

105

GOVT. OF JAMMU AND KASHMIR  
LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

DATED: Jammu, The 15th January, 2021

S.O. 18 The following draft rules, which the Jammu and Kashmir Government proposes to make in exercise of the powers conferred by sections 154 and 156 of the Code on Social Security, 2020 (36 of 2020) read with section 24 of the General Clauses Act, 1897(10 of 1897) and in supersession of the-

- (i) **Jammu & Kashmir Workmen's Compensation Rules, 1972.**
- (ii) **Jammu & Kashmir Payment of Gratuity Rules, 1973;**
- (iii) **Jammu & Kashmir Maternity Benefit Rules, 1974;**
- (iv) **Jammu & Kashmir Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Rules, 2006; and**
- (v) **Jammu & Kashmir Unorganised Workers' Social Security Rules, 2010;**

made by the Government of Jammu & Kashmir in exercise of the powers conferred by The Workmen's Compensation Act, 1923, The Payment of Gratuity Act, 1972 The Maternity Benefit Act, 1961, The Building and Other Construction Workers' (Regulation of Employment & Conditions of Service) Act, 1996 and The Unorganised Workers' Social Security Act, 2008, and as the case may be, which are repealed by section 164 of the said Code on Social Security, except as respective things done or omitted to be done before such supersession, are hereby notified for information of all persons likely to be affected thereby and the notice is hereby given that the said draft notification will be taken into consideration after the expiry of a period of forty-five days from the date on which the copies of the Official Gazette in which this notification is published are made available to the public;

Objections and suggestions, if any, may be addressed to Commissioner Secretary Labour & Employment, (secyle@jk@gmail.com) and Additional Secretary Labour & Employment Department Civil Secretariat J&K. (addlsecyle.jk@gmail.com).

Objections and suggestions, which may be received from any person with respect to the said draft notification before expiry of the period specified above, will be considered by the Jammu and Kashmir Government.

104

**Draft Rules**  
**CHAPTER I**  
**PRELIMINARY**

1. **Short title, extent and commencement.**- (1) These rules may be called the Code on Social Security (Jammu and Kashmir) Rules, 2020.

(2) They extend to the territorial Jurisdiction of Jammu and Kashmir.

(3) They shall come into force after the date of their final publication in the Official Gazette, on the date of the commencement of the Code on Social Security, 2020 (36 of 2020).

2. **Definitions.**-

(1) In these rules, unless the subject or context otherwise requires, —

(a) "Agency" means any corporation, body or institution, established under an Act of Parliament or Legislature of Jammu and Kashmir or Central Public Sector Undertaking or State Public Sector Undertaking or Special Purpose Vehicle as notified by the Central Government or Government of Jammu and Kashmir.

(b) "Appellate authority" means the Government of Jammu and Kashmir or the authority specified by Government of Jammu and Kashmir under sub-section (8) of section 56.

(c) "Assessing Officer" means an officer not below the rank of Assistant Labour Commissioner of Jammu and Kashmir Government or any officer of a local authority holding an equivalent post and appointed for assessment of Cess under the Code;

(d) "Authority" means the Government of Jammu and Kashmir or the authority specified by the Government of Jammu and Kashmir under sub-section (3) of section 72;

(e) "Board" means Jammu & Kashmir Un-organized Workers Social Security Board and Jammu & Kashmir Building and other Construction Worker's Welfare Board.

(f) "Career Centre" means the Career Centre as notified by the Government of Jammu and Kashmir.

(g) "Cess Collector" means an officer appointed by the Government of Jammu and Kashmir for collection of cess under the Code;

(h) "Chairperson" means the Chairperson of the Corporation, the Jammu and Kashmir Building and Other Construction Workers Welfare Board, the Jammu and

- Kashmir Unorganised Social Security Board, the Standing Committee, the Medical Benefit Committee or the Executive Committee, or any other Board for administering the benefits under the Code as the case may be;
- (i) "Chartered Engineer" means a person having an engineering degree and the corporate membership of Institute of Engineers (India).
- (j) "Code" means the Code on Social Security, 2020 (36 of 2020);
- (k) "Electronically" means any information submitted by email or uploading on the designated portal or digital payment in any mode for the purpose of Code;
- (l) "Excluded Vacancies" means those vacancies which have been excluded from the purview of the section 139 as per the provisions of sub-sections (1) and (2) of section 140;
- (m) "Form" means a form appended to these rules;
- (n) "Fund" means the Employees' State Insurance Fund, the Employees' Provident Fund, the Employees' Pension Fund, the Employees' Deposit-Linked Insurance Fund or the Jammu and Kashmir Social Security Fund, as the case may be;
- (o) "Government Securities" means Government Securities as defined in the Government Securities Act, 2006 (38 of 2016);
- (p) "Immovable property" includes land, benefits to arise out of land, things attached to the earth, or permanently fastened to anything attached to the earth;
- (q) "Movable property" means property of every description except immovable property;
- (r) "Nodal Officer" means a person designated by the Government of Jammu and Kashmir or Building and Other Construction Workers' Welfare Board to facilitate the registration, renewal and updation electronically or otherwise or any such other function of Building Workers working in the Private Sector, State Government, Central Government and Public Sector Undertakings of the Central and the State Governments or Local Authority. The Nodal officer shall also supervise and monitor functions of the Beneficiary Registering Officers designated by Appropriate Government;
- (s) "Nomination" means nomination made under section 55 of the Code;

102

- (t) "Registered Medical Practitioner" means a medical practitioner whose name has been enrolled in a register maintained under any law for the time being in force regulating the registration of practitioners of medicine;
- (u) "Register of women employees" means a register of women employees maintained under rule 66;
- (v) "Schedule" means the schedule of the Code;
- (w) "Section" means a section of the Code;
- (x) "Specified" means specified by an order of the Central Government or the Government of Jammu and Kashmir or any officer so authorised by such Government;
- (y) "turnover" of an aggregator as defined under sub-section (91) of section 2 of the Companies Act, 2013 (18 of 2013), means the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.
- (z) "Year" shall mean the financial year, that is to say, beginning from the first of April and ending with the thirty first of March of the year following.
- (2) The words and expressions used in these rules which are not defined therein, but are defined in the Code, shall have their respective meaning as assigned to them in the Code.

101

## Chapter II

### SOCIAL SECURITY BOARDS

**3. The Manner to exercise the powers conferred on and to perform the functions assign to Jammu & Kashmir Unorganized Worker's Social Security Board, the manner of nomination of members, their term of office and other conditions of service, procedure to be followed in the discharge of their functions and manner of filling vacancies and time, place and rules of procedure relating to the transaction of business as per sub section 9, 12 and 14 of section 6.**

**1. Term of Board and Office Members. –**

- (i) Every member, other than an ex-officio member, shall hold office for a period of three years from the date of his nomination;  
Provided the members of the Board shall be deemed to have vacated their office as such on expiration of the period of the Board specified in Sub-section (13) of Section 6.
- (ii) A member nominated under sub-clause (iii) of clause (d) of Sub-section (10) of Section 6 shall cease to be a member of the Board if he/she ceases to be member of Jammu and Kashmir Legislative Assembly by virtue of which he/she was so nominated.
- (iii) A member nominated under sub-clauses (i) and (ii) of clause (d) of Sub-section (10) of Section 6 shall cease to be a member of the Board if he/she ceases to represent the category of interest from which he/she was so nominated.
- (iv) Out of twelve persons to be nominated under Sub-clauses (i) and (iv) of clause (d) of Sub-section (10) of Section 6 one person each from the Scheduled Caste, the Scheduled Tribe, the Minorities and Women shall be nominated as member.
- (v) A member shall be eligible for re-nomination.

100

**2. Resignation. –**

- (i) A member of the Board, not being an ex-officio member, may resign his office by letter in writing to the Chairperson at any time.
- (ii) A member so resigning shall be deemed to have vacated his office as member with effect from the date his resignation is accepted by the Chairperson or on the expiry of thirty days from the date of receipt of resignation, whichever is earlier.

**3. Change of Address. –**

If a member changes his address, he shall bring it to the notice his new address to the Member-Secretary of the Board about his new address who shall thereupon enter his new address in the official records;

Provided that if a member fails to bring it to the notice of the Member-Secretary his new address, the address in the official records shall for all purposes be deemed to be the member's correct address.

**4. Manner of filling vacancies. -** When the office of a Member becomes vacant by reason of death, resignation or otherwise the Chairperson shall submit a report to the Jammu and Kashmir Government and on receipt of such report, the Jammu and Kashmir Government may, by notification, fill up the vacancy and the persons so nominated shall hold office for the remainder of the term of office of the member in whose place he is nominated.

**5. Allowance of members. –**

- (i) The travelling allowance of an official member of the Board shall be governed by the rules applicable to him for journey performed by him on official duties and shall be paid by the authority paying his salary.
- (ii) Every non-official member of the Board shall be paid by the Board a sitting fee of Rupees Two Thousand and travel allowance at the rate of Rupees One Thousand per day subject to a maximum of three days.

**6. Functions of the Board. -** Every matter which the Board is required to take into consideration shall be considered at a meeting of the Board, or if the Chairperson so directs, by sending the necessary papers to every Member for opinion, and the matter shall be disposed of in accordance with the decision of the majority:

99

Provided that where there is no opinion of majority on a matter and the Members of the Board are equally divided, the Chairperson shall have a second or a casting vote.

**7. Meetings. –**

- (i) The Board shall meet at such places and at such times as may be decided by the Chairperson and it shall meet at least once in a quarter.
- (ii) The Chairperson shall preside over every meeting of the Board in which he is present and in his absence, the members nominated by him to preside over such a meeting in his place and in the absence of such nomination by the Chairperson, the Members of the Board present in such meeting may choose from amongst themselves Member to preside over the meeting.

