

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Thursday 28th April, 2022

No. 169

**GOVERNMENT OF SIKKM
LABOUR DEPARTMENT**

No. 21/DL

Dated: 20.04.2022.

NOTIFICATION

The following draft rules, which the State Government proposes to make in exercise of the powers conferred by Section 99 of the Industrial Relations Code, 2020 (35 of 2020) is hereby published for the information to all persons likely to be affected thereby and notice is hereby given that the said draft notification will be taken into consideration after the expiry of a period of forty five (45) days as per the requirement under proviso to section 99(1) from the date of publication of this notification in the Official Gazette;

The objection and suggestions if any may be addressed to the Additional Labour Commissioner, Labour Department. Objection and suggestion which may be received from any person or organisation with respect to the said draft rules before expiry of the period specified above will be taken into consideration by the State Government.

PRELIMINARY

CHAPTER -1

Short title and commencement:-

1. (1) These rules may be called Sikkim Industrial Relations Rules, 2022.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Definitions :-

2. (1) In these rules, unless the context otherwise requires,
 - (a) "Code" means the Industrial Relations Code, 2020;
 - (b) "electronically" means any information submitted by e-mail or uploaded in the designated portal or digital payment in any mode for the purpose of the Code;
 - (c) "Form" means a form appended to these rules;
 - (d) "Section" means the section of the Code;
 - (e) "State Government" means the Government of Sikkim;

(f) "tribunal" means industrial tribunal established under this Code by the Government of Sikkim;

(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;

Written agreement for the settlement before the Conciliation Officer under clause (zi) of Section 2:-

3. The agreement under clause (zi) of Section 2 for written agreement between the employer and worker shall be in form specified in **Form – I** and shall be signed by the parties in the agreement and a copy thereof shall be sent to the concerned Conciliation Officer.

CHAPTER – II

BI- PARTITE FORUMS

Constitution of Works Committee etc. under Section 3:-

4. (1) Every employer to whom an order made under sub-section 3 relates, shall forthwith proceed to constitute a Works Committee in the manner as specified in the following sub-rules.

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

Provided that the total number of members of the Works Committee shall not exceed 20 (twenty):

Provided further that, the number of representatives of the worker in the Works

Committee shall not be less than the number of representatives of the employer therein.

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

(4) Where any workers of the industrial establishment are members of a registered Trade Union, the employer shall ask such Trade Union to inform him in writing as to :-

(i) How many workers are members of such Trade Union; and

(ii) Where an employer has reason to believe that the information furnished by the registered Trade Union is false, he may, after informing such Trade Union, refer the matter to the State Joint Labour Commissioner, who shall, after hearing the parties, shall decide the matter and his decision shall be final.

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

(a) registered Trade Union may choose their representatives as members for works committee in the proportion of their membership.

(b) where there is no registered Trade Union, workers may choose amongst themselves representatives for the works committee.

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

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

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

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

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

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

Provided that the representatives of the employer shall not take part in the election of the Secretary or Joint Secretary, as the case may be, from amongst the representatives of the worker and only the representatives of the worker shall be entitled to vote in such elections.

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

(7) (a) the term of office of the representatives on the Works Committee other than a member chosen to fill a casual vacancy shall be 2 (two) years;

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

(c) A member who without obtaining leave from the Works Committee, fails to attend 3 (three) consecutive meetings Committee shall forfeit his membership.

(8) In the event of worker's representative ceasing to be member under clause(c) of sub-rule(7) or ceasing to be employed in the establishment or in the event of his resignation, death or otherwise, his successor shall be chosen in accordance with the provisions of this rule from the same group to which the member vacating the seat belonged.

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

(10) (a) the Works Committee may meet as often as necessary but not less than once in 3 (three) months.

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

(11) (a) the employer shall provide accommodation for holding meetings of the Works Committee. He shall also provide all necessary facilities to the Works Committee and to the members thereof for carrying out the works of the Works Committee. The Works Committee shall ordinarily meet during working hours of the industrial establishment concerned on any working day and the representative of the worker shall be deemed to be on duty while attending the meeting;

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

Manner of choosing members from the employers and the workers for Grievance Redressal Committee under sub-section (2) of section 4 :-

5. (1) The Grievance Redressal Committee shall consist of equal number of members representing the employers and the workers, which shall not exceed ten.

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

(3) The representatives of the workers shall be chosen by the registered Trade Union. In case where there is no registered Trade Union the member may be chosen by the workers of the industrial establishment:

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

Provided further that the tenure of the members of the Grievance Redressal Committee shall be co-terminus with the tenure of members of registered Trade Union.

Provided further that in the absence of registered Trade Union, the tenure of members of Grievance Redressal Committee shall be for a period of two years from the date of constitution of the Grievance Redressal Committee.

- (4) Where any workers of the industrial establishment are members of a registered Trade Union, the employer shall ask such Trade Union to inform him in writing as to :-
 - (a) how many of the workers are members of such Trade Union;
 - (b) where any employer has reason to believe that the information furnished to him under clause (a) by the registered Trade Union is false, he may after informing such Trade Union, refer the matter to the Joint Labour Commissioner who shall, after hearing the parties, shall decide the matter and his decision shall be final.
- (5) On receipt of the information called for under sub-rule (4), the employer shall provide for the selection of worker's representative on the Committee by two following groups, namely:-
 - (a) registered Trade Union may choose their representatives as members for Grievance Redressal Committee in the proportion of their membership;
 - (b) such workers those who are not member of registered Trade Union, may choose amongst themselves representatives for the Grievance Redressal Committee.

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

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

Manner of filing application before Conciliation Officer :-

7. A worker who is aggrieved by the decision of the Grievance Redressal Committee may file an application to the Conciliation Officer in **Form-II**

CHAPTER – III TRADE UNIONS

The payment of a subscription by members of the Trade Union and donation from such members and others under clause (f) of section 7 :-

8. (1) A registered Trade Union may collect the subscription from its members, office bearers or from others, as provided under the rules approved by the Registrar on monthly, quarterly, half yearly or yearly basis subject to such amount as specified under sub-rule (2) .
- (2) The payment of minimum subscription by members of the Trade Union shall be as provided under the rules of the trade union approved by the Registrar but shall not be less than :-
- (a) Twenty rupees per annum for rural workers;
 - (b) Thirty rupees per annum for workers in other unorganised sectors; and
 - (c) Fifty rupees per annum for workers in any other case.

Manner of annual audit.

9. (1) Save as provided in sub-rule (2), (3), (4) and (5), the annual audit of the accounts of any registered Trade Union shall be conducted by an auditor having the qualification specified in section 141 of the Companies Act, 2013 {Central Act, 18 of 2013}.
- (2) Where the membership of a registered Trade Union did not, at any time, during the year ending on the 31st December exceed 50,000 (fifty thousand), the annual audit accounts may be conducted ,-
- (a) by an auditor authorized by the State Government to examine public, accounts ; or
 - (b) by any person who, having held an appointment under the Sikkim Government in any audit or accounts or Labour Department, is in receipt of a pension not less than Rs, 5000/- per (five thousand) mensem ; or
 - (c) by a Chartered Accountant.
- (3) Where the membership of a registered Trade Union did not, at any time, during the year ending on the 31st day of December exceed Rs. 1000 (one thousand) the annual audit of the accounts may be conducted,-
- (a) by any person who, having held an appointment under the Sikkim Government in any audit or accounts department or Co-operation department, is in receipt of a pension from the

Government of not less than Rs. 5000/- (five thousand) per month, or

- (b) by any auditor appointed to conduct the audit of Co-operative Societies by the Government or by the Registrar of Co-operative Societies or by any co-operative organization recognized by the State Government for this purpose.
- (4) Where the membership of a registered Trade Union did not at any time, during the year ending on the 31st December exceeds 250 (two hundred fifty), the annual audit of the accounts may be conducted by any two ordinary members of such registered Trade Union who were not on the executive body during the period to which the accounts pertain.
 - (5) Where the registered Trade Union is a federation of Trade Unions and the number of such unions affiliated to it at any time during the year ending on the 31st December, did not exceed 50, 15, or 5, respectively, the audit of the accounts of the federation may be conducted as if it has not, at any time, during the year had a membership of more than 2000, 1000, or 250 respectively.
 - (6) Notwithstanding anything contained in these rules, no person who, at any time, during the year for which the accounts are to be audited, was entrusted with any part of the funds or securities belonging to a registered Trade Union shall be eligible to audit the accounts of that union.
 - (7) While conducting the audit, the auditor shall be given access to all the books of the registered Trade Union concerned and shall verify the general statement with the accounts and vouchers relating thereto and shall thereafter sign the auditors declaration in **Form III**, indicating separately on that form under his signature or their signatures a statement showing in what respect he or they find the report to be incorrect, not, supported by vouchers or not in accordance with the Act. The particulars given in the statement shall indicate :-
 - (a) Every payment which appears to be unauthorized by the rules of the registered Trade Union concerned or contrary to the provisions of the Act;
 - (b) the amount of any deficit or loss which appears to have been incurred by the negligence or misconduct of nay person;
 - (c) the amount of nay sum which ought to have been, but is not brought account by any person.

Manner of amendment and variations in rules of Trade Unions and dissolution of Trade Unions:-

10. (1) Notice in writing of every change in the name of the Trade Union or variation or rescission to the rules of the Trade Union, shall be signed by the Secretary and by seven members of the trade union and shall be sent to the Registrar having jurisdiction.
- (2) When a registered trade union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the trade union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the trade union and the dissolution shall have effect from the date of such registration.
- (3) When a registered trade union is dissolved, notice of the dissolution and any amendment in rules shall be sent to the Registrar in **Form – IV**.

Registration of Trade Union and cancellation thereof:-

11. (1) Every application for registration of Trade Union shall be made in **Form V** electronically or otherwise along with payment of fees through Bank receipt as specified under sub-rule (4), to the Registrar, Additional Registrar or Deputy Registrar having jurisdiction.
- (2) An affidavit shall be attached with the application filed for registration and cancellation of registration under sub-rule (1) by the applicant in **Form VI**. Application shall be enclosed with assets and liability of the trade union prepared in accordance with double entry book keeping.
- (3) On receipt of an application for registration of trade union, the Registrar may require from the applicant to produce such evidence, as may be necessary to prove that the applicants have been duly authorized to make application on behalf of the Trade Union in **Form-VII**.
- (4) The fee payable for the registration of a Trade Union shall be Rupees two hundred or as fixed by the State Government, time to time by a notification and shall be paid through Bank receipt of Sate Bank of Sikkim in **Labour head “ 0230 L / E “**
- (5) The register to be maintained for registration and cancellation of Trade Union by the Registrar shall be maintained in **Form - VIII**.
- (6) The Registrar, on receipt of an application for registration, withdrawal or cancellation of registration ; shall before granting such application, verify that the application was approved in a general meeting of the Trade Union, or if it was not so approved, that it has the approval of a majority of the members of the Trade Union. For this purpose, the Registrar may call for such further particulars as he may deem necessary and may examine any officer of the union.
- (7) The Certificate of registration in **Form – IX** shall be issued by the Registrar after due verification of the information and

particulars submitted with the application, either by himself or through any other officer authorized by him and found proper. The Certificate shall be issued by the Registrar within thirty days from the date of receipt of the application. If no decision is taken and communicated electronically or otherwise on such application by the Registrar within thirty days, the registration shall be deemed to be issued.

- (8) Every application by a Trade Union for withdrawal or cancellation of its certificate of registration shall be sent electronically or otherwise through registered post to the Registrar in **Form – X** along with a fee of Rupees two hundred through Bank receipt of SBS, in **Labour head 0230 L/E** . The Registrar may require the applicants to produce such evidence, as may be necessary to prove that the applicants have been duly authorized to make the application on behalf of the Trade Union.

Appeal against refusal to grant registration to a Trade Union or cancellation of a certificate of registration:

12. An appeal against the order of the Registrar for refusal to grant registration to a Trade Union or cancellation of a certificate of registration shall be filed within thirty days from the date of receipt of the order to that State Industrial Tribunal by filing an application mentioning the cause of the appeal accompanied with a certified copy of the order of the Registrar.

Communication to trade union by the Registrar and by Trade union to Registrar:-

13. (1) All communication and notices to a registered trade union shall be sent electronically or otherwise by registered post to Trade Union by the Registrar through the approved postal address or e-mail address as mentioned in the register.
- (2) All communication and notices by a registered trade union with respect to any change in any particulars of trade union or its rules or membership shall be sent electronically or through registered post to the Registrar to his official address or e-mail address within thirty days from such date of such change or event.
- (3) On receipt of any communication under sub-rule (2), the Registrar shall unless he has reason to believe that such communication has not been made in the manner provided by the rules of the Trade Union and is not in accordance to with the provisions of the Code, register such communications or alterations in a register to be maintained for this purpose and shall notify the fact that he has done so, to the Secretary of the Trade Union in the manner specified under sub-rule (1)
- (4) The fee payable for such communication or alteration of the rules shall be Rupees two hundred or as fixed by the State Government from time to time by notification and be paid through Bank Receipt credited in Labour head for each set of alteration made at one time.

