3) **Form and manner of reporting of vacancies.-**

- (a) The vacancies shall be reported in writing or through valid official email or digitally to the Career Centre specified by the Appropriate Government.
- (b) The vacancies shall be reported in the format given at **Form-XXIV**, furnishing as many details as practicable, separately in respect of each type of vacancy.
- (c) Any change in the particulars already furnished to the Career Centre under clause (a) of sub-rule(3), shall be reported in writing or through official email or digitally as the case may be, to the specified Career Centre.

(4) **Time limit in the reporting of vacancies.-**

- (i) Vacancies, required to be reported to the Career Centre (Regional), shall be reported at least fifteen days before the last date of receipt of the applications of the prospective candidates for purpose of appointment or taking interview or test against the vacancies reported.
- (ii) Vacancies required to be reported to the Career Centre (Central) shall be reported at least forty days before the last date of receipt of the applications of the prospective candidates for purpose of appointment or taking interview or test against the vacancies reported.

(5) **Maintenance of records. -**

- (a) the employers in every establishment in the Public sector shall maintain records manually or electronically or digitally regarding:
- (i) Total number of employees (regular, contractual or fixed term employment) on *31st March* of every year;
 - (ii) Persons recruited during the year ending on *31st March*;
 - (iii) Occupational details of its employees on *31st March* of every year;
 - (iv) Vacancies for which suitable candidates were not available during the year ending on *31st March*; and
 - (v) Approximate number of vacancies likely to occur during the next financial year.
- (b) State Government may by notification, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishment in private sector shall maintain records manually or electronically or digitally about
- (i) Total number of employees (regular, contractual or fixed term employment) on *31st March* of every year;
 - (ii) Persons recruited during the year ending on *31st March*;
 - (iii) Occupational details of its employees on *31st March* of every year;
 - (iv) Vacancies for which suitable candidates were not available during the year ending on *31st March*; and
 - (v) Approximate number of vacancies likely to occur during the next financial year.
- (6) **Submission of returns.-** An employer shall furnish to the concerned Career Centre(Regional) yearly returns in form EIR(Employment Information Return) as given at **Form-XXV**. Yearly returns shall be furnished manually or, electronically, or digitally, as the case may be, as specified by the State Government in notification, within thirty days of the due date namely *31st March* of the year.
- (7) **Declaration of Executive Officer.-** (a) The Director of Employment or officer of his equivalent or above rank, controlling the work of Career Centres (Regional) of the State Government, will declare in writing an officer looking after the work of Career Centres (Regional) as "Executive Officer" for each district for the purpose of enforcement /implementation of Chapter XII (Employment Information and Monitoring) of the Code. He shall be the officer who shall exercise the rights and perform duties referred to in section 139 of the Code, or authorize any person in writing to exercise those rights and perform duties.

- (8) **Levy of penalty under the Chapter XII of the Code.-** The Director of Employment or an officer of equivalent or above rank, controlling the work of Career Centres (Regional) of the State shall be the competent authority to approve institution or sanction the institution for levy of penalty for an offence under the Code as mentioned in section 133.

CHAPTER XIII MISCELLANEOUS

Manner of establishment and administration of the Social Security Fund under sub-section (5) of section 141.-

51. All the funds received under sub-section (5) of section 141 of the Code on Social Security, 2020 (36 of 2020) and under sub-section (1) of section 115 of the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020) shall be credited to separate account(s) and shall be called as Social Security Fund and all expenses towards the scheme (s) notified under sections 109 and 114 for the Unorganised Workers, Gig Workers and Platform Workers shall be met out of this fund.

Eligibility conditions to be fulfilled prior to grant of exemption and the conditions to be complied with after exemption under sub-section (1); and extension period of exemption under sub-section (3) of section 143.-

52. (1) The notification granting exemption under section 143 of the Code shall be issued so as to take effect from the date of the notification and shall contain the other terms and conditions to be complied with by the establishment and/or the employer, as the case may be.
- (2) (a) The application for extension of exemption under section 143 of the Code shall be made on specified portal, at least six months before expiry of exemption.
- (b) The exemption granted to an establishment from provision of Chapter IV shall be extendable by the appropriate Government for a period of five years at a time, subject to the condition that the establishment continues to fulfil the relevant conditions in specified sub-rule (1) of Rule 60 except that in clause (d) of sub-rule (1) of Rule 36.
- (c) No exemption from the provision of Chapter IV shall be extended without prior consultation of the Corporation. The Corporation shall submit its views to the State Government Labour Department within three months of receipt of application failing which the appropriate Government shall decide on the extension of exemption, as it may deem fit.
- (d) The exemption granted in respect of the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be, may be extended for such period and on such terms and conditions as may be specified in the respective Schemes.

- Time within which the Central Board or the Corporation, as the case may be, shall forward its view to the State Government under sub-section (1) section 143.-
53. The Central Board or the Corporation, as the case may be, shall forward its views on the application seeking exemption under section 143 of the Code to the State government within six months of receipt of proposal for exemption. If Central Board or the Corporation, as the case may be, is unable to provide its views within the said period, the State government may extend the time limit or take action on the application of exemption, as it may deem fit.
- Conditions which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption under sub-section (2) of section 143.-
54. (1) The establishment to which exemption has been granted from the provision of Chapter IV of the Code:
- (a) shall maintain such records regarding the exempted employees and submit such returns and other information to the Corporation as may be specified in the Regulations; and
 - (b) in case of change of legal status of an establishment which has been granted exemption under section 143 of the Code, due to merger, demerger, acquisition, sale, amalgamation, formation into a subsidiary, whether wholly owned or not, the exemption shall be deemed to be cancelled and the establishment shall be required to apply afresh for exemption, to the appropriate Government.
- (2) For the purposes of Chapter III, the establishment and/or employer, after the grant of exemption, shall comply with all such terms and conditions as may be specified in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be, framed under section 15 of the Code.
- Conditions for management of the trust under sub-section (5) of section 143, which has been granted exemption under sub-section (1) of section 143, under Chapter III.-
55. (1) A Board of Trustees shall be established for the management of the Provident Fund or the Pension Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time.
- (2) The Board of Trustees shall consist of such equal number of representatives each of the employers and employees as may be prescribed in the Provident Fund Scheme or the Pension Scheme, as the case may be.
- (3) The employer of such exempted establishment shall be the Chairperson of the Board of Trustees. The Chairperson may exercise a casting vote in an event of equality of votes. However, arm's length principles shall be maintained by the Chairperson in all meetings of the Board of Trustees.
- (4) The Board of Trustees shall meet at least once in every three months and shall function in the accordance with the guidelines that may be issued from time to time by the Central Government or the Central Provident Fund Commissioner or any officer authorized by him.