**8. Notice of meetings and list of business. –**

- (i) Ordinarily, two weeks' notice shall be given to the Members of the Board of a proposed meeting.
- (ii) No business except which is included in the list of business for a meeting of the Board shall be considered at the meeting without the permission of the Chairperson.
- (iii) The Chairperson may at any time call a special meeting of the Board in case of urgency, after informing the Members in advance about the subject matter of discussion and the reasons of urgency.

**9. Quorum. –**

- (i) No business shall be transacted at any meeting of the Board unless at least six members are present in that meeting;  
Provided that if at a meeting, less than six members are present, the Chairperson may adjourn the meeting to another date informing the Members present and giving notice to the other Members that he proposes to dispose of the business at the adjourned meeting whether there is prescribed quorum or not, and it shall thereupon be lawful for him to dispose of the business at the adjourned meeting irrespective of the number of Members attending.
- (ii) The Jammu and Kashmir Government may by order remove a Member, other than Ex-Officio Members, if he absents himself from three

consecutive meetings of the Board without obtaining leave of absence from the Chairperson;

Provided no Member shall be removed from the office unless he has been given reasonable opportunity of being heard.

**4. The Manner to exercise the powers conferred on and to perform the functions assigned to Jammu & Kashmir Building and Other Construction Workers Welfare Board, the manner of nomination of Members, their term of office and other conditions of service, procedure to be followed in the discharge of their functions and manner of filling vacancies and time, place and rules of procedure relating to the transaction of business as per sub-section 4, clause (c) of sub-section 5, clause (c), clause (d) and clause (e) of sub section 6 of section 7.**

**1. Terms and Conditions of appointment of Chairperson and Members:**

The term of office of the Chairperson and the Members of the Board other than the Official Members shall be three years from the date of their appointment. Provided further that in no case the Members can continue in the office beyond the period of four years from the date of their appointment.

**2. Filling up of causal vacancies.** A Member nominated to fill a causal vacancy shall hold office for the remaining period of the term of office of the member in whose place he is nominated.

**3. Meeting of the Board:** The Board shall ordinarily meet once in two months. The Chairperson shall, within fifteen days of the receipt of a requisition in writing from the Secretary, call a meeting thereof.

**4. Notice of meeting and list of business.** Notice intimating the date, time and venue of every meeting together with a list of business to be transacted at the meeting shall be sent by electronically or otherwise, to each member at least fifteen days prior to the meeting of the Board.

Provided that when the Chairperson calls a meeting for considering any matter which in his opinion is urgent, notice of not less than three days in advance shall be deemed sufficient.

97

5. **Quorum for the meeting:** No business shall be transacted at any meeting of the Board unless, at least, six members are present.
6. **Absence of any member from the Government:** If any Member leaves the Government for a period exceeding six months without intimation to the Chairperson, he shall be deemed to have resigned from the Board and he shall cease to be a Member on the expiry of the said period of six months.
7. **Transaction of business:** Every question considered at a meeting of the Board shall be decided by a majority of the votes of the Members present and voting and in the event of tie, the Chairperson shall have a right to exercise his vote which shall be a casting vote.
8. **Minutes of the Meetings:** Every decision taken in a meeting of the Board shall be recorded and the decisions taken shall be issued in the shape of minutes by the Secretary after confirmation of the Board.
9. **Fees and Allowances:** (i) The travelling allowance of an official member of the Board shall be governed by the rules applicable to him for journey performed by him on official duties and shall be paid by the authority paying his salary.  
(ii) Every non-official member of the Board shall be paid by the Board a sitting fee of Rupees Two Thousand and travel allowance at the rate of Rupees One Thousand per day subject to a maximum of three days.  
(iii) The Chairperson shall be paid a sitting fee of Rupees Two Thousand for attending the meetings.
10. **Appointment and constitution of Sub-committees.**  
(i) The Board may appoint as many Sub-Committees, as it may deem fit for the proper discharge of its duties and every non-official member of such sub-committees shall be allowed travelling allowances and daily allowance for attending the meeting of the Sub-Committee at such rates as are admissible to a Deputy Secretary of the Jammu and Kashmir Government.  
(ii) The sub-committee(s) shall consist of the following persons, namely:
  - a). The Chairperson of the Board.
  - b). One Member representing the employers.

- c). One Member representing the building and other construction workers
- d). Two Members, not below the rank of a Deputy Secretary, to represent the Government.

(iii) The Chairperson of the Board or an independent Member as the case may be, nominated by him shall be the Chairperson of the sub-committee(s) also and in the absence of Chairperson the members present shall elect one amongst them to preside over the meeting.

(iv) No business shall be transacted in the meeting of a sub-committee unless at least three members of the committee are present of whom one shall be from the members representing employers and another one shall be from the members representing the building and other construction workers.

(v). The term of the sub-committee shall be one year from the date of its constitution.

(vi). The recommendation of the sub-committee shall be placed before the Board for its decision.

11. **Information to the Government.** The Board shall furnish information to Government on such matters as the government may refer to it, from time to time.

12. **Appointment of Secretary and other officers.** An Officer not below the rank of Additional Secretary to the Jammu and Kashmir Government from in service Officers may be appointed as Secretary of the Board and an Officer not below the rank of Under Secretary to the Jammu and Kashmir Government may be appointed in the Board at District level in addition to other staff provided to the Board from the Government Departments and appointed by the Board.

95

**5. The amount in connection with premium for group insurance scheme of the beneficiaries under clause (c) of Sub-Section 6 of Section 7:** The Jammu and Kashmir Building and Other Construction Workers Welfare Board shall devise a detailed scheme after taking into account all the parameters involved in the Social Security of the beneficiaries.

**6. Educational schemes for the benefit of children of the beneficiaries under clause (d) of sub-section 6 of Section 7.**

(1) **Financial Assistance for Education.** (a) The children of the beneficiary shall be entitled to financial assistance by the Board in the shape of scholarship categorised as per the following scale per academic year: -

|        |                                                                                                                                                                                                                                               |              |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| (i)    | Upto 5 <sup>th</sup> Class                                                                                                                                                                                                                    | Rs. 2500.00  |
| (ii)   | Class 6 <sup>th</sup> to 8 <sup>th</sup> Class                                                                                                                                                                                                | Rs. 3500.00  |
| (iii)  | Class 9 <sup>th</sup> to 10 <sup>th</sup>                                                                                                                                                                                                     | Rs. 4500.00  |
| (iv)   | Class 11 <sup>th</sup> to 12 <sup>th</sup>                                                                                                                                                                                                    | Rs. 6000.00  |
| (v)    | B.A.,B.Sc, B.Com, BBA, BCA, B.Tech or any other recognized degree course                                                                                                                                                                      | Rs. 10000.00 |
| (vi)   | ITI Course                                                                                                                                                                                                                                    | Rs. 10000.00 |
| (vii)  | Paramedical courses                                                                                                                                                                                                                           | Rs. 10000.00 |
| (Viii) | M.A.,M.Sc, LLB, B.Ed., LLM, M.Com, M.Lib, MBA, MCA or any other recognized PG Course                                                                                                                                                          | Rs. 15000.00 |
| (ix)   | Three Years Engineering or any other Recognised Diploma Course                                                                                                                                                                                | Rs. 30000.00 |
| (x)    | M.B.B.S.,B.E.,B.Tech, M.Tech.,B.D.S., B.V.Sc., B.Sc Agriculture, B.Sc. Horticulture, B.Sc Forestry, B.Sc Nursing, M.S., M.D. Bachelor of Physiotherapy or any other Technical or Medical Degree or PG Course and Doctor of Pharmacy (Pharm.D) | Rs. 50000.00 |

99

- (b). The financial assistance shall also be given to the dependent brothers/sisters of the beneficiary.
- (c) The financial assistance on account of education shall be available to the regular students, however in case of the students pursuing the study through distance mode from IGNOU, Jammu University, Kashmir University, the financial assistance may be extended on case to case basis.
- (d) The financial assistance in this behalf shall be restricted to two children/dependents of the beneficiary irrespective of the Class/Course in a particular academic year.
- (e) An application for grant of financial assistance under this rule shall be submitted to the officer authorised by the Board in this behalf in **Form-I and Form-II upto 12<sup>th</sup>** standard and higher education respectively.
- (f) The officer authorised by the Board, on detection of any fraud or wrong payment, may start proceedings of recovery of the amount paid as if these were arrears of land revenue.

(2) **Sponsorship Schemes for meritorious students of beneficiaries for professional degrees/diploma based on the percentage obtained in Class 12<sup>th</sup> /Class 10<sup>th</sup>.** The Jammu and Kashmir Building and Other Construction Workers Welfare Board shall formulate a sponsorship schemes for professional degrees/diploma based on the percentage obtained in Class 12<sup>th</sup> /Class 10<sup>th</sup> by the children of beneficiaries.

(3) **Providing Tab/Bicycles to the meritorious girl students.** The Jammu and Kashmir Building and Other Construction Workers Welfare Board shall formulate a schemes of providing Tab to the meritorious girl children of beneficiaries residing in hilly areas and bicycles to the meritorious girl children of beneficiaries residing in other areas.

(4). **Providing of one time Scholarship to the meritorious students of beneficiaries for preparing UPSC Civil Services and Jammu and Kashmir Combined Competitive Exams.** The Jammu and Kashmir Building and Other Construction Workers Welfare Board shall formulate a scheme of providing one time

93

Scholarship to the limited number of meritorious students of beneficiaries for enabling them to prepare for UPSC Civil Services and Jammu and Kashmir Combined Competitive Exams.

**7. Financial Assistance for treatment of chronic disease under clause (e) of sub section 6 of section 7.** The Board may provide financial assistance upto to maximum limit of Rs. 1.00 lac to the beneficiary and or his dependent family member in a financial year suffering from life consuming/chronic disease like cancer and other specified life consuming disease notified by the Government from time to time.

Provided that Jammu & Kashmir Building and Other Construction Worker's Welfare Board with the approval of Jammu and Kashmir Government can make any amendment in any of the schemes mentioned at Rule (5), Rule (6) and Rule (7).