- (5) The notice of any change in the name of the Trade Union shall be sent electronically or through registered post to the Registrar in **Form XI**.
- (6) When the Registrar registers a change in name of any other particulars, he shall certify under his signature at the foot of the certificate issued that the new name and the change in particulars has been registered and communicate the same electronically or otherwise.

Matters on which recognition of negotiating union and negotiating council may negotiate :

14. (1) A negotiating union or negotiating council shall be entitled to negotiate with the employer with respect to all or any of the following matters, namely :-
 - (i) Discharge or dismissal of individual workmen.
 - (ii) Wages, including the period and mode of payment.
 - (iii) Compensatory and other allowances.
 - (iv) Hours of work and rest intervals.
 - (v) Leave with wages and holidays.
 - (vi) Shift working.
 - (vii) Disciplinary procedures; and
 - (viii) any other matter that might agreed upon employee or representative of union in the Standing Orders.
- (2) If there is only one Trade Union of workers in an Industrial Establishment, which is having membership of twenty percent or more workers of that establishment, such union shall be entitled to negotiate with the employer under the provisions of sub-rule (1)
- (3) If more than one Trade Union of workers are functioning in an industrial establishment, the Registrar shall verify the membership of a trade union having fifty one percent or more of workers on the muster roll of that industrial establishment, on an application made by such union or industrial establishment in **Form-XII** for declaring the union as sole Negotiating Union for the industrial establishment either by the method of physical verification either in his presence or in presence of any Officer authorized by him or on the basis of verification of payment of subscription to the trade union by the members. For this a notice by the Registrar shall be served at least seven days in advance to all the workers and the employer indicating the date and time and place for such verification . On the report of such verification, the Registrar shall pass an order within fifteen days of such verification and communicate electronically or otherwise to such union and the employer and a copy shall also be displayed on the notice board of the industrial establishment. The Registrar shall enter the name of such union in the record as Negotiating union for the industrial establishment. The Industrial Establishment shall recognize such trade union as Negotiating union for the establishment.

- (4) If more than one Trade Union of workers are functioning in an Industrial establishment and no such Trade Union has fifty one percent or more of workers on the muster roll of that industrial establishment, the Registrar shall verify the membership of trade union , on an application made by the Industrial Establishment in **Form – XII** for deciding the union to be taken in the Negotiating Council either by the method of physical verification either in his presence or in presence of any Officer authorized by him or on the basis of verification of payment of subscription to the trade union by the members. For this a notice by the Registrar shall be served at least seven days in advance to all the workers and the employer indicating the date and time and place for such verification. On the report of such verification, the Registrar shall pass an order within fifteen days of such verification and communicate electronically or otherwise to such union and the employer and the employer and a copy shall also be displayed on the notice board of the industrial establishment. The Registrar shall enter the name of such union in the records as member of Negotiating council for the industrial establishment. The Industrial Establishment shall recognize such trade union as member of Negotiating Council for the establishment.
- (5) If no any order is passed by the Registrar within the time specified under sub-rule (3) and (4), the application shall be deemed to be allowed.
- (6) The list of Negotiating Unions and members of Negotiating Council referred to in Section 14 and verified under sub-rule (2), (3), and (4) shall be maintained in **Form XIII** by the Registrar.

Facilities to be provided to Negotiating Union or Negotiating Council :

15. An Industrial establishment shall provide the following facilities to a Negotiating Union or Negotiating Council, namely :-
 - (i) The officers of Negotiating Union or member unions of Negotiating Council shall have the right and shall be permitted by the employer, to hold discussions on the premises of the undertaking with the employees concerned who are the members of such union :

Provided that;-

 - (a) The union shall intimate, in advance to the employer the name or names of the officer or officers authorized for the purposes and the name of the department or departments in which the members concerned are employed; and
 - (b) the discussions shall be held in such manner as not to interfere with the working of the undertaking.
 - (ii) The officers of a Negotiating Union or member unions of Negotiating Council shall have the right to meet the employer or any person appointed by him for the purpose and discuss with him the grievances of its members employed in his undertaking subject to the following conditions, namely :-

- (a) the discussion shall ordinarily be held on one day in a week during such working hours of day shift from 10 AM to 6 PM as may be fixed by the employer and the union except in urgent cases when it may held on any day and at any time by the previous appointment;
 - (b) the union shall ordinarily communicate, in advance, the nature of the grievances which it desires to discuss;
 - (c) the name of the officer or member authorized in this behalf shall either be communicated to the employer in advance or such officer shall carry a letter of authority.
- (iii) Every officer of the Negotiating Union and such members of the union as have completed at least six months of membership and have been authorized by the President in this behalf shall, subject to the following conditions, be entitled to collect sums payable by its members on the premises of an undertaking where wages are paid to them :-
- (a) the name or names of the officer, officers, or members, authorized in this behalf shall be intimated in advance to the employer and changes, if any, therein shall be communicated to the employer at least 24 hours before the date of collection.
 - (b) the officers and members visiting the undertaking for this purpose shall carry a letter of authority.
 - (c) no coercion or force shall be used on any employee.
 - (d) the collection shall be made without causing hindrance to the staff of the undertaking or interference in the management's work.
 - (e) not more than 10 employees at a time shall be allowed together at the place where such sums are collected.
 - (f) collections shall be made on the usual pay day or days and the subsequent three days and the day on which unclaimed wages are paid.
- (iv) The President of the Negotiating union or an office bearer authorized by the President shall be entitled to put up or cause to be put up a notice board outside the time-keeper's office or at any other conspicuous place mutually agreed upon between the employer and the union and affix notices therein during the hours the undertaking is open :-
- Provided that ;-
- (a) the notice board to be put up shall be of a reasonable size.
 - (b) the notices to be affixed shall be signed either by the President, the Vice-President when carrying on the duties of the President during his absence, the General Secretary and the Secretary, and

- (c) such notices shall relate to lawful activities of the union and shall not be of an offensive or provocative nature.

Objects on which general funds may be spent :-

16. (1) The general funds of a registered Trade Union shall not be spent on any other objects other than that of the following, namely :-

- (a) the payment of salaries, allowances and expenses to office bearers of the Trade Union.
- (b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union.
- (c) the prosecution or defense of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defense is undertaken for the purpose of securing or protecting any rights of the Trade Union as such any rights arising out of the relations of any members with his employer or with a person whom the member employs.
- (d) the conduct of Trade Disputes on behalf of the Trade Union or any member thereof.
- (e) the compensation of members for loss arising out of trade disputes.
- (f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members.
- (g) the issue of, or the undertaking of liability under policies of assurance on the lives of members, or under policies insuring members against sickness accident or unemployment.
- (h) the provisions of educational, social or religious benefits for the members (including the payments of the expenses on funeral or religious ceremonies for deceased members) or for the dependant members.
- (i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such.
- (j) the payment in furtherance of any of the objects on which the general funds of the Trade Union may be spent, or contribution to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year; and

(k) subject to any conditions contained in the notification, any other objects notified by the State Government in the Official Gazette.

Composition of separate fund :-

17. (1) The Registered Trade Union may constitute a separate fund for the promotion of the civic and political interest of its members with the prior approval of the Registrar.
- (2) The Registered Trade Union shall not compel any of its members to contribute to the fund so constituted and the subscription to any such fund shall not be more than Rupees five hundred per annum per member.
- (3) Audit of such funds also shall be done in the same manner as specified under the Code and these rules.
- (4) Any complaint of misappropriation of any funds of the registered Trade Union shall be entertained by the Registrar and the Registrar shall enquire and pass an appropriate order to the trade union, if any misappropriation is proved and such order shall be binding upon the trade union.

Safe Custody of trade union funds:-

18. The funds of a trade union shall be deposited in a schedule bank and operated jointly in the name of the president and at least two members of the Trade Union.

Manner of making application for adjudication before the Tribunal:-

19. The application before the State Industrial Tribunal shall be filed within thirty days of occurrence of any dispute as provided under section 22 or any such order of Registrar passed in relation to such dispute along with the relevant copies of the documents related to such disputes or order and mentioning the cause of such dispute. The Tribunal shall give an opportunity of hearing to all concerned parties and shall pass the order within forty five days. This order shall be final and binding upon all the parties and the Registrar. The Registrar shall make relevant entries in the relevant records maintained by his office in accordance with the order of the State Industrial Tribunal.

Manner of amalgamation and change of name of Trade Union and sending it to the Registrar thereof:-

20. (1) Notice of every amalgamation shall be sent to the Registrar electronically or otherwise in duplicate in **Form – XIV** by the applicant Trade Union.
- (2) When the Registrar registers the amalgamation, he shall under his signature of such amalgamation and issue the certificate electronically or otherwise to both the trade unions and shall make entry in all appropriate records of such amalgamation.
- (3) The notice of any change of the name of the Trade Union shall be sent to the Registrar electronically or otherwise in **Form – XV**.
- (4) When the Registrar registers a change of name, he shall certify under his signature of such change of name of the Trade Union and shall issue the certificate to the applicant Trade Union and

shall make entry in all appropriate records of such change of name.

Distribution of funds of the Trade Union on dissolution:- 21. Where it is necessary for the Registrar, under sub-section (2) of Section 25, to distribute the funds of a registered Trade Union which has been dissolved, he shall divide the funds among the members in proportion to the amounts contributed by them by way of subscription during their membership.

General statement of Trade Union and its audit :- 22. (1) The general statement to be furnished under Section 26 shall be submitted to the Registrar electronically or otherwise by the 31st day of March in each year and shall be in **Form- XVI**.
(2) The audit of the general statement shall be done in the manner specified under rule 9.
(3) Upon a written demand by the Registrar, report of any audit done under these rules shall be presented before the Registrar within such time limit as mentioned by the Registrar.
(4) The Registrar may ask in writing any other particulars about the general statement and the audit report, as he deems fit, for ascertaining the facts mentioned in such general statement and audit report.

Recognition of Trade Unions at State level :- 23. (1) An application to recognise a Trade Union or federation of Trade Union to be recognized as State Trade Union shall be filed by such Trade Union or federation of Trade Unions to the State Government or the Officer authorized by the State Government in this regard by notification, in **Form - XVII**.
(2) The State Government or an officer authorized by it, shall after due enquiry, as it deems fit, decide such application within thirty days of its receipt and send copy of the decision to the applicant with a copy to the Labour Commissioner and the Registrar.
(3) If any dispute arises in relation to such recognition, the State Government or an officer authorized by it shall refer the dispute to the State Industrial Tribunal. The State Industrial Tribunal shall, after giving opportunity of hearing to the applicant and going through the relevant records of the case, decide the appeal within forty five days and the order shall be binding upon the parties.

CHAPTER- IV
STANDING ORDERS.

Manner of forwarding information to certifying officer under sub-section (3) of section 30:-

24. (1) If the employer adopts the model standing order of the Central Government referred to in section 29 with respect to matters relevant to his industrial establishment or undertaking, then, he shall intimate the concerned certifying officer electronically or otherwise, the specific date from which the provisions of the model standing order which are relevant to his establishment have been adopted.
- (2) On receipt of information in sub-rule (1) the certifying officer within a period of thirty days from such receipt may give his observation that the employer is required to include certain provisions which are relevant to his establishment and indicate those relevant provisions of the model standing orders which have not been adopted and shall also direct the employer to amend the standing order so adopted, by way of addition, deletion or modification within a period of thirty days from the date of the receipt of such direction and ask for compliance report only in respect of provisions which the certifying officer seeks to get so amended and such report shall be sent electronically or otherwise by the employer.
- (3) If no observation is made by certifying officer within a period of thirty days of the receipt of the information as specified in sub-rule (1) and (2), then, the standing order shall be deemed to have been adopted by the employer.

Manner of choosing representatives of workers of the industrial establishment or undertaking for issuing notice by certifying officer where there is no Trade Union operating, under clause (ii) of sub-section (5) of section 30 :-

25. Where there is no such Trade Union as is referred to in clause (i) of said sub-section (5), then, the certifying officer shall call a meeting of the workers to choose three representatives, to whom he shall, upon their being chosen, forward a copy of the standing order requiring objections, if any, which the workers may desire to make the draft standing order to be submitted within 15 (fifteen) days from the receipt of the notice.

Manner of authentication of certified standing orders under sub-section (8) of section 30 :-

26. Standing orders or modification in the standing orders, certified in pursuance of sub-section (8) of section 30 or the copies of the order of the appellate authority under sub-section (1) of section 33 shall be authenticated by the certifying officer or the appellate authority, as the case may be, and shall be sent electronically within a week to all concerned, but there shall not be any requirement of certification in cases of deemed certification under sub-section (3) of section 30 and

in cases where the employer has certified adoption of model standing orders.