- (5) The terms and conditions, including the tenure of office of the Trustees, the procedure and manner for election or nomination of the representatives of the employees and of employers to the Board of Trustees, disqualification and cessation of trusteeship, re-election or re-nomination of trustees, the quorum at the meeting of the Board, records to be kept of the transaction of business and all such other matters and conditions for the management of the Trust shall be as provided for in the Provident Fund Scheme or the Pension Scheme, as the case may be.
- (6) In case of any dispute or doubt on any general issues within the ambit of these terms and conditions, the matter shall be referred to the Regional Provident Fund Commissioner in whose jurisdiction the head office of the establishment is located. The decision of the Regional Provident Fund Commissioner in the matter shall be final and binding.

The Employees State Insurance (State) Rules, 2012, Sikkim Payment of Gratuity Rules, 2002 and Building and Other Construction Worker's Cess Rules, 1998 are hereby repealed:

**Repeal and
Savings:**

Provided that, the said repeal shall not affect,-

- (a) the previous operation of the said rules or anything duly done or suffered thereunder, or
- (b) affect any right, liability or obligation acquired, occurred or incurred under the said rules

**MISS. NAMRATA THAPA, IAS,
SECRETARY,
DEPARTMENT OF LABOUR,
GOVERNMENT OF SIKKIM,
GANGTOK.
F.NO.GoS/DL/177/16-17/Part III.**

FORM-I

[(See Rule 21 (1),(2), (3) and (4))]

Nomination/Fresh Nomination/Modification of Nomination

(Strike out the words not applicable)

To.....
(Give here name or description of the establishment with full address) I, Shri/Shrimati Kumari..... (Name in full here) whose particulars are given in the statement below, hereby nominate the person(s) mentioned below/ have acquired a family within the meaning of clause (33) of section 2 of Code on Social Security, 2020 with effect from the(date here) in the manner indicated below and therefore nominate afresh the person(s) mentioned below to receive the gratuity payable after my death as also the gratuity standing to my credit in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount of gratuity shall be paid in proportion indicated against the name(s) of the nominee(s).

or

I, Shri/Shrimati/Kumari.....(Name in full here) whose particulars are given in the statement below, hereby give notice that the nomination filled by me on date and recorded under your reference No.....dated..... shall stand modified in the following manner.

**Strike out unnecessary portion.*

2. I hereby certify that the person(s) mentioned is/are a member(s) of my family within the meaning of clause(33) of section 2 of the Code on Social Security, 2020.
3. I hereby declare that I have no family within the meaning of clause (33) of section 2 of the said Code.
4. (a) My father/mother/parents is/are not dependent on me.
(b) My husband's father/mother/parents is/are not dependent on my husband.
5. I have excluded my husband from my family by a notice dated the..... to the competent authority in terms of clause (33) of section 2 of the said Code.
6. Nomination made herein invalidates my previous nomination.

Nominee(s)

S.No.	Name in full with full address of nominee(s)	Relationship with the employee	Age of nominee	Proportion by which the gratuity will be shared
1.				
2.				
3.S				
o on				

Manner of acquiring a "Family"

(Here give details as to how a family was acquired, i.e., whether by marriage or parents being rendered dependent or through other process like adoption)

Statement

1. Name of employee in full
2. Sex
3. Religion
4. Whether unmarried/married/widow/widower
5. Department/Branch/Section where employed
6. Post held with Ticket No. or Serial No., if any
7. Date of appointment
8. Permanent address:

Village.....Thana.....Sub-division.....Post Office.....
 Pin-Code.....District.....State.....E-mail.....
 ID.....Mobile Number.....

Place:

Date:

Signature/Thumb-impression of the Employee

Certificate by the Employer

Certified that the particulars of the above nomination have been verified and recorded in this establishment. Employer's Reference No., if any

Signature of the employer/Officer authorised Designation

Date:

Name and address of the establishment or rubber stamp thereof.

Acknowledgement by the Employee

Received the duplicate copy of nomination in **Form-III** filed by me and duly certified by the employer.

Date:

Signature of the Employee

FORM-II

[(See Rule 22(1))]

Application for Gratuity by an Employee/Nominee/Legal Heir

(Strike out the words not applicable)

To,.....
(Give here name or description of the establishment with full address)
Sir/Madam,

I,(name of employee/nominee/legal heir) /nominee of late.....(Name of the employee)/ as a legal heir of late.....(Name of the employee), beg to apply for payment of gratuity to which I am entitled under sub-section (1) of section 53 of the Code on Social Security, 2020 on account of-

- (a) my superannuation/retirement/resignation after completion of not less than five years of continuous service/total disablement due to accident/total disablement due to disease/ on termination of contract period under fixed term employment with effect from the.....or;
- (b) death of the aforesaid employee while in service/superannuation on.....after completion of.....years of service/total disablement of the aforesaid employee due to accident or disease while in service with effect from the..... or;
- (c) death of aforesaid employee of your establishment while in service/superannuation on.....(date) without making any nomination after completion ofyears of service/total disablement of the aforesaid employee due to accident or disease while in service with effect from.....