92

### Chapter III Employees Insurance Court

Manner and time within which second appeal may be filed to the Employees Insurance Court by the Insured Person or the Corporation under Clause (b) of Sub-Section (7) of Section 37 of the code, the procedure to be followed by the Employees Insurance Court under sub-section (2) and the rules under sub-section (3) of section 50 and the manner of commencement of proceedings before the Employees Insurance Court, fees and procedure thereof under sub-section (1) of Section 51:

#### 8. Constitution of the presiding officer of Industrial Tribunal as an Employees Insurance Court:

- (1). The Jammu and Kashmir Government may constitute the Presiding Officer of the Industrial tribunal constituted under industrial relations code as an Employees Insurance Court for the Territorial Jurisdiction of Jammu and Kashmir and such presiding officer shall thereupon discharge the functions of the Employees insurance Court in addition to his own duties.
- (2) **Fixing of time of sitting.** (i) The Court shall appoint the time at which it shall sit at Srinagar and Jammu for holding proceedings under the provisions of this code.  
(ii) The Court shall publicize the timing so fixed well in advance for the convenience of stake holders.
- (3) A Court shall be subject to the administrative control and superintendence of the High Court and shall---
  - (a) Keep such registers, books and accounts as the High Court may, from time to time, direct; and
  - (b) Comply with such requisitions as may be made by the High Court or the Government for submission of service records, returns and statements, in such forms and in such manner as the authority making the requisition directs.
  - (c) A Court shall keep a seal of such size, dimensions and design as the Government may direct.

91

**(9) Right to File Second Appeal:-** The Insured person or the Corporation may appeal to the employees Insurance Court by presenting an application within 90 days of the date of communication of decision of the Medical Board or of the Medical Appeal Tribunal to the Insured Person or the Corporation, as the case may be: Provided that the Employees Insurance Court may entertain an application after the period of 90 days, if it is satisfied that the appellant has sufficient reason for not presenting the application within the said period.

**(10) Application:**

- (1) Every proceeding under section 49 of the code shall be instituted by the presentation of an application to the court.
- (2) Every such application shall be verified in the same manner as a pleading in a Civil Court and shall be accompanied by two copies thereof.
- (3). (a) the proceedings before an Employees Insurance Court shall commenced by an application.
- (b) Such application shall be presented in **Form-III**, shall be duly stamped in accordance with these rules, and shall contain the following particulars:
  - (i) The name of the Court in which the application is brought;
  - (ii) The full name including the father's name, description including age, occupation and place of residence of the applicant;
  - (iii) The full name including the father's name, description including age, occupation and place of residence of the opposite party so far as they can be ascertained;
  - (iv) Where the applicant or the opposite party is a minor or a person of unsound mind, a statement to that effect and the full name, age, occupation and address of his or her next friend or guardian;
  - (v) The facts constituting the cause of action and the date when it arose;
  - (vi) The facts showing that the court has jurisdiction;
  - (vii) Particulars giving the address within the jurisdiction of the court at which notice or summons may be served on the applicant; and
  - (viii) The relief which the applicant claims.

**11. The court may summarily reject an application, if it is not in accordance with sub-rule (2) of Rule 10.**

90

**(12) Production of Documents:**

- (1) When any application is based upon a document, the document shall be appended to the application.
- (2) any document, which any party desires to tender in evidence, shall be produced at or before the first hearing.
- (3) Any document which is not produced at or within the time specified in sub rule (1) or (2), as the case may be, shall not, without the permission of the court, be admissible in evidence on behalf of the party who should have produced it.
- (4) All such documents shall be accompanied by an accurate list thereof prepared in the manner prescribed in **Form IV**
- (5) Nothing in this rule shall apply to any documents which is produced for the purpose of cross-examining a witness or is handed to a witness to refresh his memory.

**13. Register of Applications:** All application shall be entered in a register in **Form V** called the Register of Proceedings. Such entries shall be serially numbered for every calendar year according to the order in which the applications are presented.

**14. Place of Suing:-** In cases falling outside the area in which the insured person was working at the time the question or dispute arose, a proceeding against any person shall be instituted in the court within the local limits of whose jurisdiction—

- (a) the opposite or each of the opposite parties where there are more than one, at the time of commencement of the proceedings, actually and voluntary resides, or carries on business, or personally works for again, or;
- (b) any of the opposite party, where there are more than one, at the time of commencement of the proceedings, actually and voluntary resides, or carries on business, or personally works for again, provided that in such cases, either leave of the court is given , or the opposite parties who do not reside, carry on business or personally work for again, as aforesaid, acquiesce in such institution, or
- (c) The cause of action, wholly or in part, arose.

89

**15. Limitations:-**

(1) Every application to the court shall be brought within three years from the date on which the cause of action arose, or as the case may be, the claim became due: Provided that the court may entertain an application after the said period of three years if it is satisfied that the applicant has sufficient reasons for not making the application within the said period.

(2). Subject as aforesaid, the provisions of part (ii & iii of the Indian Limitation Act-1908 (Central Act-IX of 1908), shall, so far as may be apply to every such applications.

**16. Applications presented to Wrong Court:-**

(1). Where, on receiving an application, it appears to the court that it should be presented to another court, it shall return to the applicant after endorsed upon it the dates of presentation and return, the reason for returning it and the name of the court to which it should be presented.

(2). Where it appears to the court at any stage subsequently to the presentation of an application, that the application should have been presented to another court in the same state, the first mentioned court shall send the application to the court empowered to deal with it and shall inform the applicant ( and the opposite party, if he has received a copy of application under rule-17) accordingly.

(3). The court to which an application is transferred under sub-rule (2) may continue the proceeding as if the previous proceeding or any part of it had been taken before it, if it is satisfied that the interests of the parties will not thereby be prejudiced.

**17. Issue of Summons:-**

(1). On receiving an application, the court shall ordinarily within three days thereof, cause to be send to the party from whom the applicant claims relief (hereinafter referred to as the "opposite party"), a summon in **Form-VI and Form VII**, electronically or otherwise, as the case may be, to appear and answer the application on a day, not later than fifteen days from the date of issuance of such summons:

Provided that no such summons shall be issued when the opposite party has appeared at the presentation of the application and admitted the applicant's claim'.

(2). A copy of application shall also be send alongwith the summons under sub-rule (1).

**18. Service of Summons or Notice:-**

(1). A summon or notice may, on payment of the required fee, be sent by the court by which it is issued, either by registered post or in such other manner as the court thinks fit.

(2), where the court is satisfied that there is reason to believe that the opposite party is avoiding service or that for any reason the summons or the notice cannot be served in the ordinary way, the court shall order summons or the notice to which served by publication in the leading newspapers or in any other mode as may court think proper.

(3). Where a summons or notice is served under sub rule (2) the court shall fix such time for the appearance of the opposite party as the circumstances of the case may required.

**19. Additions at matter at Summons:-**The court shall determine at the time of issuing of summons, whether it shall be for the settlement of the issues only or for the final disposal of the application, or for both and the summons shall contain a direction accordingly: the court may call upon the parties to produce upon that date any evidence which they wish to tender.

**20. Written Statement:-** (1). The opposite party may, and, if so required by the court, shall, at or before the first hearing or within such time as the court may permit, present a written statement of his defence alongwith the documents on which he relies and an accurate list thereof in **Form-IV**.

(2). Every such written statement shall be verified in the same manner as a pleading in a civil court and shall be accompanied by two copies thereof.

(3). In every written statement submitted under **sub-rule (1)**, the opposite party shall deal specifically with each allegation of fact alleged by the applicant, of which he admitted or does not admit or denies the truth. The written statement must also contain all matters which show that the application is not maintainable and all such grounds of defence as, if not raised would be likely to take the applicant by surprise or would raise issues of fact not arising out of the application as for instant, fraud,

87

undue influence or coercion, release, pain, performance or fact showing illegality of the transaction.

**21. Failure to Present Written Statement called for by the Court:-** Where any party from whom a written statement is required fails to present the same within the time prescribed by the court, the court may pronounce judgement against it or make such order in relation to the proceeding as it thinks fit.

**22. Framing of Issues:-** (1) At the first hearing of the application, after the summons is served, the court shall, after considering the application and written statement, if any, or after such examination of the parties or any person or any document as may appear necessary, ascertain upon what material proposition of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issue upon which the right decision appears to depend.

(2). In recording the issues, the court shall distinguish between those issues which in its opinion concern points of facts and those which concern points of law.

(3). The court may, in like manner, at any time before passing its final order at to, strike out from or in any way amend the issues on such terms as it may think fit.

**23. Order where parties are not at Issue:-** where at any hearing of the case it appears that the parties are not at issue on any question of law or a fact, the court may at once pronounce its final order.

**24. Appearance of parties and Consequence of Non Appearance:-**

(1) On the day fixed in the summons for the opposite party to appear and answer, the parties shall be in attendance at the court in person or or as prescribed in sub section (2) of section (51) of the code.

(2). When neither party appears when the application is called on for hearing, the court may make an order that the application be dismissed.

(3). Where the opposite party appears and the applicant does not appear when the application is called on for hearing, the court shall make an order that the application be dismissed. However if the opposite party admits the claim or part thereof in which case the court shall make an order against the opposite party upon such admissions and where part only of the claim has been admitted, it shall dismiss the case so far as it relates to the remainder.

96

(4). Where the applicant appears and the opposite party after receiving the summons fails to appear when the application is called on for hearing, the court may proceed ex-parte.

(5). Where the application is wholly or partially dismissed under sub rule (2) or (3) the applicant may within thirty days of such dismissal apply in **Form-VIII** for an order to set the dismissal aside and the court shall, if it is satisfied that he was prevented from appearing when the proceeding was called on for hearing due to any sufficient cause make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit and may proceed with the case or appoint a day for proceeding with the same:

Provided that no order under this sub rule shall be made in respect of an application which is dismissed under sub rule (3) unless notice of the application has been served in **Form-IX** on the opposite party.