Statement to be accompanied with draft standing orders under sub-section (9) of section 30;

27. A statement to be accompanied with:-

- (i) draft standing order shall contain, the particulars such as name of the industrial establishment or undertaking concerned , address, e-mail address, contact number and strength and details of workers employed therein including particulars of Trade Unions to which such workers belong; and
- (ii) draft modification in the existing standing orders, shall contain the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provision of standing order in force and proposed modification therein and reasons thereof and such statement shall be signed by a person authorized by the industrial establishment or undertaking.

Conditions for submission of draft standing order in similar establishment under sub-section (10) of section 30:-

28. In cases of group of employer engaged in similar industrial establishment may submit a joint draft standing order under section 30 and for the purpose of proceedings specified in sub-sections (1), (5), (6), (8) and (9) thereof after consultation with the concerned Trade Union:

Provided that the joint draft standing order, in cases of group of employers engaged in similar industrial establishments, will be drafted and submitted to the State Joint Labour Commissioner who shall, in consultation with the concerned certifying officers, certify or refuse to certify the said joint draft standing order, after recording reasons thereof.

Manner of disposal of appeal by appellate authority under section 32 :-

29. (1) An employer or Trade Union desirous of preferring an appeal against the order of the certifying officer given under sub-section (5) of section 30 shall within sixty days of the receipt of such order shall draw up a memorandum of appeal in tabular form stating therein the provisions of the standing orders which are required to be altered or modified or deleted or added and reasons thereof and shall be filed electronically to the appellate authority.

(2) The appellate authority shall fix a date for the hearing of the appeal and direct notice thereof to be given –

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

- (c) where the appeal is filed by the representative of workers, to the employer and any other worker whom the appellate authority joins as a party to the appeal.
- (3) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.
- (4) The appellate authority may at any stage of the proceeding call for any evidence, if it considers necessary for the disposal of the appeal.
- (5) On the date fixed under sub-rule (2) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called or consider to be relevant if produced and after hearing the parties dispose of the appeal.

The language and the manner of maintaining standing order under sub-section (1) and (2) of section 33:-

30. (1) The standing order finally certified by certifying officer shall be sent electronically except in the case of deemed certification under section 30.
- (2) The text of the standing order as finally certified or deemed to have been certified or adopted model standing order under this chapter shall be maintained by the employer in Hindi or in English and in the official language of the state where the industrial establishment is situated.

Register for final certified copy of Standing order under section 34:-

31. (1) The certifying officer shall maintain electronically, a register of all standing orders certified or deemed to have been certified or adopted model standing orders of all the concerned industrial establishments, inter-alia, containing the details of ;
- (a) the unique number assigned to each standing order;
 - (b) name of industrial establishment;
 - (c) nature of industrial establishment;
 - (d) date of certification or deemed certification or date of adoption of model standing order by each establishment or undertaking;
 - (e) the areas of the operation of the industrial establishment ; and
 - (f) such other details as may be relevant and helpful in retrieving the standing orders and create a data base of such of all standing orders:
- (2) The certifying officer shall furnish a copy of the certified standing orders or deemed orders to any person applying for on payment of two rupees per page of the certified standing orders or deemed certified standing orders, as the case may be. The payment for such purpose can also be made through electronic mode or otherwise through Bank receipt of State Bank of Sikkim, which shall be credited in the Labour head 0230 L/E.

Application for modification of standing order under sub-section (2) of section 35:-

32. The application for modification of an existing standing order under sub-section (2) of section 35 shall be submitted electronically and contain the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provisions of standing order in force, and proposed modifications therein, reasons thereof and the details of registered Trade Union(s) operating therein, and such statement shall be signed by a person authorized by the industrial establishment or undertaking.

**CHAPTER – V
NOTICE OF CHANGE**

The manner of giving of notice for change proposed to be effected under clause (i) of section 40:-

33. (1) Any employer intending to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the third schedule to the Code, shall give notice in Form-XVIII to such worker affected by such change.
- (2) The notice referred to in sub-rule (1) shall be displayed conspicuously by the employer on the notice board at the main entrance of the industrial establishment and the office of the concerned Manager of the industrial establishment:

Provided that where there is a registered Trade Union or registered Trade Unions relating to the industrial establishment a copy of such notice shall also be served on to the Secretary of such Trade Unions or each of the Secretaries of such Unions, as the case may be.

**CHAPTER – VI
VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION.**

Form of arbitration agreement and the manner thereof under sub-section (3) of section 42:-

34. (1) Where the employer and workers agree to refer the dispute to arbitration, the Arbitration Agreement shall be in **Form-XIX** and shall be signed by the parties to the agreement. The agreement shall be accompanied by the consent either in writing or electronically of arbitrator or arbitrators.
- (2) The Arbitration Agreement referred to in sub-rule (1) shall be signed :-
- (i) In case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other officer of the corporation authorized for such purposes;
- (ii) In the case of the workers by the officer of the registered Trade Union authorized in this behalf or by three representatives of the workers duly authorized in this behalf at a meeting of the concerned workers held for such purpose;

- (a) In the case of an individual worker, an individual worker by the worker himself or by an officer of registered Trade Union of which the worker is a member.:

Explanation – (1) In this rule, the expression ‘officer’ means any officer of a registered Trade Union or an association of the employer authorized for such purpose;

- (3) In this rule ‘officer’ means any of the following officers, namely :-
 - (a) the President;
 - (b) the Vice – President;
 - (c) the Secretary (including the General Secretary);
 - (d) Joint Secretary; and
 - (e) any other officer of the Trade Union authorized in this behalf by the President and Secretary of the union.

Manner of issue of notification under sub-section (5) of section 42 :-

35. Where an industrial dispute has been referred to arbitration and the State Government is satisfied that the persons making the reference represent the majority of each party, it shall publish a notification in this behalf in the Official Gazette and electronically for the information of the employers and the workers who are not parties to the arbitration agreement but are concerned in the dispute and they may present their case before the arbitrator or arbitrators appointed for such purpose, exclusively at Sikkim.

Manner of choosing representatives of workers where there is no Trade Union under sub-section (5) of section 42:-

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

CHAPTER-VII

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

- Manner of filling up of the vacancy under sub-section (9) of Section 44 and procedure for selection, salaries and allowances and other terms and conditions of Judicial Member of the State Industrial Tribunal under sub-section (6) of section 44 :-**
37. (1) The qualification for appointment of the Judicial Member of the State Industrial Tribunal (hereinafter in this chapter referred to as the Judicial Member) shall be the same as provided in sub-section (3) of section 46.
- (2) The Judicial Member shall be appointed by the State Government on the recommendation of a Search Cum Selection Committee (SCSC) specified in sub-rule (3).
- (3) The Search Cum Selection Committee shall comprise of the following members, namely :-
- (i) Chief Justice of High Court or a Judge of High Court nominated by him - Chairperson;
 - (ii) Sitting Judicial Member of the other State Industrial Tribunal - Member;
 - (iii) Secretary to the Government of Sikkim, Labour Department - Member;
 - (iv) Secretary to the Government of Sikkim, Law Department - Member.
- (4) The Search –cum-Selection Committee (SCSC) shall determine its procedure for making its recommendation and after taking into account qualification, suitability, and record of past performance, integrity as well as adjudicatory experience keeping in view of the requirement of the State Industrial Tribunal recommends a panel of two or three persons as it deems fit for appointment to each post.
- (5) No appointment of a Judicial Member shall be declared invalid merely by reason of vacancy or absence of any member in the Search –cum-Selection Committee.
- (6) A Judicial Member shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty five years, whichever is earlier.
- (7) In case of casual vacancy in the office of Judicial Member, the State Government shall appoint the Judicial Member of other State Industrial Tribunal to officiate as Judicial Member.
- (8) (a) A Judicial Member shall be paid a salary of rupees 2,25,000/- (fixed) per month and shall be entitled to draw allowances as are admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (b) In case of appointment of retired High Court Judge, his pay shall be reduced by the gross amount of the pension drawn by him.

- (9) (a) In case of serving High Court Judges, the service rendered in the State Industrial Tribunal shall be counted for pension to be drawn in accordance with the extent rules of the service to which they belong and they shall be governed by the provisions of General Provident Fund (State Service) Rules, and the rules for pension applicable to them.
- (b) In case of retired High Court Judges, they shall be entitled to join Contributory Fund Scheme as per the rules during the period of their re-employment and additional gratuity shall not be paid for the service rendered in the State Industrial Tribunal.
- (10) A Judicial Member shall be entitled for rent free furnished accommodation or house rent allowance at the rate as admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (11) (a) In case of serving High Court Judges, leave shall be admissible as admissible to the serving High Court Judges.
- (b) In case of retired High Court Judges, leave shall be admissible as are admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (12) (a) The State Government shall be the leave sanctioning authority for the Judicial Member.
- (b) The State Government shall be the sanctioning authority for foreign travel to the Judicial Member.
- (13) State Government Health Scheme facilities as admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay shall be applicable.
- (14) (a) Travelling allowance to a Judicial Member shall be admissible as per entitlement of an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (b) In case of retired High Court Judges, transfer travelling allowance for joining the State Industrial Tribunal from home town to headquarters and vice-versa at the end of assignment shall also be admissible as entitlement of an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (15) A Judicial Member shall be entitled for leave travel concession as admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (16) A Judicial Member shall be entitled for transport allowance as admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.

- (17) No person shall be appointed as a Judicial Member unless he is declared medically fit by an authority specified by the State Government in this behalf.
- (18) (a) If a written and verifiable complaint is received by the Central Government, alleging any definite charge of misbehaviour or incapacity to perform the functions as Judicial Members, it shall make a preliminary scrutiny of such complaint.
- (b) If on preliminary scrutiny, the State Government is of the opinion that there are reasonable grounds for making an inquiry into the truth of any misbehaviour or incapacity of a Judicial Member, it shall make a reference to the Search-Cum-Selection Committee to conduct the inquiry.
- (c) The Search-Cum-Selection Committee shall complete the inquiry within six months' time or such further time as may be specified by the State Government.
- (d) After conclusion of the inquiry, the Search-Cum-Selection Committee shall submit its report to the State Government stating therein its findings and the reasons thereof on each of the charges separately with such observations on the whole case as it may think fit.
- (e) The Search-Cum-Selection Committee shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate its own procedure, including the fixing of date, place and time of its inquiry.
- (19) A Judicial Member may, resign his office at any time by giving notice to this effect in writing under his hand addressed to the State Government;

Provided that the Judicial Member shall, unless he is permitted by the State Government to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as a successor enters upon his office or until the expiry of his term of the office, whichever is earlier.

- (20) (a) The State Government shall, on the recommendation of Search-Cum-Selection Committee, remove from office any Judicial Member, who :-
- (a) has been adjudged as an insolvent; or
- (b) has been convicted of an offence which, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such a Judicial Member; or

- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Judicial Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest :

Provided that where a Judicial Member is proposed to be removed on any ground specified in clauses (b) to (e), he shall be informed of the charges against him and given an opportunity of being heard in respect of those charges,

- (21) Every person appointed as Judicial Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in **Form –XXI** annexed to these rules.
- (22) Matter relating to the terms and conditions of services of the Judicial Members with respect to which no express provisions has been made in these rules, shall be referred by the State Industrial Tribunal to the State Government for its decision, and the decision of the State Government thereon shall be binding.
- (23) The State Government shall have power to relax the provision of any of these rules in respect of any class or categories of persons for the reasons to be recorded in writing.

Manner of filling up of the vacancy under sub-section (9) of Section 44 and procedure for selection, salaries and allowances and other terms and conditions of Administrative Member of the State Industrial Tribunal under sub-section (6) of section 46 :-

- 38. (1) The qualification for appointment of the Administrative Member of the State Industrial Tribunal (hereinafter in this chapter referred to as Administrative Member) shall be such as given in sub-section (4) of section 46.
- (2) The Administrative Member shall be appointed by the State Government on the recommendation of a Search Cum Selection Committee (SCSC) specified in sub-rule (3) of this rule.
- (3) The Search Cum Selection Committee shall comprise of the following members, namely:-
 - (i) Chief Justice of High Court or a Judge of High Court nominated by him - Chairperson;
 - (ii) Sitting Administrative Member of other State Industrial Tribunal – Member.
 - (iii) Secretary, Labour Department Government of Sikkim - Member.
 - (iv) Secretary Commerce & Industries Department, Government of Sikkim - Member.
- (4) The Search-Cum-Selection Committee (SCSC) shall determine its procedure for making its recommendation and, after taking into account qualification, suitability, record of past performance, integrity as well as experience keeping in view of the requirement of State Industrial Tribunal and recommend a panel of two or three persons as it deems fit for appointment to the said post.