Necessary particulars relating to my appointment are given in the statement below.

- 1. Name of employee in full, (if, the gratuity is claimed by an employee)
 - a. Marital status of employee(unmarried/married/widow/widower)
 - b. Address in full of employee

or
- 2. Name of nominee/legal heir, (if the gratuity is claimed by nominee/legal heir)
 - a. Name of Employee
 - b. Marital status of nominee/legal heir (unmarried/married/widow/widower)
 - c. Relationship of nominee/legal heir with the employee
 - d. Address in full of nominee/legal heir
 - e. Date of death and proof of death of the employee
 - f. Reference No. of recorded nomination if available
- 3. Department/Branch/Section where last employed
- 4. Post held by employee.
- 5. Date of appointment.

6. Date and cause of termination of service
7. Date of Death
8. Total period of service of the employee
9. Total wages last drawn by the employee.
10. Total gratuity payable to the employee/ share of gratuity claimed by a nominee/legal heir.
11. Payment may please be made by crossed bank cheque/credit in my bank account no.....

Yours faithfully,
Signature/Thumb-impression of the
applicant employee/nominee/legal heir.

Place:
Date:

FORM-III

[(See Rule 22(2))]

Notice for Payment/Rejecting claim of Gratuity

(Strike out the words not applicable)

To,.....

(Name and address of the applicant employee/nominee legal heir)

You are hereby informed that

- (a) *as required under sub-clause (ii) of clause (a) of sub-rule (2) of rule 35 of the Code on Social Security (Central) Rules, 2020, that your claim for payments of gratuity as indicated on your application in **Form-IV** under the said rules is not admissible for the reasons stated below:

Reasons (Here specify the reasons); or

- (b) *as required under sub-clause (i) of clause (a) of sub-rule (2) of rule 35 the Code on Social Security (Central) Rules, 2020 that a sum of Rs.(Rupees.....) is payable to you as gratuity/as your share of gratuity in terms of nomination made byonand.....recorded in thisas a legal heir of.....an employee of this establishment.

2. *Please call aton..... (Here specify place).....(date) at.....(time) for collecting your payment of gratuity crossed cheque.

3. Amount payable shall be sent to you through demand draft or shall be credited in your bank account as desired by you.

4. Brief statement of calculation

(a) Date of appointment.

(b) Date of termination/superannuation/resignation/ disablement/death.

(c) Total period of service of the employee concerned: years..... months.

(d) Wages last drawn:

(e) Proportion of the admissible gratuity payable in terms of nomination/as a legal heir:

(f) Amount payable:

**strike out para, if, not applicable*

Place:

Date:

Signature of the Employer/authorised officer.

Name or description of establishment or rubber stamp thereof.

Copy to: The Competent Authority in case of denial of gratuity.

Copy also to: Office of DG Labour Bureau, Ministry of Labour and Employment, Chandigarh.

FORM-IV

[(See Rule 22(4))]

Application for Direction

Before the Competent Authority for Chapter V under the Code on Social Security, 2020

Application No.

Date

BETWEEN

(Name in full of the applicant with full address)

AND

(Name in full of the employer concerned with full address)

The applicant is an employee of the above-mentioned employer/a nominee of late..... an employee of the above-mentioned employer/a legal heir of late..... and employee of the abovementioned employer, and is entitled to payment of gratuity under section 53 of the Code on Social Security, 2020 on account of his own/aforesaid employee's superannuation on.....(date)/his own retirement/aforesaid employees' resignation on.....(date) completion of.....years of continuous service/his own/aforesaid employees' total disablement with effect from(date)due to accident/disease death of aforesaid employee on.....

2. The applicant submitted an application under Rule..... of the Code on Social Security (Central) Rules, 2020 on thebut the above-mentioned employer refused to entertain it/issued a notice dated the..... under clauseof sub-rule of ruleoffering an amount of gratuity which is less than my due/issued a notice datedthe under clause..... of sub-rule.....of rule..... rejecting my eligibility to payment of gratuity. The duplicate copy of the said notice is enclosed.
3. The applicant submits that there is a dispute on the matter (specify the dispute).
4. The applicant furnishes the necessary particulars in the annexure hereto and prays that the Competent Authority may be pleased to determine the amount of gratuity payable to the petitioner and direct the above-mentioned employer to pay the same to the petitioner.
5. The applicant declares that the particulars furnished in the annexure hereto are true and correct to the best of his knowledge and belief.

Date:

Signature/Thumb impression of the applicant.

ANNEXURE

1. Name in full of applicant with full address
2. Basis of claim (Death/Superannuation/Retirement/Resignation/Disablement of Employee / Completion of contract period under Fixed Term Employment)
3. Name and address in full of the employee
4. Marital status of the employee (unmarried/married/widow/widower)
5. Name and address in full of the employer
6. Department/Branch/Section where the employee was last employed (if known)
7. Post held by the employee with Ticket or Sl. No., if any (if known)
8. Date of appointment of the employee (if known)
9. Date and cause of termination of service of the employee (Superannuation / retirement / resignation/disablement / death/Completion of contract period under Fixed Term Employment)
10. Total period of service by the employee
11. Wages last drawn by the employee
12. If the employee is dead, date and cause thereof
13. Evidence/witness in support of death of the employee
14. If a nominee, No. and date of recording of nomination with the employer
15. Evidence/witness in support of being a legal heir if a legal heir
16. Total gratuity payable to the employee (if known)
17. Percentage of gratuity payable to the applicant as nominee/legal heir
18. Amount of gratuity claimed by the applicant

Place:

Date:

Signature/Thumb-impression of the applicant

FORM - V

[(See Rule 22 (5),(8))]

Notice for Appearance before the Competent Authority/Summon

(Strike out the words not applicable)

To,

(Name and address of the employer/applicant)

Whereas Shrian employee under you/a nominee(s)/legal heir(s) of Shri.....an employee under the above-mentioned employer, has/have filed an application under sub-rule (4) of rule 35 of the Code on Social Security(Central) Rules, 2020 alleging that—.....