(6). In any application in which an ex-parte order has been passed against the opposite party, he may within thirty days from the date of such order apply in **Form-VIII** to the court which passed the order to set it aside and if the court is satisfied that he was prevented from appearing when the proceeding was called on for hearing due to any sufficient cause, it shall after servicing notice thereof to the applicant in **Form-IX** make an order setting aside the order upon such terms as to costs or otherwise as it thinks fits or may proceed within the hearing of the case or appoint a day for proceeding within the same.

**25. Summoning of Witnesses:-** (1) At any time after the framing of issues, the court may call upon the parties to produce their evidence in support of the issues.

(2). The court may, on the application of either party, issue a summons in **Form-X** to any witness directing him to attend or to produce any document.

(3). The court may, before summoning any witness on application under sub-rule (2) require that his reasonable expenses to be incurred in attending the court, be deposited with it.

**26. Grant of Time and Adjournment of hearing:-**

(1). The court may, if sufficient cause is shown, at any stage of the application, grant time to the parties or to any of them, and may , from time to time, adjourn the hearing of the application.

(2). In every such adjournment, the court shall fix a day not exceeding fifteen days from the date on which such adjournment is made for the further hearing of the application and may make such order as it thinks fit with respect to the cost occasioned by the adjournment:

Provided that when the hearing of the evidence has once begun, the hearing of the application shall continue from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.

**27. Right to begin to Proceeding:-**the applicant has the right to begin unless the opposite party admits the facts alleged by the applicant and contends that, either in point of law or on some additional facts alleged by the opposite party, the applicant is not entitled to the relief which he seeks, in which case the opposite party has the right to begin.

**28. Statement and Production of Evidence:-** (1). On the day fixed for the hearing of the application or on any other day to which hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

(2). The other party shall then state his case and produce his evidence, if any, and may then address the court generally on the whole case.

(3). The party beginning may then reply generally on the whole case.

**29. Method of Recording Evidence:-** The evidence of each witness shall be taken down in writing in the language of the court, not ordinarily in the form of question and answer, but in that of narrating, and when completed, shall be read over or translated, where necessary, in the presence of the judge to the witness, and such judge, shall, if necessary, correct the same and sign it.

85

**30. Recall of Witness:-** The court may at any stage of a proceeding recall any witness who has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the court thinks fit.

**31. Inspection by Court:-** The court may at any stage of a proceeding inspect any property or thing concerning which any question may arise.

**32. Pronouncement of Order:-**The court, after the application has been heard, shall pronounce its final order in open court, either at once or on some future day, of which due notice shall be given to the parties.

**33. Signing of Order:-** The final order shall be dated and signed in open court at the time of pronouncing it and, when once signed, shall not afterwards be altered or added to, save in the case of clerical or arithmetical mistake arising from any accidental slip or omission.

**34. Statement of Decision on each Issue:-** In cases in which issues have been framed the court shall state its finding or decision, with the reason therefore, upon each separate issue, unless the findings on any one or more of the issues is sufficient for the decision of the case.

**35. Compromise of Suit:** - Where it is proved to the satisfaction of the court that a case has been adjusted wholly or in part by any lawful agreement or compromise or where the opposite party satisfies the applicant in respect of the whole or any part of the subject matter of the case, the court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a final order in accordance therewith so far as it relates to the case.

**36. Finality of Order:-** Save as provided in section (52), the order of a court shall be final and binding upon the parties

**37. Costs:-**

(1). The cost of and incidental to the application shall be in the discretion of the court, and the court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purpose aforesaid. The fact that the court has no jurisdiction to try the case shall be no bar to the exercise of such powers.

(2). Where court directs that any cost shall not follow the event, the court state its reason in writing.

84

### **38. Contents of the Decree:**

(1) A decree in **Form-XI** shall be prepared in conformity with the order made by the court; it shall contain the number of application, the names and descriptions of the parties, and particulars of the claim, and shall specify clearly the relief granted or other determination of the proceedings.

(2). The decree shall also state the amount of costs incurred in the proceeding and by whom and in what proportions such costs are to be paid.

(3) the court may direct that the cost payable to one party by the other shall set off against any sum which is admitted or found to be due from the former to the later.

### **39. Certified copies of Order, Decree, etc to be furnished:-**

(1) certified copies of the final order, decree or any other order or matter on record shall be furnished to the parties on application to the court and at their expenses.

(2). If any party required copies of any order, decree or any other matter on record made by or furnished to the court, as the case may be, to be supplied to him within 48 hours of the submission of an application therefore to the court, he shall pay an additional fee of 2 rupees per page of each such copy.

(3) if any party applies for copies of any order, decree or any other matter on record made by or furnished by the court, as the case may be, after the expiry of the 12 months from the date of such making or furnishing, as the case may be, he shall pay an additional searching fee of 5 rupees per page.

### **40. Execution:-**

(1). Any person in whose favour an order has been passed shall, within one year from the date of the order, apply in **Form-XII** to the court which made the order for its execution.

(2) An order of the Employees Insurance Court shall be enforceable by it as if it were a decree passed in a suit by a Civil Court.

### **41. Fees:-**

(1). The fee payable on an application in respect of any matter referred in section (49) shall be 50 rupees.

(2) Subject to the provisions hereafter mentioned in this rule, the fee payable in respect of any other application except a written statement called for by the court under these rules shall be 50 Rupees.

83

Provided that the fee for an application for obtaining a copy of translation of any document or record or statement order or decree presented to or made before or by the court, as the case may be, shall be 10 rupees per page.

(3). The fee for copies of any document or record, or statement or order or decree shall be two rupees per page.

(4). The fee for any authorisation for the appearance of any person under subsection (2) Section (51) on behalf of any of the parties in a case shall be Ten rupees

(5). The fee for filling certified copies of any document in the court shall be Ten rupees.

(6). All fees referred to in this rule and in **rule (39)** shall be collected by means of court fees stamps used in ordinary courts and no document which ought to bear stamp under these rules shall be of any validity unless and until it is properly stamped. Provided that, where any such document is through mistake or inadvertence received, filed or used in a court without being properly stamped, the court may, if it thinks fit, order that such document be stamped as it may direct and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

(7). No document requiring a stamp under this rule shall be acted upon in any proceeding in a court, until the stamp has been cancelled.

#### **42. Payment of Costs of Services of Summons etc.:-**

(1). The cost of services of summons or notices or the expenses of the witnesses in any case or the fee payable in respect of any matter not referred to in **rule (41)** shall be such amount as may be specified in each case by the court: and such amount or any other sum of money payable under these rules shall be paid in such manner and within such time as it may specify therefor.

(2). Any amount which is left over after meeting the expenses, if any, for which it was intended, shall be returned by the court to the party by whom or whose behalf the amount was originally paid into the court .

(3). The court shall maintain proper accounts of the amount received and disbursed under sub-rule (1).

**43. Fees and Costs of Pauper Person:-** The court may, whenever it thinks fit, receive and register proceedings instituted under this act an applications made

92

under these rules, by persons who are paupers, and may issue summons or notices on behalf of such persons, without payment or on a part payment of fees and costs mentioned in **rules (41 and 42)**.

1

81

## Chapter IV

### Gratuity

**44. Bank or other financial institution in which the gratuity shall be invested for the benefit of minor under the third proviso to sub-section (1) of section 53:-** In the case of nominee, or an heir, who is minor, the competent authority shall invest the gratuity amount deposited with him for the benefit of such minor in term deposit with the Jammu and Kashmir Bank.

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

A nomination shall be in **Form-(XIII)** and submitted in duplicate by the employee either by personal service, after taking proper receipt or by registered post acknowledgement due or electronically to the employer,

(i) in the case of an employee who is already in employment for a year or more on the date of commencement of these rules but not submitted the nomination, ordinarily, within ninety days from such date; and

(ii) in the case of an employee who completes one year of service after the date of commencement of these rules, ordinarily within thirty days of the completion of one year of service:

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

(2) Within thirty days of the receipt of nomination in **Form-XIII** under sub-rule (1), the employer shall get the service particulars of the employee, as mentioned in the form of nomination, verified with reference to the records of the establishment and return to the employee, after obtaining a receipt thereof, the duplicate copy of the nomination in **Form-XIII** duly attested either by the employer or an officer authorised in this behalf by him, as a token of recording of the nomination by the employer and the other copy of the nomination shall be recorded.

(3) An employee who has no family at the time of making a nomination shall, within ninety days of acquiring a family submit in the manner specified in sub-rule (1), a

98

fresh nomination, as required under sub-section (4) of section 55, duplicate in **Form-XIII** to the employer and thereafter the provisions of sub-rule (2) shall apply *mutatis mutandis* as if it was made under sub-rule (1).

(4) A notice of modification of a nomination, including cases where a nominee predeceases an employee, shall be submitted in duplicate in **Form-XIII** to the employer in the manner specified in sub-rule (1), and thereafter the provisions of sub-rule (2) shall apply *mutatis mutandis*.

(5) A nomination or a fresh nomination or a notice of modification of nomination shall be, signed by the employee or, if illiterate, shall bear his thumb impression and shall be submitted by the employee electronically or by registered post acknowledgement due.

(6) A nomination, fresh nomination or notice of modification of nomination shall take effect from the date of receipt thereof by the employer.

**46. Time within which and the form in which a written application shall be made under sub-section (1) and the form of application to the competent authority under clause (b) of sub-section (5) of section 56.-** (1) **Application for Gratuity:** (a) An employee who is eligible for payment of gratuity under the Code, or any person authorised, in writing, to act on his behalf, shall apply, ordinarily within thirty days from the date the gratuity became payable, in **Form-(XIV)** to the employer:

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

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

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

79

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

(c) A legal heir of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 53 shall apply, ordinarily within one year from the date of gratuity became payable to him, in **Form-XIV** to the employer.

(d) Where gratuity becomes payable under the Code before the commencement of these rules, the periods of limitation specified in clauses (a), (b) and (c) sub-rule (1) shall be deemed to be operative from the date of such commencement.