- (5) No appointment of Administrative Member shall be declared invalid merely by reason of one vacancy or absence of any Member in the Search-Cum-Selection Committee.
- (6) An Administrative Member shall hold office for a term of four years or till he attains the age of sixty five years, whichever is earlier.
- (7) In case of casual vacancy in the office of Administrative Member, the State Government shall appoint the Administrative Member of other State Industrial Tribunal to officiate as Administrative Member.
- (8) The Administrative Member shall be paid a salary of rupees 2,25,000/- (fixed) per month and shall be entitled to draw allowances as are admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay. In case of retired Government officer, his pay shall be reduced by the gross amount of pension drawn by him.
- (9)
 - (a) In case of serving Government Officer, the service rendered in State Industrial Tribunal shall be counted for pension to be drawn in accordance with the extant rules of the service which he belong and shall be governed by General Provident Fund (State) Rules.
 - (b) In case of retired Government officers, they shall be entitled to join Contributory Provident Fund Schemes as per extant rules during period of their re-employment. Additional gratuity shall not be admissible for the service rendered by the Administrative Tribunal in State Industrial Tribunals.
- (10) Administrative Member shall be entitled for rent free furnished accommodation or house rent allowance at the rate as admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (11)
 - (a) In case of serving Government Officer, leave shall be admissible in accordance with the extant rules of the service which he belongs.
 - (b) In case of retired Government Officers, leave shall be admissible as are admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (12)
 - (a) The State Government shall be the leave sanctioning authority for the member.
 - (b) The State Government shall be the sanctioning authority for foreign travel to the Administrative Member.
- (13) State Government Health Scheme facilities as admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay shall be applicable.

- (14) (a) Travelling Allowance to an Administrative Member shall be admissible as per entitlement to an officer of Government of Sikkim holding Group A post carrying the same pay.
- (b) In case of retired Government officer, transfer travelling allowance for joining the State Industrial Tribunal from home town to head quarter and vice versa at the end of assignment shall also be admissible as entitlement of an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (15) An Administrative Member shall be entitled for travel allowance, as admissible to an officer of the Government of India holding Group A post carrying the same pay.
- (16) An Administrative Member shall be entitled for transport allowance as admissible to an officer of the Government of Sikkim holding Group A post carrying the same pay.
- (17) No person shall be appointed as an Administrative Member, unless he is declared medically fit by an authority specified by the State Government in this behalf.
- (18) (a) If a written and verifiable complaint is received by the State Government, alleging any definite charge of misbehaviour or incapacity to perform the function as Administrative Member, it shall make a preliminary scrutiny of such complaint.
- (b) If on preliminary scrutiny, the State Government is of the opinion that there are reasonable grounds for making an inquiry into the truth of any misbehaviour or incapacity of an Administrative Member, it shall make a reference to the Search-Cum-Selection Committee to conduct the inquiry.
- (c) The Search-Cum-Selection Committee shall complete the inquiry within six months' time or such further time as may be specified by the State Government.
- (d) After conclusion of the inquiry, the Search-Cum-Selection Committee shall submit its report to the State Government stating therein its findings and the reasons therefor on each of the charges separately with such observations on the whole case as it may think fit.
- (e) The Search-Cum-Selection Committee shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate its own procedure, including the fixing of date, place and time of its inquiry.
- (19) An Administrative Member may, resign his office at any time by giving notice to this effect in writing under his hand addressed to the State Government.

Provided that the Administrative Member shall, unless he is permitted by the State Government to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as a successor enters upon his office or until the expiry of his term of the office, whichever is earlier.

- (20) The State Government shall, on the recommendation of the Search-Cum-Selection Committee, remove from office any Administrative Member, who-
- (a) has been adjudged as an insolvent ; or
 - (b) has been convicted of an offence which, involves moral turpitude; or
 - (c) has become physically or mentally incapable of acting as such Member; or
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his function as an Administrative Member; or
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that where an Administrative Member is proposed to be removed on any ground specified in clauses (b) to (e), he shall be informed of the charges against him and given an opportunity of being heard in respect of those charges.

- (21) Every person appointed as Administrative Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in the **Form –XXII** annexed to these rules.
- (22) Matter relating to the terms and conditions of services of the Administrative Member with respect to which no express provisions has been made in these rules, shall be referred to by the State Industrial Tribunal to the State Government for its decision, and the decision of the State Government thereon shall be binding.
- (23) The State Government shall have power to relax the provision of any of these rules in respect of any class or categories of persons for the reasons to be recorded in writing.

Manner of holding conciliation proceedings under sub-section (1), full report under sub-section (4), and application and the manner of

39. (1) Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer on receipt of such application shall examine the application and if he finds that the dispute pertains to the jurisdiction of State Government shall transfer the dispute to the concerned authority. In other cases, he will issue first notice to the parties concerned declaring his intention to commence conciliation proceedings.

deciding such application under sub-section (6) of section 53:-

- (2) The employer or the workers representative in the first meeting shall submit their respective statement in the matter of said dispute.
- (3) The conciliation officer shall hold conciliation proceedings for the purpose of bringing about a settlement of the dispute and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement.
- (4) If no such settlement is arrived at in the conciliation proceeding referred to in sub-rule (1), the conciliation officer shall submit a report to Secretary, Labour Department within seven days from the date on which the conciliation proceedings are concluded and made available on the said portal.
- (5) The report referred to in sub-rule (3) shall be accessible to the parties concerned in the office of the State Labour Commissioner.
- (6) The report referred to in sub-rule (2) shall contain inter-alia the submissions of the employer, worker or Trade Union, as the case may be, and it shall also contain the efforts made by the conciliation officer to bring the parties to the amicable settlement, reasons for refusal of parties to resolve dispute and conclusion of the conciliation officer.
- (7) Any dispute which is not settled during the conciliation proceedings, then, either of the concerned party may make an application in **Form – XXIII**, before the Tribunal within ninety days from the date of report under sub-rule (3).
- (8) In case of an industrial dispute which has not been settled during the conciliation proceedings, an application may be made before the Tribunal by either of the parties concerned for adjudication. The Tribunal shall direct the party raising the dispute to file a statement of claim with complete details along with relevant documents, list of supporting documents and witnesses within thirty days from the date on which application is filed. A copy of such statement may be sent electronically or otherwise for service on each of the opposite parties in the dispute.
- (9) The Tribunal after ascertaining that the copies of statement of claim and other related documents are furnished to the other side by the party raising the dispute, the Tribunal shall fix the first hearing as soon as possible and within a period of one month from the date of receipt of the application. The opposite party or parties shall file their written statement together with supporting documents and the list thereof and list of witnesses, if any, within a period of thirty days from the date of first hearing and simultaneously forward a copy thereof to the opposite party or parties for service.
- (10) Where the Tribunal finds that the party raising the dispute, despite its directions, did not forward the copy of the statement of claim and other documents to the opposite party or parties, it

shall give directions to the concerned party to furnish the copy of the statement to the opposite party or parties, granting extension of fifteen days for filing the statement, if the Tribunal finds sufficient cause for not filing the statement of claim and other documents within time.

- (11) Evidence shall be recorded either in the Tribunal or may be filed on affidavit but in the case of affidavit the opposite party shall have the right to cross-examine each of the deponents filing the affidavit. Where the oral examination of each of the witness proceeds, the Tribunal shall make a memorandum of the substance of what is being deposed. While recording the oral evidence, the Tribunal shall follow the procedure laid down in rule 5 of Order XVII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).
- (12) On completion of evidence, arguments may be heard immediately or a date may be fixed for arguments, which shall not be beyond a period of fifteen days from the closure of evidence.
- (13) The Tribunal shall not ordinarily grant an adjournment for a period exceeding a week at a time, but not in any case more than three adjournments, at the instance of the parties to the dispute, shall be granted:

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

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

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

- (15) The Tribunal shall communicate its award electronically to the parties concerned and the State Government and upload on the Department website within one month from the date of the pronouncement of the award.
- (16) The Tribunal may summon and examine any person whose evidence appears to it to be material for deciding the case and shall be deemed to be a civil court within the meaning of sections 345,346 and 348 of the Code of Criminal Procedure, 1973 (1 of 1974).
- (17) Where assessors are appointed to advise a Tribunal under sub-section (5) of section 49 in relation to proceeding before it, the Tribunal shall obtain the advice of such assessors, but such advice shall not be binding on such Tribunals.

- (18) A party in an award, who wants to obtain a copy of the award or other document, may obtain a copy of the award or other document after depositing the fee electronically in the Tribunal in the following manner, namely :-
- (a) fee for obtaining a copy of an award or the document filed in any Proceedings of Tribunal shall be charged at the rate of Rs. 2 (Two) per page.
 - (b) For certifying a copy of any such award or order or document, a fee of Rs. 2 (Two) per page shall be payable.
 - (c) Copying and certifying fees shall be payable electronically.
 - (d) Where a party applies for immediate delivery of a copy of any such award or document, an additional fee equal to one-half of the fee leviable under this rule shall be payable.
- (19) The representatives of the parties appearing before a Tribunal shall have the right of examination, cross-examination and of addressing the Tribunal or State Industrial Tribunal when evidence has been called.
- (20) The proceedings before Tribunal or State Industrial Tribunal shall be held in open court;

Provided that the Tribunal may direct any proceeding before it to be held by video conferencing:

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

CHAPTER VIII STRIKES AND LOCK-OUTS

Number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given and the manner of giving such notice under sub-section (4) of section 62:-

40. The notice of strike referred to in sub-section (1) of section 62 shall be given to the employer of an industrial establishment in **Form –XXIV** which shall be duly signed by the Secretary and five elected representatives of the registered Trade Union relating to such industrial establishment endorsing the copy thereof electronically or otherwise to the concerned conciliation officer, Joint Labour Commissioner of Labour Department.

Manner of giving notice of lock-out under sub-section (5) and authority

41. (1) The notice of lock-out referred to in sub-section (2) of section 62 shall be given by the employer of an industrial establishment in **Form- XXV** to the Secretary of every registered Trade Union relating to such industrial establishment endorsing a copy thereof

**under sub-section
(6) of section 62:-**

to the concerned conciliation officer, electronically or otherwise. The notice shall be displayed conspicuously by the employer on a notice board or on electronic board at the main entrance to the industrial establishment.

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

CHAPTER IX

LAY-OFF, RETRENCHMENT AND CLOSURE

Manner of serving notice before retrenchment of the worker under clause (c) of section 70:-

- 42.** If any employer desires to retrench any worker employed in his industrial establishment who has been in continuous service for not less than one year under him then, such employer shall give notice of such retrenchment, in **Form-XXVI** to the State Government and the concerned State Joint Labour Commissioner through e-mail or, by registered speed post.

Manner of giving an opportunity for re-employment to the retrenched workers under section 72:-

- 43.** Where any vacancy occurs in an industrial establishment and there are workers of such industrial establishment retrenched within one year prior to the proposal for filling up such vacancy, then the employer of such industrial establishment shall offer an opportunity at least to 10 days before by registered post or speed post and through e-mail to such retrenched workers who are citizens of India. If such workers give their willingness for employment then, the employer shall give them preference over other persons in filling up of such vacancy.

Manner of serving notice by the employer for intended closure under sub-section (1) of section 74:-

- 44.** If an employer intends to close down an industrial establishment he shall give notice of such closure in **Form – XXVII** to the concerned Joint Labour Commissioner, by e-mail or registered post or speed post.

CHAPTER X

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

- Manner of making application to the State Government by the employer for the intended lay-off and the manner of serving copy of such application to workers under sub-section (2) of section 78:-**
45. An application for permission under sub-section (1) of section 78 shall be made by the employer in **Form-XXVIII** stating clearly therein the reasons for the intended lay off and a copy of such application shall be served simultaneously to the worker concerned electronically and by registered post or speed post. Such application shall also be displayed conspicuously by the employer on a notice board or on electronic board at the main entrance of the industrial establishment.
- Manner for applying for permission from the State Government to continue the lay-off under sub-section (3) of section 78:-**
46. The employer shall in case of an industrial establishment being a mine specified in sub-section (3) of section 78 where the workers (other than Badli workers or casual workers) have been laid-off under sub-section (1) of section 78 for reasons of fire, flood or excess of inflammable gas or explosion, within a period of thirty days form the date of commencement of such lay-off , apply to the Central Government in **Form- XXVIII** electronically and by registered or speed post with a copy to the concerned Labour Commissioner for permission to continue the lay-off specifying the number of days; intimating the number of workers to be laid off, the total number of workers employed in the industrial establishment, the date of lay-off and the reasons for continuation of such lay-off.
- Time limit for review under sub-section (7) of section 78 :-**
47. The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (4) of section 78 within a period of thirty days form the date on which such order is made.
- Manner of making application to the State Government by the employer for the intended retrenchment and manner of serving copy of such application to workers under sub-section (2) of section 79 :-**
48. An application for permission referred to in sub-section (1) of section 79 shall be made by the employer in **Form-XXIX** stating clearly therein the reasons for the intended retrenchment electronically and a copy of such application shall also be sent to the workers electronically and by the registered post or speed post. Such application shall also be displayed conspicuously by the employer on a notice board or on electronic board at the main entrance to the industrial establishment.

Time-limit for review under sub-section (6) of section 79 :-

49. The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing permission under sub-section (3) of section 79 within a period of thirty days from the date on which such orders is made.