(A copy of the said application is enclosed, if, summon is issued then copy of application is not required)

Now, therefore, you are hereby called upon/summoned to appear before the Competent Authority at(place)either personally or through a person duly authorized in this behalf for the purpose of answering all material questions relating to the application on the day of20..... at 'O' clock in the forenoon/afternoon in support of/to answer the allegation; and as the day fixed for your appearance is appointed for final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely in support of your allegation/ defence.

Take notice that in default of your appearance on the day before-mentioned, the application will be dismissed/heard and determined in your absence.

Whereas your attendance is required to give evidence/you are required to produce the documents mentioned in this list below, on behalf of in the case arising out of the claim for gratuity by..... Form..... and referred to this Authority by an application under section 56 of the Code on Social Security, 2020, you are hereby summoned to appear personally before this Authority on the day of20..... at 'O'clock in the forenoon/afternoon and to bring with you for to send to this Authority) the said documents.

List of documents-

- 1.
- 2.
- 3.

Given under my hand and seal, thisday of20.....

Competent Authority

under the Code on Social Security Code, 2020

Note:

1. Strike out the words and paragraphs not applicable.
2. The portion not applicable to be deleted.
3. The summons shall be issued in duplicate. The duplicate is to be signed and returned by the persons served before the date fixed.
4. In case the summons is issued only for producing a document and not to given evidence it will be sufficient compliance to the summons if the documents are caused to be produced before the Competent authority on the day and hour fixed for the purpose.

FORM - VI

[(See Rule 22(11) and (12)]

Notice for Payment of Gratuity as Determined by Competent/Appellate Authority

(Strike out the words not applicable)

To,
(Name and address of employer)

1. Whereas Shri/ Smt./ Kumari..... of an employee..... (address)under you/a nominee(s)/ legal heir(s) of latean employee under you, filed an application under section 56 of the Code on Social Security, 2020, before me; or

Whereas a notice was given to you onrequiring you to make payment of Rs..... to Shri/Smt./Kumari.....as gratuity under the Code on Social Security, 2020.

2. And whereas the application was heard in your presence on.....and after the hearing have come to the finding that the said Shri/Smt./Kumari..... is entitled to a payment of Rs..... as gratuity under the Code on Social Security, 2020; or

Whereas you/the applicant went in appeal before the appellate authority, who has decided that an amount of Rs..... is due to be paid to Shri/Smt./Kumari.....as gratuity due under the Code on Social Security, 2020.

Now, therefore, I hereby direct you to pay the said sum of Rs.to Shri/Smt./Kumari within thirty days of the receipt of this notice with an intimation thereof to me.

Given under my hand and seal, thisday of.....20.....

Competent Authority
under the Code on Social Security Code, 2020

Copy to:

1. The Applicant- He is advised to contact the employer for collecting payment.
2. The Appellate Authority if applicable.

Note.— (Strike out paragraphs if not applicable)

FORM – VII

[(See Rule 22(13)]

Application for Recovery of Gratuity

Before the Competent Authority for Chapter V under the Social Security Code, 2020

Application No.

Date

BETWEEN

(Name in full of the applicant with full address)

AND

(Name in full of the employer/Trust/Insurer concerned with full address)

1. The applicant is an employee of the above-mentioned employer/a nominee of late..... an employee of the above mentioned employer/a legal heir of latean employee of the above-mentioned employer, and you were pleased to direct the said employer in your notice dated theunder sub-rule (11) or sub-rule (12) of rule 35 of Code on Social Security (Central) Rules, 2020 for payment of a sum of Rs..... as gratuity payable under the Code on Social Security, 2020.
2. The applicant submits that the said employer failed to pay the said amount of gratuity to me as directed by you although I approached him for payment.
3. The applicant therefore prays that a certificate may be issued under section 129 of the Code for recovery of the said sum of Rs.due to me as gratuity in terms of your direction.

Signature/Thumb-impression of applicant.

Place:

Date:

Note.—Strike out the words not applicable.

FORM – VIII

[See Rule 24(1)(a)]

Complaint to the Inspector-cum-Facilitator

To,

The Inspector-cum-Facilitator

(Under The Code on Social Security, 2020)

Sir,

I..... (Name of woman) employed in..... (name and full address of the establishment) or I....., (name), a person nominated under section 62 by or a legal representative of.....(name of woman) employed in.....(name and full address of the establishment) having fulfilled the conditions laid down in the Code on Social Security , 2020 and the Rules thereunder, am entitled to Rs..... being maternity benefit and/ or Rs..... being the medical bonus and/ or Rs..... being wages for leave due under section 65 but the same has been improperly withheld by the employer/discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Chapter VI of Code on Social Security, 2020. You are therefore requested, to direct the employer to pay the amount to me/ to set aside the discharge or dismissal done by the employer.

Signature or thumb impression of the Woman/
nominee/ legal representative

Date.....

Signature of an Attester in case the woman/
nominee/ legal representative is
unable to sign and affixes thumb impression.
Full address of the women/nominee/legal representative.

FORM-IX
Appeal
[See Rule 24 (2) (b)]

To,
The Authority,
(Appointed under the Code on Social Security , 2020)
.....(Address)

Sir,

I....., the undersigned, woman employee of..... (name and full address of the establishment)

*Feel aggrieved by the order of Inspector-cum-Facilitator under sub section (2) of section 72 for the reasons attached hereto, prefer this appeal under sub-section (2) of section 68 and request that the said employer be ordered to pay the above mentioned amount to me. A copy of the order of Inspector-cum-Facilitator cum Facilitator in this behalf is enclosed; or

*Shri....., Inspector-cum-Facilitator, having directed under sub-section (2) of section 72 to pay the maternity benefit or other amount being..... (Nature of amount) to which..... (Name of woman) is said to be entitled/to set aside my discharge or dismissal during or on account of absence from work in accordance with the provisions of this Chapter V of the Code on Social Security , 2020(*Strike out unnecessary portion*).