(e) An application for payment of gratuity filed after the expiry of the periods specified in this rule shall also be entertained by the employer, if the applicant adduces sufficient cause for the delay in preferring his claim, and no claim for gratuity under the Code shall be invalid merely because the claimant failed to present his application within the specified period. Any dispute in this regard shall be referred to the competent authority for his decision.

(f) An application under this rule shall be presented to the employer either by electronically or personal service or by registered post acknowledgement due.

(2) **Notice for payment of gratuity:** (a) Within fifteen days of the receipt of an application under sub-rule (1) for payment of gratuity, the employer shall-

(i) if the claim is found admissible on verification, issue a notice in **Form-XV** to the applicant employee, nominee or legal heir, as the case may be, specifying the amount of gratuity payable and fixing a date, not being later than the thirtieth day after the date of receipt of the application, for payment thereof, or

(ii) if the claim for gratuity is not found admissible, issue a notice in **Form-XV** to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible.

In the case of denial of gratuity a copy of the notice shall be endorsed to the competent authority.

(b) In case payment of gratuity is due to be made in the employer's office, the date fixed for the purpose in the notice in **Form-XV** under sub-clause (i) of clause (a) sub-rule (2) shall be re-fixed by the employer, if a written application in this behalf is

78

made by the payee explaining why it is not possible for him to be present in person on the date specified.

c) If the claimant for gratuity is a nominee or a legal heir, the employer may ask for such witness or evidence as may be deemed relevant for establishing his identity or maintainability of his claim, as the case may be. In that case, the time limit specified for issuance of notices under clause (a) of sub-rule (2) shall be operative with effect from the date such witness or evidence, as the case may be, called for by the employer is furnished to the employer.

(d) A notice in **Form-XV** shall be served on the applicant either by personal service after taking receipt or by registered post with acknowledgement due or electronically.

(e) A notice under sub-section (2) of section 56 shall be in **Form-XV**.

(3) **Mode of payment of gratuity:** The gratuity payable under the Code shall be paid through Demand Draft or by crediting in the bank account of the eligible employee, nominee or legal heir, as the case may be:

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

(4) **Application to competent authority for direction under clause (b) of sub-section (5) of section 56:** (a) If an employer-

(i) refuses to accept a nomination under rule 34 or to entertain an application sought to be filed under sub rule (1), or (ii) issues a notice under clause (a) of sub-rule (2) either specifying an amount of gratuity which is considered

by the applicant less than what is payable or rejecting eligibility to payment of gratuity, or

(iii) having received an application under sub-rule (1) fails to issue notice as required under sub-rule (2) within the time specified therein, the claimant employee, nominee or legal heir, as the case may be, may, within one hundred eighty days of the occurrence of the cause for the application, apply in **Form-XVI** to the competent authority for issuing a direction under sub-section (5) of section 56 with as many extra copies as are the opposite party:

77

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

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

(5) **Procedure for dealing with application for direction :** (a) On receipt of an application under sub-rule (4) the competent authority shall, by issuing a notice in **Form-XVII**, by electronically or registered post acknowledgment due or in person call upon the applicant as well as the employer to appear before him on a specified date, time and place, either by himself or through his authorised representative together with all relevant documents and witnesses, if any.

(b) Any person desiring to act on behalf of an employer or employee, nominee or legal heir, as the case may be, shall present to the competent authority a letter of authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act together with a written statement explaining his interest in the matter and praying for permission so to act. The competent authority shall record thereon an order either according his approval or specifying, in the case of refusal to grant the permission prayed for, the reasons for the refusal.

(c) A party appearing by an authorised representative shall be bound by the acts of the representative.

(d) After completion of hearing on the date fixed under clause (a), or after such further evidence, examination of documents, witnesses, hearing and inquiry, as may be deemed necessary, the competent authority shall record his finding as to whether any amount is payable to the applicant under the Code. A copy of the finding shall be given to each of the parties.

(e) If the employer concerned fails to appear on the specified date of hearing after due service of notice without sufficient cause, the competent authority may proceed to hear and determine the application ex parte. If the applicant fails to appear on the specified date of hearing without sufficient cause, the competent authority may dismiss the application:

36

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

(6) **Place and time of hearing.-** The sittings of the competent authority shall be held at such times and at such places as he may fix and he shall inform the parties of the same in such manner as he thinks fit.

(7) **Administration of oath.-** The competent authority may authorise a clerk of his office to administer oaths for the purpose of making affidavits.

(8) **Summoning and attendance of witnesses.-** The competent authority may, at any stage of the proceedings before him, either upon or without an application by any of the parties involved in the proceedings before him, and on such terms as may appear to the competent authority just, issue summons to any person in **Form- XVII** either to give evidence or to produce documents or for both purposes on a specified date, time and place.

(9) **Service of summons or notice.-** (a) Subject to the provisions of clause (b) any notice, summons, process or order issued by the competent authority may be served either personally or by registered post acknowledgement due or electronically or in any other manner as prescribed under the Code of Civil Procedure, 1908 (5 of 1908).

(b) Where there are numerous persons as parties to any proceeding before the competent authority and such persons are members of any trade union or association or are represented by an authorised person, the service of notice on the Secretary, or where there is no Secretary, on the principal officer of the trade union or association, or on the authorised person shall be deemed to be service on such persons.

(10) **Maintenance of records of cases by the competent authority.-** (a) The competent authority shall record the particulars of each case under section 56 and at the time of passing orders shall sign and date the particulars so recorded.

(b) The competent authority shall, while passing orders in each case, also record the findings on the merits of the case and file it together with the memoranda of evidence with the order sheet.

75

(c) Any record, other than a record of any order or direction, which is required by these rules to be signed by the competent authority, may be signed on behalf of and under the direction of the competent authority by any subordinate officer appointed in writing for this purpose by the competent authority.

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

(12) **Appeal.-** (a) The Memorandum of appeal under sub-section (8) of section 56 of the Code shall be submitted to the appellate authority with a copy thereof to the opposite party and the competent authority either through delivery in person or under registered post acknowledgement due or electronically.

(b) The Memorandum of appeal shall contain the facts of the case, the decision of the competent authority, the grounds of appeal and the relief sought.

(c) There shall be appended to the Memorandum of appeal a certified copy of the finding of the competent authority and direction for payment of gratuity.

(d) On receipt of the copy of Memorandum of appeal, the competent authority shall forward records of the case to the appellate authority.

(e) Within fourteen days of the receipt of the copy of the Memorandum of appeal, the opposite party shall submit his comments of each paragraph of the memorandum with additional pleas, if any, to the appellate authority with a copy to the appellant.

(f) The appellate authority shall record its decision after giving the parties to the appeal a reasonable opportunity of being heard. A copy of the decision shall be given to the parties to the appeal by electronically or registered post or in person and a copy thereof shall be sent to the competent authority returning his records of the case.

74

(g) The competent authority shall, on receipt of the decision of the appellate authority, make necessary entry in the records of the case maintained by him.

(h) On receipt of the decision of the appellate authority, the competent authority shall, if required under that decision, modify his direction for payment of gratuity and issue a notice to the employer concerned in **Form-XVIII** specifying the modified amount payable and directing payment thereof to the applicant, under intimation to the competent authority within fifteen days of the receipt of the notice by the employer. A copy of the notice be endorsed to the appellant employee, nominee or legal heir, as the case may be, and to the appellate authority.

(13) **Application for recovery of gratuity**---Where an employer fails to pay the gratuity due under the Code in accordance with the notice by the competent authority under sub-rule (11) or sub-rule (12), as the case may be, the employee concerned, his nominee or legal heir, as the case may be, to whom the gratuity is payable may apply to the competent authority in duplicate in **Form XIX** for recovery thereof under section 129 of the Code.

**47. The manner of registration of an establishment by the employer under sub section (3) and the manner of composition of Board of Trustees of the approved Gratuity Fund and the manner in which the competent authority may recover the amount of the gratuity payable to an employee from the insurer under sub-section (4) of section 57--**

**(1) Obtaining Insurance for payment of Gratuity.** - Every employer other than an employer of an establishment belonging to, or under the control of, the Central Government or a State Government, shall subject to provisions of clause (i) sub section (1) under section 57, obtain an insurance in the manner prescribed for his liability for payment towards the gratuity under this Act, from any Insurance Company regulated by the authority as defined under clause (b) of sub-section (1) of Section 2 of the Insurance Regulatory and Development Authority Act, 1999.

**(2) Recovery of the amount of Gratuity.** - (i) The Competent Authority appointed under sub-section (4) of section 57 is authorized to recover the amount of the Gratuity payable to an employee, from the insurer with whom an Insurance has been taken under sub-section (1) or as the case may be, the Board of Trustees of



73

the approved Gratuity Fund as defined in sub-section (5) of section 2 of the Income Tax Act, 1961.

(ii) Such Board of Trustees should include equal number of representatives of the employer and the employees of the establishment.

**3. Registration of Establishment:** (i) Every employer of an establishment covered by the code shall get his establishment registered with the Competent Authority of the area in **Form-XX**, within 30 days from the notification of the compulsory insurance provided under sub-section (1) of section (57) of the code, along with details of employees of the establishment, to be furnished in **Form-XXII**.

(ii) Every employer shall furnish the details of the employees insured, to the competent authority in **Form-XXII** at the time of registration of the establishment with the competent authority and thereafter whenever there is a change in the employees insured

**4. Continuing approved Gratuity Fund.** - Every employer of an establishment covered under the Code, who had already established an Approved Gratuity Fund in respect of his employees and who desires to continue such arrangement, and every employer employing 500 or more persons who establishes an Approved Gratuity Fund in accordance with sub-section (5) of section 2 of the Income Tax Act, 1961 may opt to continue / adopt such arrangement by submitting an option in **Form-XXI**, provided such existing Approved Gratuity Fund covers the entire liability of all the employees of the establishment, under the Act.