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

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

Time-limit for review under sub-section (5) of section 80:-

51. The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (2) of section 80 within a period of thirty days from the date on which such order is made.

CHAPTER XI

WORKER RE-SKILLING FUND

Manner of utilization of fund under sub-section (3) of section 83 :-

52. Every employer who has retrenched a worker or workers under this Code, shall, within ten days from the time of retrenching a worker or workers shall electronically transfer an amount equivalent to fifteen days of last drawn wages of such retrenched worker or workers in the account (name of the account shall be displayed on the website of the Labour Department and Labour Commissioner to be maintained by the State Government). The fund so received shall be transferred by the State Government to each worker or worker's account electronically within forty five days of receipt of funds from the employer and the worker shall utilize such amount for his re-skilling. The employer shall also submit the list containing the name of each worker retrenched, the amount equivalent to fifteen days of wages last drawn in respect of each worker along with their bank account details to enable the State Government to transfer the amount in their respective account.

CHAPTER XII

OFFENCES AND PENALTIES

Manner of composition of offence by a Gazetted Officer specified under sub-section (1) of section 89 and the manner of making application for the compounding of an offence specified under sub-section (4) of section 89 :-

- 53.
- (1) The officer notified by the State Government for the purposes of compounding of offences under sub-section (1) of section 89 (hereinafter referred to as the compounding officer), shall in the offences in which prosecution is not instituted, if the compounding officer is of the opinion that any offence under the Code for which the compounding is permissible under section 89, he shall send a notice through e-mail or through registered post to the accused in **Form XXXI** consisting of three parts . In part I of such Form, the compounding officer shall inter-alia specify the name of the offender and his other particulars, the details of the offence and in which section the offence has been committed, the compounding amount required to be paid towards the composition of the offence. Part II of the Form shall specify the consequences if the offence is not compounded and part III of the Form shall contain the application to be filed by the accused if he desires to compound the offence. Each notice shall have a continuous unique number containing alphabets or numeric and other details such as officer sending notice, year, place , type of inspection for the purpose of easy identification.
 - (2) The accused to whom the notice referred to in sub-rule (1) is served, may send the part III of the Form duly filled by him to the compounding officer electronically and deposit the compounding amount electronically or otherwise, within fifteen days of the receipt of the notice, in the account specified by the compounding officer in the notice.
 - (3) Where the prosecution has already been instituted against the accused in the competent Court, he may make an application to the Court to compound the offence against him and the Court, after considering the application , may allow composition of the offence by the compounding officer in accordance with provisions of section 89.
 - (4) If the accused complies with the requirement of sub-rule (2), the compounding officer shall compound the offence for the amount of money deposited by the accused and :-
 - (a) if the offence is compounded before the prosecution, then no complaint for prosecution shall be instituted against the accused ; and
 - (b) if the offence is compounded after institution of prosecution under sub rule (3) with the permission of the Court, then, the compounding officer shall treat the case as closed as if no prosecution had been launched and will proceed in accordance with composition as under clause (a) and intimate the composition of offence to the competent Court in which the prosecution is pending and after receiving such

intimation, the Court shall discharge the accused and close the prosecution.

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

CHAPTER XIII

MISCELLANEOUS

**Protected workers
under sub-section
(3) and (4) of
section 90.**

54. (1) Every registered Trade Union connected with an industrial establishment, to which the Code applies, shall communicate to the employer before the 30th April of every year, the names and addresses of such of the officers of the Union who are employed in that establishment and who, in the opinion of the Union should be recognised as “protected workers”. Any change in the incumbency of any such officer shall be communicated to the employer by the union within fifteen days of such change.
- (2) The employer shall, subject to sub-section (3) and sub-section (4) of section 90, recognise such workers to be “protected workers” for the purposes of section 90 and communicate to the Union, in writing, within fifteen days of the receipt of the names and addresses under sub-rule (1), the list of workers recognised as protected workers for the period of twelve months from the date of such communication.
- (3) Where the total number of names received by the employer under sub-rule (1) exceeds the maximum number of protected workers, admissible for the industrial establishment, under sub-section (4) of section (90), the employer shall recognise as protected workers only such maximum number of workers:

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

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

- (4) When a dispute arises between an employer and any registered Trade Union in any matter connected with the recognition of ‘protected workers ’ under this rule, the dispute shall be referred

to any Joint Labour Commissioner or Deputy Labour Commissioner or Assistant Labour Commissioner concerned, whose decision thereon shall be final.

Manner of making complaint by an aggrieved worker under section 91:-

55. (i) Every complaint under section 91 of the Code shall be made electronically and by the registered post or speed post in **Form-XXXII** and shall be accompanied by as many copies as there are opposite parties mentioned in the complaint.
- (ii) Every complaint under sub-rule (1) shall be verified by the worker making the complaint or by authorized representative of the worker proved to the satisfaction of the conciliation officer, arbitrator, Tribunal or the State Industrial Tribunal, as the case may be, to be acquainted with the facts of the case.

Manner of authorization of worker for representing in any proceeding under sub-section (1) of section 94:-

56. Where the worker is not a member of any Trade Union, then, any member of the executive or other office-bearer of any Trade Union connected with or by any other worker employed in the industry in which the worker is employed may be authorized by such worker to represent him in any proceeding under the Code relating to a dispute in which the worker is a party in **Form -XXXIII**.

Manner of authorization of employer for representing in any proceeding under sub-section (2) of section 94:-

57. Where the employer, is not a member of any association of employers, may authorize in **Form-XXXIV** an officer of any association of employers connected with, or by any other employer engaged in the industry in which the employer is engaged to represent him in any proceeding under the Code relating to a dispute in which the employer is a party.

**Manner of holding an enquiry under sub-section (1) of section 85:-
Complaint –**

58. (1) On receipt of a complaint of the offence committed under sub-section (3),(5), (7), (8), (9), (10), (11), and (20) of section 86 and sub-section (7) of section 89, the same shall be enquired by an officer not below the rank of Under Secretary to the Government of Sikkim under sub-section (1) of section 85 (hereinafter referred to as the enquiry officer).
- (2) Issue of Notice :- If the complaint filed is admitted by the Enquiry officer, he shall call upon the person or persons through a notice to be sent electronically or through registered post , to appear before him on a specified date together with all the relevant documents and witnesses, if any, and shall inform the complainant of the date so specified.
- (3) If the person or his representative fails to appear on the specified date, the Enquiry officer may proceed to hear and determine the complaint ex-parte.
- (4) If the complainant fails to appear on the specified date without any intimation to the Enquiry officer on two consecutive dates, the complaint may be dismissed.

Provided that not more than three adjournments may be given on the joint application made by the complainant and the opposite party.

Provided further that the enquiry officers shall at his discretion permit hearing the parties or any of the party, as the case may be, through video conferencing.

- (5) Authorisation – The authorisation to appear on behalf of any person, under sub-section (2) of section 85 shall be given by a certificate or electronic certificate, as the case may be, which shall be presented to the Enquiry officer during the hearing of the complaint and shall form part of the record.
- (6) Permission to appear – Any person who intends to appear in the proceeding on behalf of complainant shall present before the Enquiry Officer and submit a brief written statement explaining the reason for his appearance. The Enquiry Officer shall record an order on the statement and in the case of refusal shall include reasons for the same, and incorporate it in the record.
- (7) Presentation of documents – Complaint or other documents relevant to the complaint may be presented in person to the Enquiry Officer at any time during hours fixed by the Enquiry Officer, or may be sent to him electronically or by registered post or speed post.
- (8) The Enquiry Officer shall endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be. If the documents have been submitted electronically, no such endorsement shall be necessary.
- (9) Refusal to entertain complaint:-
 - (i) The Enquiry Officer may refuse to entertain a complaint presented under sub-section (1) of section 85 if after giving the complainant an opportunity of being heard, the Enquiry Officer is satisfied, for reasons to be recorded in writing that –
 - (a) the complainant is not entitled to present the complaint ; or
 - (b) the complainant is barred by limitation under the provisions of this Code
 - (c) the complainant fails to comply the directions given by the Enquiry Officer under sub-section (2) of section 85.
 - (ii) The Enquiry Officer may refuse to entertain complaint which is otherwise incomplete. He may ask complainant to rectify the defects and if the Enquiry Officer thinks that the complaint cannot be rectified he may return the complaint indicating the defects and, if he, so refuses shall return it at once indicating the defects. If the complaint is presented

again, after the defects have been rectified, the date of representation shall be deemed to be the date of presentation for the purpose of sub-section (1) of section 85.

- (10) Record of proceedings – The Enquiry Officer shall in all cases mention the particulars at the time of passing of order containing the details, i.e., date of complaint, name and addresses of the complainant, name and address of the opposite party or parties, section –wise details of the offence committed, plea of the opposite party, findings and brief statement of the reason and penalty imposed with signature, date and place.
- (11) Exercise of powers – In exercise of the powers of a Civil Court, conferred under the Code of Civil Procedure, 1908, the Enquiry Officer shall be guided in respect of procedure by relevant orders of the First Schedule of the Code of Civil Procedure, 1908 with such alterations as the Enquiry Officer may find necessary, not affecting their substance, for adapting them to the matter before him, and save where they conflict with the express provisions of this Code or these rules.
- (12) Order or direction when to be made – The Enquiry Officer, after the case has been heard, shall make the order or direction on a future date to be fixed for this purpose.
- (13) Inspection of documents – Any person, who is either a complainant or an opposite party or his representative, or any person permitted under sub-rule (5) shall be entitled to inspect any complaint, or any other document filed with the Enquiry Officer be, in a case to which he is a party.

Submission of a copy of each of the Form under clause (zzf) of sub-section 2 of section 99 :-

59. A copy each of **Form -XXIV** (Notice of strike), **Form -XXV** (Notice of lockout), **form -XXVI** (notice for intimation of retrenchment to the State Government), **Form XXVII** (Notice of intimation of closure to State Government) **Form -XXVIII** (application for permission of lay-off) **Form-XXIX** (application for permission of Retrenchment) **Form -XXX** (application for permission for closure) and **Form-XXXI** (compounding of an offence) shall be shared electronically or through registered post to the Principal Secretary/ Secretary, Labour Department Government of Sikkim.

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

Form -I
(See Rule 3)

(Memorandum of settlement arrived at during conciliation / or settlement arrived at between the employer and his workers otherwise than in the course of conciliation proceeding)

Name of parties :

.....Representing employer (s);

.....Representing workers;

Short recital of the case

Terms of settlement

Signature of the parties

Witnesses :

(1)

(2)

Signature of Conciliation Officer

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

Form – II
(See Rule 7)

Manner of filing application under Section 4 (5) for the Conciliation of grievance as against the decision of the Grievance Redressal Committee.

Jurisdiction of the Conciliation Officer

(ALC/ DLC / JLC / ADLC)

(Enter the official address of the concerned Conciliation Officer)

1. Name and address of the applicant
Name of the EmployeeApplicant
Vs
Name of the Establishment Respondent -1
Grievance Redressal Committee.....Respondent -2
2. Name and address of the establishment where working.....
3. Date of order of the decision of the Grievance Redressal Committee.....
4. Matter in dispute
Grievance Redressal – resolved / Not resolved.
5. Relief sought before the Conciliation Officer.....
6. Whether applied within time limit.....
7. Name of the Trade Union espousing the dispute.....
8. Whether member of the above said Trade Union.....
9. Any other matter to be referred to the Conciliation Officer.....
10. Date and signature of the applicant filing the dispute
11. Electronic submission of the Application/ Manual filing.....
(please prefer your choice of filing)
12. Date and signature of the office bearers of the Trade Union

Form – III

(See sub rule (7) of rule 9)

Auditors Declaration

The undersigned having had access to till the books and accounts of the.....and having examined the foregoing statements and verified the same with the account vouchers relating thereto, now sign the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto and also certify that thehad properly maintained its membership register and its accounts and the members had paid their membership subscription Rs.....as shown in the foregoing statement of the general fund account of the Trade Union, subject to the remarks, if any, appended hereto.

(1) Auditor

(2) Auditor.

Note :- Each Auditor should state below his signature in what capacity with reference to Regulation 18 he is qualified to audit the trade union's accounts.

Form – IV

(see sub-rule (3) of rule 10)

Notice of dissolution or amendment in rules of a Trade Union.

Name of Trade Union _____

Registration number _____

Dated the ____ day of ____ 20 ____

To,

The Registrar of Trade Unions,
Sikkim.

Notice is hereby given that the above-mentioned Trade Union was dissolved in pursuance of the Rules thereof on the ____ day of ____ 20 ____.

or

Notice is hereby given that the following rules of the Trade Union given under Schedule I are proposed to be amended in pursuance of the Rules thereof on the ____ day of ____ 20 ____.

We have been duly authorized by the union to forward this notice on its behalf, such authorization consisting of a resolution passed at a general meeting on the * ____ day of ____ 20 ____, copy of which is enclosed.