I prefer this appeal under sub-section (3) of section 72. In view of the facts mentioned in the memorandum attached hereto and other documents filed herewith it is submitted that the woman is not entitled to the maternity benefit or the said amount and hence the order of the Inspector-cum-Facilitator in the copy of which is enclosed, may be set aside.

**Strike out unnecessary portion.*

Signature or thumb impression of the Women/Aggrieved person

Date.....

.....
Signature of an Attester in case the woman is
not able to sign and affixes thumb impression.
Full address of the nominee/legal representative

FORM-X
NOTICE BOOK OF THE ACCIDENTS)
[See rule 26]

Name of the Establishment.....

Nature of Business

Date of opening.....

Registration no (if any).....

Name of the employer/occupier.....

Date of accidents	Short detail of Accident	Name of the injured person	Whether accident result in death	Nature of Injury	Amount of compensation paid to employee or the dependent	Amount of compensation deposited to competent authority	Date of payment
1	2	3	4	5	6	7	8

FORM-XI

[See rule28]

STATEMENT OF FATAL ACCIDENTS

To
The Competent Authority,

.....

Sir,

- (1). I have the honor to submit the following statement of an accident which occurred in (date), at (here enter details of premises) and which resulted in the death of the employee/ employees of whom particulars are given in the statement annexed.
- (2). The circumstances relating to the death of the employee/employees were as under: -
 - a. Time of accident.
 - b. Place where the accident occurred.
 - c. Manner in which deceased was/were employed at the time.
 - d. Cause of the accident.
 - e. Any other relevant particulars.
- (3). I am responsible for payment of compensation.
- (4). Details of employee
 - a. Name of the employee
 - b. Age of the employee
 - c. Wages of the employee
- (5). The establishment is not responsible for payment of compensation due to reasons mentioned below

(Signature and designation of person making the statement)

FORM-XII

[See rule 29 (1)]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 20..... personal injury was caused to residing at by accident arising out of and in the course of his employment in The said injury has resulted in permanent disablement to the said workman of the following nature, namely:-

The said employee's monthly wages are estimated at Rs. The employee is over the age of 15 years will reach the age of 15 years on The said employee has, prior to the date of the agreement, received the following payments, namely: —

Rs. on Rs. on

Rs. on Rs. on

Rs. on Rs. on

It is further submitted that the employer of the said employee has agreed to pay, and the said employee has agreed to accept, the sum of Rs. in full settlement of all and every claim under the Code on Social Security, 2020 in receipt of the disablement stated above and all disablement now manifest. It is therefore requested that this memorandum be duly recorded.

Dated20.....

Signature of employer

Witness

Witness

Signature or employee

Note- Application to register an agreement can be presented under signature of one party: provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

Receipt (to be filled in when the money has actually been paid)

In accordance with the above agreement, I have this day received the sum of Rs.....

Dated20.....

Employee

The money has been paid and this receipt signed in my presence.

Witness

Note- This form may be varied to suit special cases, e.g. injury by occupational disease, agreement when employee is under legal disability, etc.

FORM-XIII

[See rule 29(1)]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 20 personal injury was caused to residing at by accident arising out of said in the course of employment in The said injury has resulted in temporary disablement to the said employee, who is at present in receipt of wages amounting to Rs. per month/no wages.

The said employee's monthly wages prior to the accident are estimated at Rs. The employee is subject to a legal disability by reason of.

It is further submitted that the employer of the employee has agreed to pay and on behalf of the said employee has agreed to accept half-monthly payments at the rate of Rs. for the period of the said temporary disablement. This agreement is subject to the condition that the amount of the half-monthly payments may be varied in accordance with provisions of the said Act on account of an alteration in the earnings of the said employee during disablement. It is further stipulated that all rights of commutation under Section 7 of the said Act are unaffected by this agreement it is therefore requested that this memorandum be duly recorded.

Dated 20.... .

Witness

Signature of employer

Witness

Signature of employee

Note- An application to register and agreement can be presented under the signature of one party : provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.....

Employee

Dated20 . The money has been paid and this receipt signed in my presence.

Witness

Note- This form may be varied to suit special cases, e.g., injury by occupational disease, etc.

FORM-XIV

[See rule 29(1)]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 20..... personal injury was caused to residing at by accident arising out of and in the course of his employment in The said injury has resulted in death to the said workman.

The said employee's monthly wages are estimated at Rs. The employee is over the age of 15 years will reach the age of 15 years on

The said employee has, prior to the date of the agreement, received the following payments, namely: — Rs. on Rs. on

Rs. on Rs. on

Rs. on Rs. on

It is further submitted that the employer of the said employee has agreed to pay, and dependent(s) of the said employee has agreed to accept, the sum of Rs. in full settlement of all and every claim under the Code on Social Security, 2020 in receipt of death stated above. It is therefore requested that this memorandum be duly recorded.

Dated20.....

Signature of employer

Witness

Witness

Signature or dependant(s)

Note- Application to register an agreement can be presented under signature of one party: provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

Receipt (to be filled in when the money has actually been paid) In accordance with the above agreement, I have this day received the sum of Rs..... Dated20....

Dependant(s)

The money has been paid and this receipt signed in my presence.