**48. Qualifications and experience of the officer appointed as the competent authority under sub-section (1) of section 58---**The Government of Jammu and Kashmir may be notification appoint an officer not below the rank of Assistant Labour Commissioner to be a competent authority for implementation of any provisions of Chapter-V of Social Security Code, 2020 for such area as may be specified in the said notification.

(72)

**CHAPTER V**

**MATERNITY BENEFIT**

- 49. Authority to whom an appeal may be preferred under sub-section (3) of section 72.-** (1) **Complaint under section 72.—** (a) A complaint under sub-section (1) of section 72 shall be made in writing in **Form-(XXIII)** as the case may be.
- (b) When a complaint referred to in section 72 is received by an Inspector-cum-Facilitator, he shall examine the relevant records maintained by the employer in this behalf, examine any person employed in the establishment and take down necessary statement for the purpose of the enquiry and if he is satisfied that the maternity benefit or the amount has been improperly withheld, he shall direct the employer to make the payment to the woman or to the person claiming the payment under section 63, as the case may be, immediately or within a specified period.
- (2) **Appeal under section 72.—** (a) An appeal against the decision of the Inspector-cum-Facilitator under sub-section (2) of section 72, shall lie to the Competent Authority.
- (b) The aggrieved person shall prefer an appeal in writing to the prescribed Authority in **Form-(XXIV)** and file other supporting documents.
- (c) When an appeal is received, the prescribed Authority shall call from the Inspector-cum-Facilitator before a fixed date, the record of the case. The prescribed Authority shall, if necessary, also record the statements of the aggrieved person, and of the Inspector-cum-Facilitator and seek clarification if any is required.
- (d) Taking into account the documents, the evidence produced before him and the facts presented to him or ascertained by him, the prescribed Authority shall give his decision.

## CHAPTER VI

### EMPLOYEES COMPENSATION

**50. The Amount to be deposited towards expenditure of the funeral of the employee with the Competent Authority by the employer under sub section 7 of section 76.** If the injury of the employee results in his death, the employer shall, in addition to the compensation under sub section (1), deposit with the competent authority a sum of not less than fifteen thousand rupees for payment of the same to the eldest surviving dependent of the employee towards the expenditure of the funeral of such employee or where the employee did not have the dependent or was not living with his dependent at the time of his death, to the person who actually incurred such expenditure.

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

- 1 **Application for review of a half monthly payment under sub section (1) of section-79 may be made without being accompanied by a medical certificate.**
  - a) by the employer on the ground that since the right to compensation was determined the Employee's wages have increased;
  - b) by the employee, on the ground that since the right to compensation was determined, his wages have diminished;
  - c) by the Employee's, on the ground that employer, having commenced to the pay compensation, has ceased to pay the same, notwithstanding, the fact that there has been no change in the Employee's condition such as to warrant such cessation;
  - d) either by the employer, or by the employee, on the ground that in the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means;
  - e) either by the employer, or by the employee on the ground that in the determination of compensation there is a mistake or error apparent on the fact of the record.
2. **Procedure on application for review**---if, on examining an application for review by an employer in which the reduction or discontinuation of half monthly payments is sought it appears to the Competent Authority that there is reasonable

70

ground for believing that the employer has a right to such reduction or discontinuance he may at any time issue an order withholding the half monthly payments in whole or in part pending his decision on the application.

**52. Procedure on application for commutation.**

(1) where application is made to the Competent Authority under section (80) for the redemption of a right to receive half monthly payments the payment of a lump sum, the Competent Authority shall form an estimate of the probable jurisdiction of the disablement, and shall award a sum equivalent to the total of the half monthly payments which would be payable for the period during which the estimates that the disablement will continue, less one half percent, of the total for each month comprised in that period:

Provided that fraction of a rupee including in the sum so computed shall be disregarded.

(2) When, any case to which sub rule (1) applies to Competent Authority is enable to form an approximate estimate of the probable duration of the disablement, he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

**53. Class of employers and the form of notice-book under sub-section (4) of section 82-** Every Employer of an establishment dealing with hazardous nature of work shall maintain at his premises where employees are employed a notice book in **Form-XXV**.

**54. Medical Examination under sub section (1) of section (84) & the frequent interval for medical examination under the proviso to sub-section (1) of section 84.**

(1). **Employee not to be required to submit a medical examination same in accordance with rules--**An employee who is required by sub section(1) of section (84) to submit himself for medical examination shall be bound to do so in accordance with the rules contained in this part and not otherwise.

(2). **Examination when employee and medical practitioner both on premise---** When such employee is present at the employer's premises and the employers offers

69

to have him examined free of charge by a qualified medical practitioner who is so present, the employee shall submit himself for examination forthwith.

(3). **Examination in other cases---** In cases to which sub-rule (2) does not apply the employer may -

(a). Send the medical practitioner to the place where the employee is residing for the time being in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner; or

(b). Send to the employee and offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the employee shall submit for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified:

Provided that:-

(i). The time so specified shall not, save with the express consent with the employee, be between the hours of 7 PM and 6 AM., and

(ii). In case where the employee's condition renders it impossible or in advisable that he should leave the place where he is residing the time being, he shall not be required to submit himself for medical examination save at such place.

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

(5). **Examination after suspension of right to compensation--** If an employee whose right to compensation has been suspended under sub-section (2) or sub-section (3) of section (84) subsequently offers himself for medical examination, his examination shall take place on the employer's premises or not such other places in the vicinity as may be fixed by the employer and at a time to be fixed by the employer not being save with the express consent of the employee, or more than 2 hours after the employee has so offered himself.

(6). **Examination of Women----** (a) No women shall without her consent medical examined by a male practitioner, save in the presence of another women.

68

(b). No women shall be required to be medically examined by a male practitioner if she deposited a sum sufficient to cover the expenses of examination by a female practitioner.

**55. The form of statement to be submitted by the employer under sub-section (1) of section 88-**

The employer within 30 days from the date of receiving notice from the competent authority will furnish the statement in **Form-XXVI**.

**56. The manner of recording the memorandum in a register by the competent authority under sub-section (1) of section 89.**

(1). **Form of Memorandum**—Memorandum of agreement sent to the Competent Authority under sub section (1) of section (89) shall unless the Competent Authority otherwise directs be in duplicate, and shall be in as close conformity as the circumstance of the case admitted with **Form-XXVII or Form-XXVIII or Form-XXIX** or as the case may be.

(2). **Procedure where competent authority does not consider that he should refuse to record memorandum--**

(i) On receiving a memorandum of agreement, the competent authority shall unless he consider that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall issue a notice in writing in **Form-XXX** to the parties concerned that in default of objection he proposed to record the memorandum on the date so fixed:

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

(ii) On the date so fixed, the competent authority shall record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he considers that it ought not to be recorded:

Provided that the issue of notice under clause (i) shall not be deemed to prevent the competent authority from refusing to record the memorandum on the date so fixed even if no objection be made by any party concerned.

(iii) If on such date the competent authority besides that the memorandum ought not to be recorded, he shall inform the parties present of his decision and of the

67

reason therefore and if any party desiring the memorandum to be recorded, if not present, he shall send information to that party in **Form-XXXI**

**(3). Procedure when competent authority considers that he should refuse to record memorandum--**

(i) If, on receiving a memorandum of agreement, the Competent Authority considers that are grounds for refusing to record the same, he shall fix a date for hearing the party or parties desiring a memorandum to be recorded, and shall inform such party or parties and if he think fit, any other party concerned of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(ii) If, the parties to be informed are not present, a written notice shall be sent to them in **Form-XXXII or Form-XXXIII** as the case may be, and the date fixed in such notice shall be not less than 7 days after the date of the issue of the same.

(iii) If, on the date so fixed under Clause (i) the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to record the same, the competent authority may if information has already be given to all the parties concerned record the agreement. If information has not been given to all such parties he shall proceed in accordance with the sub-rule (2).

(iv) If, on the date so fixed the competent authority refuses to record the memorandum he shall send notice in **Form-XXXI** to any party who did not received information under Clause (i).

**(4) Procedure on refusal to record memorandum---**

(i) If, in any case the competent authority refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(ii) If, the competent authority refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above sum specified in the agreement unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid. Where the agreement is for the redemption of half monthly payments by the payment of a lump sump, and the competent authority considers that the memorandum of agreement should not be recorded by reasons of the inadequacy of the amount of

such sum has fixed in the agreement he shall record his estimates of the probable duration of the disablement of the employee.

**57. Such other experience and qualifications for appointment as a competent authority under sub-section (1) of section 91---**The State Government may by notification appoint competent authority from the officers of the Government not below the rank of Assistant Labour Commissioner for the purposes of Chapter-VII.

**58. The manner in which matters may be dealt with by or before a competent authority under sub-section (1) of section 92---**A competent authority under section (92) (1) (b) or (c) may initiate proceeding afresh or he may continue the previous proceeding initiated under section (92) (1) (a) as if the same or any of its part had been taken before him if he is satisfied that the interest of the parties shall not thereby be prejudiced.

**59. Time-limit for disposal of application and costs incidental to the proceedings under sub-section (4) of section 93---**the time limit for the disposal of application under section (93) shall not be more than six months. Provided that in the cases where disability is required to be proved in such cases the time limit "not more than six months" can exceed with the consent of both the parties but for not more than one year.

**60. The manner of authentication of memorandum under section 97---**In recording a memorandum of agreement, the competent authority shall cause the same to be entered in a register in **Form-XXXIV** and shall cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following term namely:-

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

66

**CHAPTER VII**  
**SOCIAL SECURITY AND CESS IN RESPECT OF BUILDING AND OTHER**  
**CONSTRUCTION WORKERS**

**61. Time limit to pay the amount of cess under section 101.**

The date of payment of cess under section 100 shall be the date on which the amount is deposited with the cess collector, or the date of deduction at source or the date on which the amount has been deposited with the local authority respectively as per the rules framed by the central government.

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

An appeal preferred under sub section (1) shall be accompanied by non-refundable fee equivalent to half percent, but not exceeding rupees twenty five thousand of the amount in dispute or penalty or both, as the case may be, under such appeal.