(Signed)

1.
2.
3.
4.
5.
6.
7.
8.

* Here insert the date, or, if there was no such resolution, state in which other way the authorization was given.

Schedule I
AMENDMENT IN RULES

The amendment in the Rules for the matters detailed in column (1) and (2) are given in column (3) as follows :-

Sl.No.	Matter	Original Rules	Proposed Amendment
1.	Name of the Union.	.....
2.	The whole of the object for which the union has been established.	.....
3.	The whole of the purpose for which the general funds of the union shall be applicable.	.....
4.	The maintenance of a list of members.	.....
5.	The facilities provided for the inspection of the list of members by officers and members.	.....
6.	The admission of ordinary members.	.....
7.	The admission of honorary or temporary members.	.....
8.	The conditions under which members are entitled to benefits assured by the Rules.	.....
9.	The conditions under which fines or forfeitures can be imposed or varied.	.....
10.	The manner in which the Rules shall be amended, varied or rescinded.	.....
11.	The manner in which the members of the executive and the other officers of the union shall be appointed and removed.	.....
12.	The safe custody of the funds.	.....

Signature of the Applicant/s

Form V

{See sub-rule (1) of rule 11}

Application for Registration of Trade Unions.

Name of the Trade Union _____

Address _____

Dated the _____ day of _____ of _____

1. This application is made by the persons whose names are subscribed at the foot hereof.
2. The name under which it is proposed that the Trade Union on behalf of which this application is made shall be registered is _____ as set forth in Rule No _____. A copy of the resolution approving the name of the union passed in the meeting of _____ on _____ is enclosed.
3. The address of the head office of the union to which all communications and notices may be addressed, is _____.
4. The _____ Union came into existence on the _____ day of _____ 20_____.
5. The union is a union of employers/workers engaged in _____ industry or _____ professions or _____ (establishment) and has _____ members.
6. The particulars required by Section 5(1) (c) of the Indian Trade Union Act, 1926 are given in Schedule I. A copy of the manner and proceedings of appointment/election as officers of the unions is enclosed.
7. The particulars given in Schedule II show, the provision made in Rules for the matters detailed in Section 6 of the Indian Trade Union Act, 1926. A copy of the resolution passed in a meeting of the _____ on _____ approving the Rules is enclosed.
8. (To be struck out in the cases of unions which have not been in existence for one year before the date of application.

The particulars required by Section 5 (2) of the Indian Trade Union Act, 1926 are given in Schedule III.

9. Two copies of the Rules of the union are attached to this application duly subscribing the names of seven or more members as required under Section 4 of the Indian Trade Unions Act, 1926.
10. The balance of the General Fund Account of the Trade Union on the day of registration is Rs _____.
11. We have been duly authorized by the Trade Union to make this application on its behalf such authorization consisting of * _____

Name	Occupation	Address	Signature
(1)	(2)	(3)	(4)

* State here whether the authority to make this application was made by a resolution of a general meeting of the Trade Union or if not, in what other way it was given.

To,
The Registrar of Trade Unions,
Sikkim.

Schedule - I

List of Officers, Name of the Trade Union _____

Serial No	Office held in the Union.	Name	Age	Occupation	Address
(1)	(2)	(3)	(4)	(5)	(6)
1					
2					
3					
etc					

Schedule – II
Reference to Rules

The numbers of the Rules making provisions for the several matters detailed in column (1) are given in column (2) before :-

Sl.No	Matter	Number of Rules
1.	Name of Union	_____
2.	The whole of the object for which the union has been established.	_____
3.	The whole of the purpose for which the general funds of the union shall be applicable.	_____
4.	The maintenance of a list of members.	_____
5.	The facilities provided for the inspection of the list of members by officers and members.	_____
6.	The admission of ordinary members.	_____
7.	The admission of honorary or temporary members.	_____
8.	The conditions under which members are entitled to benefits assured by the Rules.	_____
9.	The conditions under which fines or forfeitures can be imposed or varied.	_____
10.	The manner in which the Rules shall be amended, varied or rescinded.	_____
11.	The manner in which the members of the executive and other officers of the union shall be appointed and removed.	_____
12.	The safe custody of funds.	_____
13.	The annual audit to the accounts.	_____
14.	The facilities for the inspection of the account books by officers and members.	_____
15.	The manner in which the union may be dissolved.	_____

Schedule – III

(This needs to be filled in if, the union came into existence less than one year before the date of application for registration)

Statement of liabilities and the details of assets on the day of __date __month __year.

Liabilities	Rs	P.	Assets	Rs.	P.
Amount of general fund	Cash				
Amount of separate fund.			In hands of Treasurer		
Loans from.			In hands of Secretary		
Debts due to To be specified other liabilities			In the Bank Securities as per list below unpaid subscription dues in the Bank Loans to immovable property goods and furniture. Oyher assets. (to be specified)		
Total Liabilities			Total assets		

LIST OF SECURITIES

Particulars	Nominal Value	Market value at date on which in hands of accounts have been made up.

FORM – VI

(See sub-rule (2) of rule 11)

I, _____ Shri/ Smt _____ Address _____
Occupation _____ Age _____ Years _____ truly declare in writing that
on this date _____ in this region _____ for the Union under the Chairmanship
of _____ in which (Name of the Union) has been registered under the Trade Union
Act, 1926.

The name and the registration details is as follows

SL.No.	Name	Age	Occupation	Address
1.				
2.				
3.				
4.				
5.				
6.				
7.				

The above mentioned registrants and their deputation still stand valid and are still valid members of the Union.

On this date the executive Committee was elected in the general election dated _____

The above mentioned persons have filed the application regarding cancellation of registration or registration in my case. According to my information, the application has been included in the list of members, attached membership list is true.

I swear and believe that the above said is true to my information and knowledge.

FORM –VII

(See sub-rule (3) of rule 11)

(1) List of Officers & Name of the Trade Union _____

Serial No.	Office held in the Union	Name	Age	Occupation	Address
(1)	(2)	(3)	(4)	(5)	(6)
1.					
2.					
3.					
4.					
5.					
6.					

(2) Attach Certified copy of the resolution passed about the authorization of the applicant/s

FORM – VIII

(See sub-rule (5) of rule 11)

Register of Trade Unions

Name of the Union	Official address	Date of registration	Name of present office bearer	Number of members	Date of cancellation
1	2	3	4	5	6

Date of dissolution	Date of amalgamation	Name of the Trade Union with which amalgamated	Date of change in office bearers	Date of change in rules	Any other information	Remarks
7	8	9	10	11	12	13

FORM – IX

{See sub-rule (7) of rule 11}

Certificate of Registration of Trade Union

OFFICE OF THE REGISTRAR OF TRADE UNIONS

GOVERNMENT OF SIKKIM,

GANGTOK, EAST SIKKIM.

1. Registration No. _____

2. Name of Trade Union. _____

It is hereby certified that, the _____ has been registered under the Industrial Relations Code, 2020. On this day of _____ 2021_____

(SEAL)

Registrar of Trade Unions.

FORM X

{See sub-rule (8) of rule 11}

Request to withdraw or cancel Certificate of Registration

Name of the Trade Union . _____

Registration Number. _____

Address. _____

Dated. _____ the _____ day of _____ 20_____

To,

The Registrar of Trade Unions,
Government of Sikkim.

The above mentioned Trade Union desires that its certificate of registration under the Industrial Relations Code, 2020 may be withdrawn (or cancelled) as at the general meeting * duly held on _____ day of _____ 20_____ it was resolved as follows:-

(Here give the exact copy of the resolution)

(Signed)

* If not at a general meeting, state in what manner the request has been determined upon.

FORM – XI
(See sub rule (5) of rule 13)
Notice of Change of Name

Name of Trade Union already registered _____

Registration number _____

Address _____

Dated this _____ day of _____ 20_____

To,
The Registrar of Trade Unions,
Government of Sikkim,
Gangtok.

Notice is hereby given that the provisions of Section 11 of the Industrial Relations Code, 2020, having been complied with the name of the above mentioned Trade Union has been changed to _____

The consent of the members was obtained by *

(Signed)

1. _____ Secretary
2. _____ Member
3. _____ Member
4. _____ Member
5. _____ Member
6. _____ Member
7. _____ Member
8. _____ Member

* i.e. by referendum; resolution of a general meeting, etc if the procedure followed is covered by rule, quote number of the rule.

FORM – XII

(See sub-rule (3) and (4) of rule 14)

Application for declaring the Trade Union as Negotiating Union or member of the Negotiating Council.

Name of the Union _____

Address _____

Dated _____ day of _____ 20 _____

To,

The Registrar of Trade Unions,
Government of Sikkim, Gangtok.

Dear Sir,

I, beg to state that the above mentioned Trade Union is to be declared as Negotiating Union / as the member of the Negotiating Council for the Industrial Establishment, namely _____, Address _____ under sub section (3) of Section 14 of the Industrial Relations Code, 2020, and I request that it may be registered accordingly in the records of the Registrar. A copy of the particulars and other documents in this behalf signed by the authorized person is enclosed.

2. The union was registered on the _____ day of _____ 20 _____, under Certificate No _____ issued by the Registrar of Trade Unions for Sikkim.
3. A copy of the rules of the Union is attached.
4. The address of the head Office of the Union to which all the communications may be addressed is _____
5. The Union has _____ members in the _____ the Industrial Establishment named above _____ and represents _____ percent of the total number of employees employed in the Industrial Establishment named.

Yours faithfully,
Authorized Signatory.

(See sub-rule (3) and (4) of Rule 13)

Declaration of the Trade Union as Negotiating Union or Members of the Negotiating Council office of the Registrar of Trade Unions, Sikkim.

Name of Union _____

Entry No _____

It is hereby certified that the _____ Union has been declared as Negotiating Union/ Member of the Negotiating council for the Industrial Establishment _____ as provided under sub-section (3) or (4) of the Industrial Relations Code, 2020 on this _____ day of _____ 20 _____

Registrar of Trade Unions,
Government of Sikkim, Gangtok.

FORM -XIII**(See sub-rule (6) of rule 14)****Register of Negotiating Union or Members of the Negotiating Council.**

Sl. no	Name of the Negotiating Union	Name of the member union of negotiating council, Negotiating Union	Address of Office	Date of Registration	Name of present office bearers	Number of members
1	2	3	4	5	6	7

Name of the Industrial Establishment	Address of the Industrial Establishment	Total number of workers which are members of the Trade Union	Percentage of workers which are members of the Negotiating Union/ Members of Negotiating Council.	Date of declaration by the Registrar	Any other information	Remarks
8	9	10	11	12	13	14

FORM – IV

(See sub-rule (1) of rule 20)

Notice of Amalgamation of Trade Unions

A. Name of registered Trade Union _____

B. Number of registration _____

Serial No.	Name of the Trade Union	Registration number	Address
(1)	(2)	(3)	(4)
1			
2			
3			

C. Dated the _____ day of _____ 20 _____

To,

The Registrar of Trade Unions,
Government of Sikkim, Gangtok.

Notice is hereby given that in accordance with the requirements of Section 24 of the Industrial Relations Code, the members of each of the above-mentioned Trade Unions have resolved to become amalgamated together as one trade union. Copies of the resolution approving the amalgamation are enclosed.

And that the following are the terms of the said amalgamation.

(State the terms)

And that it is intended that the trade union shall henceforth be called the _____

Accompanying this notice is a copy of the Rules intended to be henceforth adopted by the amalgamated Trade Union.

(To be signed by seven members and the Secretary of each Trade Union)

(Signed)

1. _____ Secretary

2. _____ Member

3. _____ Member

4. _____ Member

5. _____ Member

6. _____ Member

7. _____ Member

8. _____ Member

FORM – XV

(See sub rule (3) of rule 20)

Notice of Change of Name.

Name of Trade Union already registered _____

Registration number _____

Address _____

Dated this _____ day of _____ 20_____

To,

The Registrar of Trade Unions,
Sikkim,

Notice is hereby given that the provisions of Section 24 of the Industrial Relations Code, 2020, having been complied with the name of the above mentioned trade union having been changed to _____

The consent of the members was obtained by *

(Signed)

1. _____ Secretary

2. _____ Member

3. _____ Member

4. _____ Member

5. _____ Member

6. _____ Member

7. _____ Member

8. _____ Member

* i.e. , by referendum; resolution of a general meeting, etc. If the procedure followed is covered by rule, quote number of the rule.

FORM – XVI

(See sub-rule (1) of rule 22)

PART –A

General Statement prescribed under Section 26 of the Industrial Relations Code, 2020.