Witness

FORM-XV

[See rule 29(2)]

REGISTRATION OF MEMORANDUM OF AGREEMENT

Whereas an agreement to pay compensation is said to have been reached between and and whereas has/have applied for registration of the agreement under Section 89 of the Code of Social Security, 2020 notice is hereby given that said agreement will be taken into consideration on 20 and that any objections to the registration of the said agreement should be made on that date. In the absence of valid objections it is my intention to proceed to the registration of the agreement.

Dated20

Competent Authority

FORM-XVI

[See rule 29(5)]

REGISTER OF AGREEMENT

Sl. No	Date of agreement	Date of registration	Employer	Employee	Signature of Competent Authority	Remarks

FORM-XVII**[See rule 44(i)]****REGISTER OF EMPLOYEES**

Name of Establishment:	
Name of the Employer/owner:	
Registration Number of Establishment	
Full Name of Employee	
Gender	
Father's/Spouse's Name	
Details of Family Members	
Date of Birth	
Nationality	
Religion	
Qualification	
Date of Joining	
Designation	
Category (unskilled, semi-skilled, skilled or highly skilled)	
Mobile Number	
UAN Number	
ESIC IP Insurance No.	
Nominee Name	
Bank Account Number	
Branch	
IFSC Code	
Aadhar Number	
Permanent Address	
Present Address	
Remarks	

FORM-XVIII

[See rule 44(ii)]

REGISTER OF ATTENDANCE-cum-MUSTER ROLL

FOR THE MONTH OF.....																
Name of Establishment																
Name of the Employer/owner																
Registration Number of Establishment																
1.	Serial Number															
2.	Employee Code															
3.	Name															
4.	Designation															
5.	Shift Details															
6.	Place of work, Department or Section															
7.	Date and timings of In and Out															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
8.	Total number of days worked															
9.	Total number of extra hours worked															
10.	In case of tour or assignments outside the work place suitable entries may be made															
11.	Signature of Register keeper															

FORM-XIX

[See rule 44(iii)]

REGISTER OF WAGES, OVER TIME AND DEDUCTION

Name of Establishment	
Name of the Employer/owner	
Registration Number of Establishment	
Wage Period from dd/mm/yyyy to dd/mm/yyyy (Monthly/Fortnightly/Weekly/Daily/Piece Rated)	
1.	Serial Number
2.	Employee Code
3.	Name
4.	Designation
5.	Rate of Wage
a	Basic
b	DA
c	Other Allowance
d	Overtime
6.	No. of days worked
7.	Overtime hours worked
8.	Amount of Wages Earned
a	Basic
b	DA
c	Other Allowance
d	Overtime
9.	Deductions
a	EPF
b	ESIC
c	Others (Income TAX, Fine, Recovery of Damages/Loss etc.)
Total Deductions	
10.	Net Payment
11.	Receipt/Transaction ID
12.	Date of Payment
13.	Initials of Employer/representative
14.	Remarks

FORM-XX

[See rule 44(iv)]

REGISTER OF WOMEN EMPLOYEE

Name of establishment

1. Serial Number.
2. Name of woman and her father's (or, if married, husband's) name.
3. Date of appointment.
4. Nature of work.
5. Dates with month and year in which she is employed, laid off and not employed.

Month	No. of days employed	No. of days laid off	No. of days not employed	Remark
a	b	c	d	e

6. Date on which the woman gives notice under section 62.
7. Date of discharge/dismissal, if any.
8. Date of production of proof of pregnancy under section 62.
9. Date of birth of child.
10. Date of production of proof of delivery/miscarriage/Medical Termination of pregnancy/tubectomy operation /death / adoption of child.
11. Date of production of proof of illness referred to in section 65.
12. Date with the amount of maternity benefit paid in advance of expected delivery.
13. Date with the amount of subsequent payment of maternity benefit.
14. Date with the amount of bonus, if paid, under section 64.
15. Date with the amount of wages paid on account of leave under section 65(1) & 65(3).
16. Date with the amount of wages paid on account of leave under section 65(2) and period of leave granted.
17. Name of the person nominated by the woman under section 62.
18. If the woman dies, the date of her death, the name of the person to whom maternity benefits and/or other amount was paid, the amount thereof, and the date of payment.
19. If the woman dies and the child survives, the name of the person to whom the amount of maternity benefit was paid on behalf of the child and the period for which it was paid.
20. Signature of the employer of the establishment authenticating the entries in the register of women employees.
21. Remarks column for the use of the Inspector-cum-Facilitator.

FORM-XXI
[See rule 44(6)]
WAGE SLIP

Name of the Establishment.....
Address:..... Period:.....

1. Name of the Employee:
2. Father's/Spouse's Name:
3. Designation:
4. UAN:.....
5. Bank Account Number:
6. Wage period:
7. Rate of wages payable
 - a) Basic.....
 - b) D.A.
 - c) other allowances
8. Total attendance/unit of work done:.....
9. Overtime wages
10. Gross wages payable
11. Total deductions
- a) PF
 - b) ESI
 - c) Others.....
12. Net wages paid.....

FORM XXII

[(See Rule 44(9))]

Unified Annual Return

A. General Part:

- (a) Name of the establishment.....
 Address of the establishment:
 House No./Flat No.Street No./Plot No.
 Town.....District.....State.....pin code.....
- (b) Name of the employer.....
 Address of the employer:
 House No./Flat No.Street No./Plot No.
 Town.....District.....State.....pin code.....
 E-mail ID.....Telephone Number.....Mobile number.....
- (c) Name of the manager or person responsible for supervision and control of establishment

 Address:
 House No./Flat No.....Street No./Plot No.....
 Town.....District.....State.....pin code.....
 E-mail ID.....Telephone Number.....Mobile number...

B. Employer's Registration/Licence number under the Codes mentioned in column (2) of the table below:

S. No.	Name	Registration	If yes (Registration No.)
(1)	(2)	(3)	(4)
01.	The Code on Occupational Safety Health and working condition code 2020.		
02.	The Code on Social Security 2020.		
03.	Any other Law for the time being in force.		