65

## CHAPTER VIII

### FINANCE AND ACCOUNTS

**63. Conditions to acquire, hold, sell or otherwise transfer any movable or immovable property under subsection (1), conditions to invest moneys, re-invest or realise investments under sub-section (2) terms to raise loans and take measures for discharging such loans under sub-section (3) and terms to constitute for the benefit of officers and staff or any class of them, provident or other benefit funds under sub-section (4) of section**

**120.-** The Jammu and Kashmir Government in this regard and in consultation with Jammu and Kashmir Unorganised Social Security Board and the Jammu and Kashmir Building and Other Construction Workers Welfare Board shall frame a detailed policy.

**64. Conditions and manner of writing off irrecoverable dues under section**

**121.- (1)** Where the Jammu and Kashmir Unorganised Social Security Board and the Jammu and Kashmir Building and Other Construction Workers Welfare Board is of the opinion that the amount of contribution, cess, interest and damages due to these boards has become irrecoverable, the said Boards or any other officer authorised by them in behalf may sanction the writing off of the said amount, subject to the following conditions, namely: —

- (i) Establishment has been closed for more than five years and the whereabouts of the employer cannot be ascertained, despite all possible efforts;
- (ii) Decree obtained by the said Boards could not be executed successfully for want of sufficient assets of the defaulting employer; or
- (iii) claim for contribution is not fully met by —
  - (a) The Official Liquidator in the event of factories/establishments having gone into liquidation; or
  - (b) The Competent Authority of payments in the event of unit being nationalised or taken over by the Government.

64

**CHAPTER IX**

**AUTHORITIES, ASSESSMENT, COMPLIANCE AND RECOVERY**

**65. Other powers of Inspector-cum-Facilitator under clause (e) of sub-section 6 of section 122---**the Inspector Cum Facilitator shall also exercise other powers the Jammu & Kashmir Government may deem proper from time to time.

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

**(1) Register of Women Employees---** (a) The employer of every establishment in which women are employed shall prepare and maintain a register of women employees in **Form (XXXV)** electronically or in hard copy and shall enter therein particulars of all women workers in the establishment.

Further, it shall always be available for inspection under notified inspection scheme for the Inspector-cum-Facilitator.

(b) The employer may enter in the register of women employees such other particulars as may be required for any other purpose of the Code.

**(2) Records.—**Records kept under the provisions of the Code and the rules framed there-under shall be preserved for a period of two years from the date of their preparation.

**(3) Annual returns.—** (a) The employer to which the provisions of Chapter V of the Code applies, on or before the 1st day of February in each year, upload a unified annual return in **Form-(XXXVI)** online on the web portal of the Government or otherwise giving information as to the particulars specified, in respect of the preceding year: Provided that during inspection, the Inspector-cum-Facilitator may require the production of accounts, books, register and other documents maintained in electronic form or otherwise.

Explanation.-

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

(b) If the employer to which the Code applies sells, abandons or discontinues the working of the establishment, then, he shall, within one month of the date of such sale or abandonment or four months of the date of such discontinuance, as the case may be, upload online, on the web portal of Government a further unified return in **Form (XXXVI)** referred to in clause(a) in respect of the period between the end of the preceding year and the date of the sale, abandonment or discontinuance.

(63)

**CHAPTER X**  
**OFFENCES AND PENALTIES**

- 67. Manner of compounding of offences by the authorised officer specified under sub-section (1) of section 138 and the form and manner of making application for the compounding of an offence under sub-section (4) of section 138.-** (1) The officer authorized by the Jammu and Kashmir Government by notification for the purposes of compounding of offences under sub-section (1) of section 138 shall issue electronically or otherwise a compounding notice in **Form-XXXVII** for the offences which are compoundable under section 138.
- (2) The person so noticed may apply in Part III of the **Form-XXXVII** to the officer electronically and deposit the entire compounding amount by electronic transfer or otherwise, within fifteen days of the receipt of the notice.
- (3) The Compounding Officer shall issue a composition certificate in Part IV of **Form-XXXVII** within ten days of receipt of the composition amount, to such person from whom such amount has been received in satisfaction of the composition notice.
- (4) If a person so noticed fails to deposit the composition amount within the prescribed time, the prosecution shall be instituted before the competent Court or the offence in respect of which the compounding notice was issued, against such person.
- (5) **Composition after institution of prosecution.** — (a) The Court may compound any compoundable offence at any time after filing of a complaint under section 138 of the Code.
- (b) The provisions of section 320 of the Code of Criminal Procedure, 1973 shall apply to such compositions.

(82)

## CHAPTER XI

### EMPLOYMENT INFORMATION AND MONITORING

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

**(1) Reporting of Vacancies to Career Centres:** (a) After the Commencement of this Code in Jammu and Kashmir, the employer in **every establishment in public sector** shall, before filling up any vacancy in any employment in that establishment, report that vacancy or cause to be reported to such Career Centre as may be specified in the notification by the Government.

(b) The employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall, before filling up any vacancy in any employment in that establishment, report that vacancy or cause to be reported to such Career Centre (Regional) from such date as may be specified in the notification by the Government.

(c) The Jammu and Kashmir Government shall provide for mechanism (including digital) for receipt of vacancies reported by the employers. Career Centre to which the vacancies are reported, would provide a unique vacancy reporting number for the vacancy reported and convey it to the employer in writing, through email or digitally or through any other such media immediately but in any case not later than three working days from the date of receipt of reporting of vacancies.

**Explanation:** (1) **Establishment in "public sector"** means an establishment owned, controlled or managed by -

(i) the Government or a Department of the Government

(ii) a Government company as defined in clause (45) of Section 2 of the Companies Act, 2013 ( No. 18 of 2013);

(iii) a corporation (including a co-operative society ) or an autonomous organization or an authority or a body established by or under a Central or State Act, which is owned ,controlled or managed by the Government; and

(iv) a local authority.

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

(60)

prospective candidates for purpose of appointment or taking interview or test against the vacancies reported.

**(6) Maintenance of records:** (a) After commencement of this Code in any state or area thereof, the employers in every establishment in the public sector in that state or area shall maintain records manually or electronically or digitally about i) Total number of employees (regular, contractual or fixed term employment) on *31st March* of every year;

ii) Persons recruited during the year ending on *31st March*;

iii) Occupational details of its employees on 31st March of every year;

iv) Vacancies for which suitable candidates were not available during the year ending on 31st March; and

v) Approximate number of vacancies likely to occur during the next financial year.

(b) The Jammu and Kashmir Government may by notification, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishment in private sector shall maintain records manually or electronically or digitally about

i) Total number of employees (regular, contractual or fixed term employment) on 31st March of every year;

ii) Persons recruited during the year ending on 31st March;

iii) Occupational details of its employees on 31st March of every year;

iv) Vacancies for which suitable candidates were not available during the year ending on 31st March; and

v) Approximate number of vacancies likely to occur during the *next financial year*.

**(7) Submission of returns:** An employer shall furnish to the concerned Career Centre (Regional) yearly returns in form EIR (Employment Information Return) as given at **Form-XXXIX**. Yearly returns shall be furnished manually or, electronically, or digitally, as the case may be, as specified by the respective Government in notification, within thirty days of the due date namely *31<sup>st</sup> March* of the year.

**(7) Declaration of Executive Officer:** (a) The Director of Employment or officer of his equivalent or above rank, controlling the work of Career Centres (Regional) of

61

(3) **Type of vacancies and respective Career Centre for reporting of vacancies:** (a) The following vacancies, namely-

(i) All vacancies in posts of Technical and Scientific nature carrying a minimum pay or pay level or both as notified by the Central Government, occurring in establishments in respect of which the Central Government is the appropriate Government under the Code; and

(ii) Vacancies which an employer may desire to be circulated to the Career Centers outside the State or Union Territory in which the establishment is situated shall be reported to such Career Centre(Central) as may be specified by the Central Government *by notification*.

(b) Vacancies other than those specified in clause (a) of sub-rule (2) above, shall be reported to the Career Centre (Regional) concerned.

(c) Vacancies which have been reported to the Career Centre (Regional) and for which recruitment is to be made on State or Inter-State or all India basis, shall also be reported to Career Centre(Central) or uploaded on a digital portal as specified by the Government by notification.

(4) **Form and manner of reporting of vacancies:** (a) The vacancies shall be reported in writing or through valid official email or digitally to the Career Centre specified by the Jammu and Kashmir Government.

(b)The vacancies shall be reported in the format given at **Form-XXXVIII**, furnishing as many details as practicable, separately in respect of each type of vacancy.

(c) Any change in the particulars already furnished to the Career Centre under clause (a) of sub-rule(3), shall be reported in writing or through official email or digitally as the case may be, to the specified Career Centre.

(5) **Time limit in the reporting of vacancies:**

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

(b) Vacancies required to be reported to the Career Centre (Central) shall be reported at least forty days before the last date of receipt of the applications of the

59

the respective Government, will declare in writing an officer looking after the work of Career Centres (Regional) as "Executive Officer" for each district for the purpose of enforcement /implementation of Chapter XIII (Employment Information and Monitoring) of the Code. He shall be the officer who shall exercise the rights and perform duties referred to in section 139 of the Code, or authorize any person in writing to exercise those rights and perform duties.

(b) The Government, will declare in writing an officer looking after the work of Career Centres as "Executive Officer" for the purpose of enforcement /implementation of Chapter XIII (Employment Information and Monitoring) of the Code. He shall be the officer who shall exercise the rights and perform duties referred to in Section 139 of the Code.

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

**(9) Issue of guidelines:** For implementation of provisions of Code on Social Security, 2020 relating to Chapter XIII and rules thereof, the Jammu and Kashmir Government may issue detailed guidelines as per local needs.