From 1st April, 20_____to 31st March____

1. Name of Trade Union _____
2. Address _____
3. Registered Head Office _____
4. No and date of Certificate of Registration
No _____date _____
5. To which category of industry the union belongs ? viz, the _____
Public sector or private sector.
6. Under whose jurisdiction the above mentioned Industry falls ? _____
viz, whether Central Government or State Government.
7. Is the union affiliated to any All India Body ? If so, state its _____No _____name and
affiliation number.
8. Affiliation fee_____. Rs. _____.
9. Number and date of payment of affiliation fee to the All India Body.
B/R No _____and date_____.
10. Number of the members of the working Committee. _____
11. Number of outside members, if any, in the working Committee _____
12. Name of the industry o which the union belongs. _____
13. Details about the jurisdiction of the union. _____
14. Monthly subscription for the members._____
15. (This information need not be given by federation of trade unions) :-
 - (a) Number of members on books at the beginning of the _____year.
 - (b) Number of members admitted during the year, Total of (a) and
(b) _____
 - (c) Number of members leaving the union during the year _____
Balance by deduction from the _____total of (a) and (b)
 - (d) Total number of members on books at the end of the year (i.e., on
31st March) :-
Males _____
Females _____
Total _____

- (e) Number of members contributing to political fund _____
- (f) Number of members paying their subscription for the whole year _____

16. Return to be made by federations of trade unions :-

- (a) Number of unions affiliated at the beginning of the year _____
 - (b) Number of unions joining during the current year _____
 - (c) Number of unions disaffiliated during the year _____
 - (d) Number of unions affiliated at the end of the year _____
 - (e) Membership fee realised from the affiliated unions.Rs._____
 - (f) Number of affiliated unions from whom membership fee_____
- Was received during the year.
- (g) Number of affiliated unions contributing to political _____ fund.
 - (h) Number of members of affiliated unions .

Males _____

Females _____

Total_____

Note :- Information in regard to

1. (a) Columns 1 to 13 of Part A of this statement to be filled in both by the categories, ie, unions and federations.
 - (b) Columns 14 and 15 to be filled in only by the trade unions, not by federations.
 - (c) Columns No 16 to be filled in only by federations
2. A copy of the rules of the trade union corrected up to the date of dispatch thereof to be enclosed with the statements of annual return.

PART -B
GENERAL FUND ACCOUNT

Income			Expenditure		
Sl.no	Details	Rs.	Sl.no	Details	Rs.
1	Balance at the beginning of the year		1	Salaries, allowances and expenses of offices	
2	Subscription received from members as per the following details.		2	Salaries, allowances and other expenses of the establishment.	
	(a) Subscription received for the current year.			Auditors fees	
	(b) Subscription in arrears for the current year			Legal expenses.....	
	(c) Subscription in arrears for 3 months or less.			Expenses in conducting trade disputes.	
	(d) Subscription in arrears for 6 months or more than 6 months.			Compensation paid to members for loss arising out of trade disputes.	
	(e) Subscription in arrears for more than one year			Funeral, old age, sickness, unemployment benefits, etc.	
	Total			Educational social and religious benefits.	
3	Donations			Cost of publishing periodicals.	
4	Interest on investments.			Rents, rates and taxes.	
5	Sales of periodicals, books and rules etc.			Stationery, printing and postage.	
6	Income from miscellaneous sources (to be specified)			Expenses incurred under Section 15 (j) of the Indian Trade Unions Act, 1926.	
	(1).....			Other expenses to be specified.	
	(2).....			(1).....	
	(3).....			(2).....	
	(4).....			(3).....	
	(5).....			Total expenditure.....	
7	Total.			Total	

Treasurer _____

PART – C

STATEMENT OF LIABILITIES AND ASSETS OF TRADE UNION ON

20

Liabilities			Assets		
Sl.no	Details	Rs.	Sl.no	Details	Rs.
1	Amount of general fund.		1	Cash.	
2	Amount of political fund.			(a) In the hands of Treasurer. (b) In the hands of the Secretary or other person to be named	
3	Loans from.		2	In the Bank	
4	Arrears to be paid		3	Securities (as per list in Part D)	
			4	Unpaid subscription due (as shown in Part B in columns (b) and (c))	
5	Other liabilities to be specified.		(a)	Amount of current year's subscription.	
	(1)..... (2)..... (3)..... (4).....			(b) Amount of the last year's subscription.	
			5	Loans. (a) Officers. (b) Members. (c) Others	
			6	Immovable property.	
			7	Goods and furniture's (a) Of the current year. (b) Of the last year.	
			8	Other assets	
6	Total		9	Total	

PART -D
LIST OF SECURITIES

(1)	(2)	(3)	(4)	(5)
Particulars	Face Value	Cost Price	Market price at date on which accounts have been made up	Deposited with.

PART- E
POLITICAL FUND ACCOUNT

INCOME			EXPENDITURE		
Sl.no	Details	Rs.	Sl.no	Details	Rs.
1	Balance at the beginning of the year.		1	Payment made on objects specified in 16 (2) of the Indian Trade Unions Act, 1926.	
2	Contribution from members.		2	Expenses of management (to be fully specified. Total:	
				Balance at the end of year	
3	Total		3	Total	

PART- F
AUDITORS DECLARATION

The undersigned having had access to till the books and accounts of the _____ and having examined the foregoing statements and verified the same with the account vouchers relating thereto, now sign the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto and also certify that the _____ had properly maintained its membership register and its accounts and the members had paid their membership subscription of Rs _____ to the _____

As shown in the foregoing statement of the general fund account of the Trade Union, subject to the remarks, if any, appended hereto.

(1) Auditor _____

(2) Auditor _____

Note :- Each Auditor should state below his signature in what capacity with reference to Regulation 18 he is qualified to audit the Trade Union's Accounts.

PART -G

OFFICERS APPOINTED BY ELECTION OR NOMINATIONS

Name	Date of birth	Home Address	Occupation	Office held in the union	Whether by election or nomination	Date on which appointment in column (5) was taken up.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

PART -H

The following changes of officers have been made during the year

OFFICERS RELINQUISHING OFFICE

No	Name	Office	Date of relinquishing office.
(1)	(2)	(3)	(4)

FORM -XVII

(See sub-rule (1) of rule 23)

Application for recognition of the State Level Trade Union

Name of the Trade Union / Federation of Trade Unions _____

Address _____

Dated the _____ day of _____ 20 _____

To,

The Secretary or authorized Officer (Designation)
Government of Sikkim,
Labour Department.

Dear Sir,

I beg to state that at the general meeting of the members/s at the meeting of the executive of the above mentioned Trade Union/Federation of Trade Unions which was held at _____ on the day of _____ 20_____, it was resolved that the Union should apply to you for recognition as State Level Trade Union under sub-section (2) of Section 26 of the Industrial Relations Code, 2020. A copy of the resolution in tis behalf signed by the President/Chairman of the union is enclosed.

2. The Union is duly registered on the _____ day of _____ year _____, Under Certificate No. _____ issued by the Registrar of Trade Unions for Sikkim.
3. A copy of the rules of the Union is enclosed.
4. The address of the head office of the union to which all the communications may be addressed is _____
5. The Union has affiliation of other Trade Unions in the State, list of such trade unions and their addresses, registration details and membership etc.is attached herewith.
6. The Union has total _____ members (numbers) in the Sate (District Wise, Trade Union wise membership)

Yours Faithfully,

General Secretary/Secretary.

FORM – XVIII

(See rule 33)

(Notice of change of service conditions proposed by an employer)

Name of employer _____

Address _____

Dated the _____ day of _____ 20_____

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

ANNEXURE

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

Copy forwarded to :-

1. The Secretary of registered Trade Union, if any.
2. Labour Commissioner, Government of Sikkim.
3. Concerned Conciliation Officer.

FORM – XIX

(Agreement for voluntary arbitration)

(See sub-rule (1) of rule 34)

BETWEEN

_____ Name of the parties representing employer (s)
And
_____ Representing workers

It is hereby agreed between the parties to refer the following dispute to the arbitration of _____ (here specify the name(s) and addresses of the arbitrator(s).

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

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

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

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

Witnesses

- 1. _____
- 2. _____

Copy to:-

- (i) The Conciliation Officer {here enter office address of the Conciliation Officer for the area concerned}
- (ii) The Labour Commissioner.
- (iii) Principal Secretary/ Secretary to the Government of Sikkim Labour.

FORM – XX

(See rule 36)

(Authorization by a worker, group of worker, employer, group of employer to be represented in a proceeding before the authority under this Code)

Before the Authority
(Here mention the authority concerned)

In the matter of _____(mention the name of the proceeding)

_____Workers

Versus

_____Employer

I/we hereby authorise Shri/Smt (if representatives are more than one) 1. _____

2. _____ 3. _____ 4. _____ 5. _____ 6. _____

To represent me in the above matter.

Dated this _____ day of _____ 20_____

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

FORM –XXI

(See sub-rule (21) of rule 37)

Form of Oath of Office for Judicial Member of State Industrial Tribunal

I, A,B, having been appointed as Judicial Member of State Industrial Tribunal (Name of the Tribunal) do hereby solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as the Judicial Member/Administrative Member of State Industrial Tribunal (Name of the Tribunal) to the best of my ability, knowledge and judgement, without fear or favour, affection or ill-will and that I, will uphold the Constitution and the laws of the land.

(Signature)

Place :

Date :

FORM – XXII

(See sub-rule (21) of rule 38)

Form of Oath of Office for Administrative Member of State Industrial Tribunal

I, A,B, having been appointed as Administrative Member (whichever is applicable) of State Industrial Tribunal (Name of the Tribunal) do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as the Judicial Member/Administrative Member of State Industrial Tribunal (Name of the Tribunal) to the best of my ability, knowledge and judgement, without fear or favour, affection or ill-will and that I, will uphold the Constitution and the laws of the land.

(Signature)

Place :

Date :

FORM –XXIII

(See sub-rule (7) of rule 39)

(Application to be submitted before the Tribunal in the matter not settled by the Conciliation Officer)

Before _____ (here mention the name of the Tribunal having jurisdiction over the area)

In the matter of :

_____ **Applicant**

Address _____

Versus

_____ **Opposite Party (ies)**

Address _____

The above mentioned applicant beg to state as follows :-

(here set out the relevant facts and circumstances of the case)

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

Date :

Place :

FORM –XXIV

(See rule 40)

(Notice of Strike to be given by Union (Name of Union)/ Group of Workers)

Name of five elected representative of workers _____

Dated the _____ day of _____ 20_____

To,

(The name of the employer)

Dear Sir/Sirs,

In accordance with the provisions contained in sub-section (1) of Section 62 of the Industrial Relation Code I/we hereby give you notice that I propose to call a strike / we propose to go on strike on _____20_____for the reasons explained in the annexure.

Yours faithfully,

(Secretary of the Union)

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

ANNEXURE

Statement of the Case

Copy to ;

1. Conciliation Officer of the concerned area.
2. Labour Commissioner.

FORM -XXV

(See sub-rule (1) of rule 41)

(Notice of Lock-out to be given by an employer of an Industrial establishment)

Name of employer _____

Address _____

Dated the _____ day of _____ 20_____

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

Signature _____

Designation _____

ANNEXURE

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

Copy forward to :

- (i) The Secretary of the Registered Union, if any
- (ii) Conciliation Officer _____ (here enter Office address of the Assistant Labour Commissioner/Labour Officer of the concerned area.)
- (iii) Labour Commissioner.

FORM –XXVI

(See rule 42)

(Notice of Intimation of Retrenchment to be given by an employer to the State Government)

{In cases of Part I, the prior notice of intimation should be served thirty days before the commencement of retrenchment and in cases of Part II, i.e. closure, prior notice of intimation of sixty days is required to be given before the commencement of closure}

Name of Industrial Establishment or Undertaking or _____

Employer _____

Address _____

Dated _____(DD/MM/YYYY)

To,

The Principal Secretary/Secretary to the Government of Sikkim,
Department of Labour, Sikkim.

Sir,

PART-I

(Retrenchment)

1. Under clause (a) of section 70 of the Industrial Relation Code,2020, I/we hereby inform you that I/we have decided to retrench (number of workers _____workers with effect from_____ (DD/MM/YYYY) for the reasons explained in the **Annexure I**
2. The workers concerned have been given on the _____ (DD/MM/YYYY) one month's notice in writing as required.

or

The worker(s) have been given on the _____(DD/MM/YYYY)

One month's pay in lieu of notice as required.

3. The total number of workers employed in the industrial establishment/undertaking are _____and the total number of those who are being retrenched are _____

ANNEXURE-I

Statement of Reasons for retrenchment/closure (strike whichever is not applicable) with reference to Rule 44

Copy to :-

1. To the Labour Commissioner.
2. Conciliation Officer of the concerned area.

FORM – XXVII

(See rule 44)

(Notice of Intimation of Closure to be given by an employer to the State Government)

{In cases of Part –I, the prior notice of intimation should be served thirty days before the commencement of retrenchment and in cases of Part-II, ie, closure, prior notice of intimation of sixty days is required to be given before the commencement of closure}

Name of Industrial Establishment or undertaking or Employer _____

Address _____

Dated _____(DD/MM/YYYY)

To,

The Principal Secretary/Secretary to the Government of Sikkim,
Department of Labour, Sikkim.