C. Details of Employer, Contractor and Contract Labour:

01.	Name of the employer in the case of a contractor's establishment.		
02.	Date of commencement of the establishment.		
03.	Number of Contractors engaged in the establishment during the year.		
04.	Total Number of days during the year on which Contract Labour was employed.		
05.	Total number of man-days worked by Contract Labour during the year.		
06.	Name of the Manager or Agent (in case of mines).		
07.	Address House No./Flat No. District E-mail ID	Street/Plot No. State Telephone Number	Town Pin Code Mobile Number

D. Working hours and weekly rest day:

01.	Number of days worked during the year.	
02.	Number of mandays worked during the year.	
03.	Daily hours of work.	
04.	Weekly day of rest.	

E. Maximum number of persons employed in any day during the year:

Sl. No.	Males	Females	Adolescents (between the age of 14 to 18 years.)	Children (below 14 years of age)	Total

F. Wage rates (Category Wise):

Category	Rates of Wages	No. of workers							
		Regular				Contract			
		Male	Female	Children	Adolescent	Male	Female	Children	Adolescent
Highly									
Skilled									
Semiskilled									
Unskilled									

G. (a) Details of Payments:

Gross wages paid		Deductions		Net wages paid		
In cash	In kind	Fines	Deductions for damage or loss	Others	In cash	In kind

(b) Number of workers who were granted leave with wages during the year:

Sl. No.	During the year	Number of workers	Granted leave with wages

H. Details of various welfare amenities provided under the statutory schemes:

Sl. No.	Nature of various welfare amenities provided	Statutory (specify the statute)

I. Maternity Benefit under the Code on Social Security, 2020:

(a) Details of establishment, medical and para-medical staff:

01.	Date of opening of establishment	
02.	Date of closing, if closed	
03.	Name of Medical Officer	
03(i)	Qualification of Medical Officer	
03(ii)	Is Medical Officer at (the mines or circus)?	
03(iii)	If a part time, how often does he/she pay visit to establishment ?	
03(iv)	Is there any Hospital?	
03(v)	If so, how many beds are provided?	
03(vi)	Is there a lady Doctor?	
03(vii)	If so, what is her qualification?	
03(viii)	Is there a qualified mid-wife?	
03(ix)	Has any crèche been provided?	

(b) Leave Granted under the Code on Social Security, 2020

01.	Total number of female employees in the establishment	
02.	Total number days of leave granted	
03.	Number of employees granted maternity leave/benefited by ESI	

Declaration

It is to certify that the above information is true and correct and also I certify that I have complied with the all provisions of Labour Laws applicable to my establishment.

Place

Date

Sign. Here

FORM-XXIII*[See Rule 45(1)]***Notice to the Employer who committed an offence for the first time for compounding of offence under subsection (1) of section 138 of the Code on Social Security, 2020****Notice No.....****Date:**

On the basis of records and documents produced before me, the undersigned has reasons to believe that you, being the employer of the establishment..... (Registration No.....), have committed offence for the violation of provision of the Code or the Schemes or the Rules or the Regulations framed thereunder as per the details given below:-

PART – I

1.	Name of the Person:	
2.	Name and Address of the Establishment :	
3.	Registration No of the Establishment:	
4.	Particulars of the offence:	
5.	Provisions of the Code/Scheme/Rules/Regulations under which the offence is committed:	
6.	Compounding amount required to be paid towards composition of the offence:	
7.	Name and Details of Account for depositing the Amount specified in Column 6:	

PART –II

In view of the above, you have an option to pay the above-mentioned amount within fifteen days from the date of issue of this notice and return the application duly filled in Part – III of this notice.

In case the said amount is not paid within the specified time, necessary action for filing of prosecution shall be initiated without giving any further opportunity in this regard.

(Signature of the Compounding Officer)**Date:****Place:**

PART – III

[See Rule 45(2)]

Application under sub-section (4) of section 138 for compounding of offence

Ref: Notice No.....

Date:

The undersigned has deposited the entire amount as specified in Column 6 of Part-I and the details of payment are given below with a request to compound the offences mentioned in Part-I.

1. Details of the compounding amount deposited (Copy of electronically generated receipt to be attached):
2. Details of the prosecution, if filed for the violation of above-mentioned offences may be given:
3. Whether the offence is first offence or the applicant had committed any other offence prior to this offence, if committed, then, full details of the offence:
4. Any other information which the applicant desires to provide:

**Signature of the applicant
(Name and Designation)**

Dated:

Place:

PART – IV

Composition Certificate

[See Rule 45(3)]

Ref: Notice No.....

Date:

This is to certify that the offence under sub-section of section 133 of the Code in respect of which Notice No. Dated: _____ was issued to Sh..... (Applicant), the employer of (name and Registration Number of establishment) has been compounded on account of remission of full amount of Rs (Rupees _____) towards the composition of offences to the satisfaction of the said Notice

**(Signature)
Name and Designation of the Officer**

Date:

Place:

FORM-XXIV

See Rule 47(3)

Form for Reporting Vacancies to Career Centres

(Separate forms to be used for each type of posts)

1.	Particulars of the employer: Name: Address with pin code: Telephone No. : Mobile No.: Email address : Name & Type of Establishment (Central Government, State Government, PSU, Autonomous, Private, etc) Registration No of establishment under Code: Economic activity details:		
2.	Particulars of the indenting Officer: Name: Designation: Telephone No. : Mobile No.: Email address :		
3.	Particulars of vacancy(ies): (a) Designation/nomenclature of the vacancy(ies) to be filled (b) Description of duties of the post (job role/functional role)		
	(c) Qualifications/Skills required (educational, technical, experience)	Essential	Desirable/ Preferable
	(i) Educational Qualifications (ii) Technical Qualifications (iii) Skills (iv) Experience		
	(d) Age Limits, if any (Age as on last date of application)		
	(e) Preferences (such as Ex-servicemen, persons with disabilities, women, etc) if any		
	(f) duration of employment (i) 3-6 months (ii) 6-12 months (iii) 12 months and more	Number of posts	

4. Whether there is any obligation for arrangement for giving reservation/preference to any category of persons such as Scheduled Caste(SC), Scheduled Tribe(ST), Economically Weaker Sections(EWS), Other Backward Classes(OBC), Ex-serviceman and persons with disabilities (pwd) , etc, in filling up the vacancies: Yes/No(if yes, give the number of vacancies to be filled by such categories of persons as detailed below)		
Category	Number of vacancies to be filled	
(a) Scheduled Caste (b) Scheduled Tribe (c) OBC (d) EWS (e) Ex-Serviceman (f) Persons with disabilities (pwd) (g) women (h) Others (specify)	Total	*By Priority candidates *(Applicable for Central Government vacancies)
6. Pay and Allowances: For Government vacancies: Mention pay level/pay scale of the post with basic pay/pay per month with other details if any For others: Mention minimum total emoluments per month with other details, if any.		
7. Place of work (Name of the town/village and district, pin code ,etc. in which it is situated)		
8. Mode of Application (email, online, in writing, etc) and Last date for receipt of applications.		
9. Particulars of officer to whom the applications be sent/candidates should approach (Mention Name, designation, email id, address, telephone No., website address in case of online)		
10. Mode of Recruitment (Through Career Centre, Placement Agency, selfmanagement, any other mode (specify))		
11. Would like to prefer submission of list of eligible candidates registered with Career Centre		Yes/No
12. Any other relevant information		

Signature, Name & Designation of Authorised Signatory of
establishment/ employer with seal & date
(For Official Use- to be filled by Career Centre)

13. Name, address, email id of the Career Centre	
14. Date of receipt of Vacancies	
15. NIC Code of the establishment/	

16.	NCO Code of the post	
17.	Unique Vacancy ID (number)	

Signature, Name& Designation of Authorised Signatory
of Career Centre with seal & date

NOTE:

1. Career Centre to which the vacancies are reported, would provide a unique vacancy reporting number for the vacancy reported and convey it to the employer in writing, through email or digitally or through any other such media immediately but in any case not later than 3 working days from the date of receipt of reporting of vacancies.
2. An employer, if advertises that vacancy in any media or makes recruitment through any agency or any other mode, may invariably quote that unique vacancy reporting number in that advertisement or recruitment process.
3. Any change in the particulars already furnished to the Career Centre, shall be reported in writing or through valid official email or digitally(including through a portal) as the case may be, to the appropriate Career Centre.

FORM-XXV

[See Rule 47(6)]

Form EIR (Employment Information Return)
Yearly Return to be submitted to the Career Centre (Regional) for the Year
ended.....

The following information is required to be submitted under the Code on Social Security (Chapter XIII – Employment Information & Monitoring) 2020.

Name & Address of the Employer		
Whether – Head Office		
Branch Office Type of Establishment (Public / Private Sector)		
Nature of business/Principal activity		
Establishment Registration No. under the Code		
1. (a) EMPLOYMENT Total number of <i>manpower of establishment</i> including working <i>proprietors/partners/contingent</i> paid and contractual workers, out-sourced workers excluding part-time workers and apprentices. (The figures should include every person whose wage or salary is paid).		
Category	On the last working day of the previous Year	On the last working day of the Year under report
MEN WOMEN Other (Transgender) TOTAL : PWD (persons with disabilities) out of above total		

(EIR-continued)

2. Number of vacancies* occurred and reported to Career Centre during the year and the number of vacancies filled during the year				
Occurred	Reported		Filled	Source (Career Centre/ NCS Portal/ Govt. Recruiting Agencies/ Private Placement Organisations/ others)
	Career Centre (Regional)	Career Centre (Central)		
1	2	3	4	5

*As per provisions of Code on Social Security, 2020 (Chapter XIII) and Rules made there under,

3. MANPOWER SHORTAGES:

Vacancies/posts remained unfilled because of shortage of suitable applicants.

Name of the occupation or designation of the post	Number of unfilled vacancies/posts		Desirable
	Skill/ qualifications (educational/technical/ experience) prescribed	Essential	
1	2	3	4

(Please list any other occupations also for which this establishment had any difficulty in obtaining suitable applicants recently.)

4. Estimated Manpower Requirement by Occupational Classification during the next calendar year (Please give below the number of employees in each occupation separately).

Occupation	Number of employees Please give as far as possible approximate number of vacancies in each occupation you are likely to fill during the next financial year due to retirement/ expansion or re-organisation.				
Description	Men	Women	Others (transgender)	Total	PWD (persons with disabilities) out of total
1	2	3	4	5	6
*					
Total :					

* In the column (description) -Use exact terms such as Engineer (Mechanical), Assistant Director (Metallurgist); Research Officer (Economist); Supervisor (Tailoring), Inspector (Sanitary), Superintendent (Office), Manager (Sales), Manager (Accounts), Executive (Marketing), Data Entry Operator.....so on.

Signature, Name & Designation of Authorised Signatory of establishment/ employer with seal & date

To

The Career Centre,

Note:- 1. This return is to be rendered to the Career Centre (Regional) within 30 days after the end of the financial year concerned by establishments/employers vide their obligation under the Code on Social Security, 2020 (Chapter XIII-Employment Information and Monitoring).

2. The main purpose in obtaining the information from employers is to know (i) the vacancies/employment opportunities available; (ii) type of personnel who are in short supply; and (iii) future job opportunities for providing vocational guidance to the jobseekers and connecting them with the employers. This is helpful in ascertaining the skill needs also. Employers too will be able to call on the Career Centres for getting suitable candidates as per their requirements.