Sir,

PART-I

(Closure)

1. Under sub-section (1) of Section 74 of the Industrial Relation Code,2020, I/we hereby inform you that I/we have decided to close down _____(name of Industrial establishment or undertaking or employer) with effect from _____(DD/MM/YYYY) for the reasons explained in the **Annexure –I**.
2. The number of workers whose services would come to an end on account of the closure of the industrial establishment or undertaking are _____ (number of workers)

Number of workers _____

Category and designation _____of workers, who have been affected due to closure.

I/We hereby declare that the worker/workers concerned has/have been/will be paid compensation due to them under section 75 of this Code before or on the date of expiry of the notice period.

Yours faithfully,

(Name & Designation of the Employer/Authorized Representative.

ANNEXURE-I

Statement of Reasons for retrenchment/closure (Strike whichever is not applicable) with reference to Rule 25 and Rule 27 and Form VIII.

Copy to :-

1. To, the Labour Commissioner,
2. Conciliation Officer of the area concerned.

FORM –XXVIII

(See rule 45)

{Form of application for permission of Lay-off in Industrial establishment or undertaking to which provisions of Chapter X of the Industrial Relations Code, 2020 applies}

To,

The Principal Secretary/Secretary to the Government of Sikkim,
Department of Labour, Government of Sikkim,
Gangtok.

Sir,

* 1. Under * sub-section (2) of Section 78 of the Industrial Relations Code, 2020, I/we hereby apply for “permission to lay –off _____workers (indicate number in figures and words) out of total of _____workers (indicate number in figures and words) employed in my/our establishment with effect from (DD/MM/YYYY) for the reasons set out in Annexure –I.

2. The workers concerned have been given *notice in writing as required under clause(a) of sub-section (1) of Section 79. The worker concerned have not *been given notice since the retrenchment is under an agreement (copy of which is enclosed) as provided in the proviso to the said clause.
3. Under sub-section (2) of Section 79 of the Industrial Relation Code, 2020, I/we hereby apply for permission for proposed retrenchment of _____workers (indicate number in figures and words) with effect from (DD/MM/YYYY) for the reasons set out in the Annexure-I
4. The number of workers whose services will be terminated on account of the closure of the undertaking is _____(Number of workers)

Permission is solicited for the lay-off/to continue lay-off, in the said establishment.

All such workers permitted to be laid-off due to closure will be paid such compensation, to which they are entitled under Section 67, read with Section 78(10), or 79(9) or, 80(8) respectively of this Code as per the details given below.

Yours faithfully,
(Signature)

(* Strike off which is not applicable)

(** The application for permission in case of closure must be given at least 90 days before of the intended closure)

ANNEXURE –I

Sl. no	Total no.of workers/ no of workers to be retrenched	Unskilled (total no of workers/ to be retrenched)	Semi-skilled (total no.of workers/to be retrenched)	Skilled (total) no. of workers/ to be retrenched)	Highly Skilled (total no .of workers/to be retrenched)
1.					
2.	Reasons for lay-off/retrenchment/Closure (Strike out whichever is not applicable.				

ANNEXURE-I

Sl. no	Particulars	Remarks, if any
1.	Name of the industrial establishment/undertaking with complete postal address along with Pin-code ,e-mail, telephone number(s)	
2.	Status of undertaking : (i) Whether Central Public sector/State public sector/ Foreign majority company/Joint sector company, etc., (In case of foreign holding company then indicate the extent of foreign holding) (ii) Whether a private limited company/partnership firm or proprietorship firm.	Indicate to the status of the Company.
3.	(a) MCA number (b) GSTN number(c) Registration number of the Labour Department.	
4.	(a) * Names and identification number of the affected workers proposed to be laid-off/retrenched/ to be affected by closure.	The identification number UAN of EPFO under SS Code.
5.	(i) Annual production, item wise for pre-ceding three years. (ii) Production figures, month wise, for the preceding twelve months.	
6.	Balance sheets, profit and loss accounts and audit reports for the last three years.	To be annexed.
7.	Net worth of the company.	
8.	Names of the inter-connected companies or companies under the same management.	
9.	Details of lay-off/Retrenchment resorted to the last three years (other than the lay-off/Retrenchment for which permission is sought), including the periods of such lay-offs/the number of workmen involved in each such lay-off/continuation of lay-off.	
10.	Any other relevant details which have bearing o lay-off or retrenchment or Closure.	

A copy of this form shall be submitted to the Labour Commissioner and the concerned Conciliation Officer of the area.

FORM –XXIX

(See rule 48)

{Form of application for permission of Retrenchment in Industrial Establishment or undertaking to which provisions of Chapter X of the Industrial Relations Code, 2020 applies}

To,

The Principal Secretary/Secretary to the Government of Sikkim,
Department of Labour,
Gangtok, Sikkim.

Sir,

1. Under sub-section (2) of Section 79 of the Industrial Relations Code, 2020, I/we hereby apply for permission for proposed retrenchment of _____Workers (indicate numbers in figures and words) with effect from (DD/MM/YYYY) for the reasons set out in the Annexure-1.
2. The workers concerned have been given * notice in writing as required under clause (a) of sub-section (1) of Section 79. The workers concerned have not * been given notice since the retrenchment is under an agreement (copy of which is enclosed) as provided in the proviso to the said clause.
3. The number of workers whose service will be terminated on account of the retrenchment is _____(Number of workers)

Permission is solicited for the retrenchment of the workers of the said establishment.

All such workers permitted to be retrenched will be paid such compensation, to which they are entitled under Section 67, read with Section 78(10), or 80(8) respectively of this Code as per the details given below.

Yours faithfully,
(Signature)

{ * Strike off which is not applicable }

{ ** The application for permission in case of closure must be given at least 90 days before of the intended closure }

ANNEXURE –I

Sl.no	Total no.of workers/no of to be retrenched	Unskilled (total no.of workers/to be retrenched)	Semi skilled (total no.of workers/to be retrenched)	Skilled(total no. of workers/to be retrenched)	Highly skilled (total no.of workers/to be retrenched)
1.					
2.	Reasons for lay-off /retrenchment/Closure (Strike out whichever is not applicable)				

ANNEXURE-II

Sl.no	Particulars	Remarks,if any
1.	Name of the industrial establishment/undertaking with complete postal address along with Pin-code, e-mail, telephone number(s)	
2.	Status of undertaking –(i) Whether Central Public sector/ state public sector/Foreign majority company/joint sector company, etc ,(in case of foreign holding company then indicate the extent of foreign holding)(ii) Whether a private limited company/partnership form or proprietorship firm.	Indicate the status of the company.
3.	(a) MCA number (b) GSTN number (c) Registration number of the Labour Department.	
4.	(a) * Names and identification number of the affected workers proposed to be laid-off/retrenched/to be affected by closure.	The identification number UAN of EPFO under SS Code.
5.	(i) Annual production, item wise for pre-ceding three years. (ii) Production figures, month wise, for the pre-ceding twelve months.	
6.	Balance sheets, profit and loss accounts and audit reports for the last three years.	To be annexed
7.	Net worth of the Company.	
8.	Names of the inter-connected companies or companies under the same management.	
9.	Details of Retrenchment resorted to in the last three years (other than the Retrenchment for which permission is sought), including the periods of such Retrenchment the number of workmen involved in each such lay-off/ Retrenchment/ continuation lay-off.	
10.	Any other relevant details which have bearing retrenchment or Closure.	

A copy of this form shall be submitted to the Labour Commissioner and the concerned Conciliation Officer of the area.

FORM – XXX

(See rule 50)

{Form of application for permission of Closure in Industrial establishment or Undertaking to which provisions of Chapter X of the Industrial Relations Code, 2020 applies}

To,

The Principal Secretary/Secretary to the Government of Sikkim,
Department of Labour,
Gangtok, Sikkim.

Sir,

- *1. Under Section 80 (1) of the Industrial Relations Code, 2020, I/we hereby propose to * close down the undertaking specified below of (name of the industrial establishment). (Give details as in **Annexure-II**) with effect from (DD/MM/YYYY).
- *2. The workers concerned have been given * notice in writing as required under clause (a) of sub-section (1) of Section 79. The workers concerned have not * been given notice since the retrenchment is under an agreement (copy of which is enclosed) as provided in the proviso to the said clause.
3. The number of workers whose service will be terminated on account of the Closure is _____(Number of workers)

Permission is solicited for the Closure of the said establishment.

All such workers permitted to be terminated due to Closure will be paid such compensation, to which they are entitled under Section 67, read with Section 78(10), or 79(9) or, 80(8) respectively of this Code as per the details given below.

Yours faithfully,
(Signature)

{ * Strike off which is not applicable }

{ ** The application for permission in case of closure must be given at least 90 days before of the intended closure }

ANNEXURE – I

Sl.no	Total no.of workers/no of to be retrenched	Unskilled (total no.of workers/ to be retrenched)	Semi skilled (total no.of workers/to be retrenched)	Skilled (total no.of workers/ to be retrenched)	Highly skilled (total no.of workers/to be retrenched)
1.					
2.	Reasons for lay-off /retrenchment/Closure (Strike out whichever is not applicable)				

ANNEXURE-II

Sl.no	Particulars	Remarks, if any
1.	Name of the industrial establishment/undertaking with complete postal address along with Pin-code, e-mail, telephone number(s)	
2.	Status of undertaking – (i) Whether Central Public sector/state public sector/Foreign majority company/joint sector company, etc ,(in case of foreign holding company then indicate the extent of foreign holding) (ii) Whether a private limited company/partnership form or proprietorship firm.	Indicate the status of the company.
3.	(a) MCA number (b) GSTN number (c) Registration number of the Labour Department.	
4.	(a) * Names and identification number of the affected workers proposed to be affected by closure.	The identification number UAN of EPFO under SS Code.
5.	(i) Annual production, item wise for pre-ceding three years. (ii) Production figures, month wise, for the pre-ceding twelve months.	
6.	Balance sheets, profit and loss accounts and audit reports for the last three years.	To be annexed
7.	Net worth of the Company.	
8.	Names of the inter-connected companies or companies under the same management.	
9.	Details of lay-off/Retrenchment resorted to in last three years (other than the lay-off/Retrenchment for which permission sought), including the periods of such lay-offs/Retrenchment, the number of workmen involved in each such lay-off/Retrenchment/Continuation of lay-off.	
10.	Any other relevant details which have bearing on Closure.	

A copy of this form shall be submitted to the Labour Commissioner and the concerned Conciliation Officer of the area.

FORM -XXXI

(See rule 54)

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

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

PART -I

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

PART-II

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

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

(Signature of the Compounding Officer)

Date :

Place:

PART-III

Application under sub-section (4) of Section 89 for compounding of offence

1. Name of application (name of the employer who committed the offence under the Industrial Relation code, 2020 to be mentioned)_____
2. Address of the applicant _____
3. Particulars of the offence _____

4. Section of the Code under which the offence has been committed _____
5. Details of the Compounding amount deposited (electronically generated receipt to be attached). _____
6. Details of the prosecution, if filed for the violation of above mentioned offences may be given. _____
7. 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._____
8. Any other information which the applicant desires to provide._____

Applicant
(Name and Signature)

Dated

FORM -XXXII

(See sub-rule (1) of rule 56)

(Complaint under Section 91 of the Industrial Relation Code, 2020)

Before the Conciliation Officer/Arbitrator/Tribunal or, National Tribunal_____.

In the matter of _____Reference No._____

A_____Complainant(s)

Versus

B_____Opposite Party (ies)

Address _____

The petitioner(s) begs/beg to complain that the Opposite Party (ies) has/have been guilty of a contravention of the provisions of Section 90 of the industrial Relation Code, as shown below:

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

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

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

Dated this _____day of _____20_____. Signature of the Complainant(s)

VERIFICATION

I do solemnly declare that what is stated in paragraph _____above is true to my knowledge and that what is stated in paragraphs _____above is stated upon information received and believed by me to be true. This verification is signed by me at _____on _____day of _____20_____.

Signature or thumb impression of the person verifying.

FORM -XXXIII

(See rule 57)

(Manner of authorisation of worker for representation under Section 94 of the Industrial Relation Code, 2020)

To,

The Authority (name) _____

Address _____

I, (name of the applicant) _____ hereby authorise Shri, holding the post of executive /Office bearer (name of the post) _____ in the Trade Union (name of the Trade Union) _____ bearing Registration number _____ to represent me (name of the applicant) _____ employed in (name of establishment and address) _____ in the matter as mentioned below:-

Details of the matter:-

Signature and name and address of the applicant.

FORM – XXXIV

(See rule 58)

(Manner of authorisation of employer for representation under Section 94 of the Industrial Relation, Code, 2020)

To,

The Authority (name) _____

Address _____

I, (name of the applicant) _____ hereby authorise Shri, holding the post of executive /Office bearer (name of the post) _____ in the Trade Union (name of the Trade Union) _____ bearing Registration number _____ to represent me (name of the applicant) _____ employed in (name of establishment and address) _____ in the matter as mentioned below:-

Details of the matter:-

Signature and name and address of the applicant.