88

**CHAPTER XII**  
**MISCELLANEOUS**

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

(1) All the following funds received shall be credited to separate account(s) and called as Jammu and Kashmir Social Security Fund and all expenses towards the scheme (s) notified under sections 109 and 114 for the Unorganised Workers, Gig Workers and Platform Workers shall be met out of this fund:

(a) under sub-section (1) of section 141 of the Code on Social Security, 2020 (36 of 2020); and

(b) under sub-section (1) of section 115 of the Occupational Safety, Health and Working Conditions Code, 2020 (37 of 2020).

(2) The Government shall identify the source(s) for initial funding/ replenishing the Jammu and Kashmir Social Security Fund from time to time.

(3) The fund shall be administered by the Government through an agency designated by the Jammu and Kashmir Government in the manner, as notified by the Central Government.

(4) Directions of the Jammu and Kashmir Government, if any shall be complied by the agency designated for the administration of the Jammu and Kashmir Social Security Fund.

(5) The Statement of accounts of Jammu and Kashmir Social Security Fund shall be maintained by the agency, in the form(s) and manner as specified by the Jammu and Kashmir Government and shall be submitted to the Government from time to time.

(6) The accounts of the Jammu and Kashmir Social Security Fund shall be audited by Comptroller and Auditor General of India and Local Fund Office of Jammu & Kashmir Government.

**70. Conditions which the exempted establishment or the class of establishments or an employee or class of employees, as the case may be, shall comply with after such exemption under sub-section (2) of section 143.-**

(1) The establishment to which exemption has been granted from the provision of Chapter IV of the Code:

82

(a) shall maintain such records regarding the exempted employees and submit such returns and other information to the Corporation as may be specified in the Regulations; and

(b) in case of change of legal status of an establishment which has been granted exemption under section 143 of the Code, due to merger, demerger, acquisition, sale, amalgamation, formation into a subsidiary, whether wholly owned or not, etc. the exemption shall be deemed to be cancelled and the establishment shall be required to apply afresh for exemption, to the appropriate Government.

(2) For the purposes of Chapter III, the establishment and/or employer, after the grant of exemption, shall comply with all such terms and conditions as may be specified in the Provident Fund Scheme or the Pension Scheme or the Insurance Scheme, as the case may be, framed under section 15 of the Code.

**71. Conditions for management of the trust under sub-section (5) of section 143, which has been granted exemption under sub-section (1) of section 143:**

(1) A Board of Trustees shall be established for the management of the Provident Fund or the Pension Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time.

(2) The Board of Trustees shall consist of such equal number of representatives each of the employers and employees as may be prescribed in the Provident Fund Scheme or the Pension Scheme, as the case may be.

(3) The employer of such exempted establishment shall be the Chairperson of the Board of Trustees. The Chairperson may exercise a casting vote in an event of equality of votes. However, arm's length principles shall be maintained by the Chairperson in all meetings of the Board of Trustees.

(4) The Board of Trustees shall meet at least once in every three months and shall function in the accordance with the guidelines that may be issued from time to time by the Central Government or the Central Provident Fund Commissioner or any officer authorized by him.

(5) The terms and conditions, including the tenure of office of the Trustees, the procedure and manner for election or nomination of the representatives of the employees and of employers to the Board of Trustees, disqualification and cessation

56

of trusteeship, re-election or re-nomination of trustees, the quorum at the meeting of the Board, records to be kept of the transaction of business and all such other matters and conditions for the management of the Trust shall be as provided for in the Provident Fund Scheme or the Pension Scheme, as the case may be.

(6) In case of any dispute or doubt on any general issues within the ambit of these terms and conditions, the matter shall be referred to the Regional Provident Fund Commissioner in whose jurisdiction the head office of the establishment is located. The decision of the Regional Provident Fund Commissioner in the matter shall be final and binding.

**73. Manner of determining the misuse of any benefit by an establishment or by any other person under section 148.** If any Establishment or any other person to which the provisions of this Code applies, found misusing any benefit granted to it or him under this code or rules, regulations, schemes made or framed thereunder then, the Government of Jammu & Kashmir may by notification deprive such establishment or other person as the case may be from such benefit for such time as may be specified in the notification:

Provided that no such notification shall be issued unless an opportunity of being heard is given to such establishment or other person as the case may be.

**74. Submission of a copy of the Form to the office of Director General, Labour Bureau under section 156.** – A copy of **Form-XV** (notice for Payment/Rejecting claim of Gratuity) shall be shared electronically with the designated authority of the Government.

58

**Form-I**  
(See rule-6)

Name of the Bank.....

Account No.....

**Application for Educational Assistance for Education up to 12<sup>th</sup> Standard Examination**

|                                                                                                      |                |
|------------------------------------------------------------------------------------------------------|----------------|
| 1. Name of the Registered manual worker/parentage/address with PIN Code                              | Name           |
|                                                                                                      | Parentage      |
|                                                                                                      | Address        |
| 2. Registration Number and date of initial registration                                              | Aadhaar number |
| 3. Bank details:<br>i. Name of the Bank with Bank with Branch.<br>ii. IFSC Code.<br>iii. Account No. |                |
| 4. Mobile No.                                                                                        |                |

**A. Details of the Son or Daughter for whom educational assistance is sought for:**

| S. No. | Name of the Children | Relationship | Aadhaar No. | Date of Birth | Examination Passed | Session | Name of the School |
|--------|----------------------|--------------|-------------|---------------|--------------------|---------|--------------------|
| 1      | 2                    | 3            | 4           | 5             | 6                  | 7       | 8                  |
|        |                      |              |             |               |                    |         |                    |

**Note:-**Copy of the Marks Sheet in support of having passed the examination duly attested by the Gazette Officer should be enclosed.

**B. Details of the children for whom the educational assistance have already been availed from the Board.**

| SNo. | Name of the Children | Class for which assistance availed | Session | Amount of assistance | Date of receipt |
|------|----------------------|------------------------------------|---------|----------------------|-----------------|
|      |                      |                                    |         |                      |                 |
|      |                      |                                    |         |                      |                 |

Mobile No.....

Phone No.....

Signature of the  
Registered Construction Workers

54

### Declaration by the Applicant

I hereby declare that the particular furnished above are correct and true to the best of my knowledge. In the event of any information given above is ultimately found to be false. I will refund the amount received as assistance and I shall be personally liable for legal implications thereof. I further declare that I have not availed any similar assistance from any other welfare Board or Board constituted by the government of Jammu and Kashmir or government of India.

dated:  
place:

Signature of the Registered  
Construction I Worker

### Certificate from the Principal/Headmaster of the concerned School

Photograph of the  
students to be  
attested by the  
Principal/Student

Photograph of the  
students to be  
attested by the  
Principal/Student

I hereby certify that \_\_\_\_\_  
and \_\_\_\_\_ S/O, D/O \_\_\_\_\_  
R/O \_\_\_\_\_ is/are reading in the \_\_\_\_\_  
class and \_\_\_\_\_ Class under Roll  
No. \_\_\_\_\_ and \_\_\_\_\_ respectively  
and the information furnished by the applicant at Column A is  
Correct.

Further, I certify that our school is Government recognized  
bearing \_\_\_\_\_ recognition No. \_\_\_\_\_  
dated \_\_\_\_\_ issued by the  
\_\_\_\_\_.

Signature of Principal/  
Headmaster

### For Office Use

After thorough examination of the application of the applicant with respect to the records available with this office following observations made:-

1. That the applicant is registered manual workers under Reg. No. \_\_\_\_\_, Dated \_\_\_\_\_
2. That the applicant has already availed Educational Assistance for his children namely \_\_\_\_\_ and \_\_\_\_\_ for an amount of Rs. \_\_\_\_\_ for the year \_\_\_\_\_ hence he is not entitled again for the year \_\_\_\_\_ for the same purpose.
3. That the applicant has not availed Educational Assistance for the children namely \_\_\_\_\_ and \_\_\_\_\_ for the year \_\_\_\_\_ hence entitled for Educational Assistance for the year \_\_\_\_\_.

53

4. That the children are students of Class \_\_\_\_\_ and \_\_\_\_\_ hence entitled for Rs. \_\_\_\_\_ as per guidelines of the Building and Other Construction Workers Welfare Board as Educational Assistance for the year \_\_\_\_\_

**Scrutiny Officer/DEO**

**Recommendations**

I hereby recommended, after due verification a sum of Rs. \_\_\_\_\_ (rupees \_\_\_\_\_) as Educational Assistance in favour of Sh./Smt. \_\_\_\_\_ a registered worker under registration No. \_\_\_\_\_ dated \_\_\_\_\_

**Labour officer/Labour Inspector**

Upon the recommendation of the Labour Officer/Labour Inspector, Circle. \_\_\_\_\_ I approve an amount of Rs. \_\_\_\_\_ in favour of the registered manual worker applied for and the incharge of the B.C. Section is directed to prepared the applicants case accordingly for releaser of payment.

**Assistant Labour Commissioner,  
.....District**

An amount of Rs. \_\_\_\_\_ paid to the applicant vide payees Account Cheque No. \_\_\_\_\_ dated \_\_\_\_\_ or online credit to his Account through J&K Bank. \_\_\_\_\_ vide authority letter No. \_\_\_\_\_ dated \_\_\_\_\_

**Incharge BOC Section/ DEO**

52

**Form-II**  
(See rule-6)

Name of the Bank.....  
Account No.....

**Application for Educational Assistance for Higher Education**

|                                                                                                      |                |
|------------------------------------------------------------------------------------------------------|----------------|
| 1. Name of the Registered manual worker/parentage/address with PIN Code                              | Name           |
|                                                                                                      | Parentage      |
|                                                                                                      | Address        |
| 2. Registration Number and date of initial registration                                              | Aadhaar Number |
| 3. Bank details:<br>i. Name of the Bank with Bank with Branch.<br>ii. IFSC Code.<br>iii. Account No. |                |
| 4. Mobile No.                                                                                        |                |

**A. Details of the Son or Daughter for whom educational assistance is sought for:**

| S. No. | Name of the Children | Relationship | Aadhaar No. | Date of Birth | Examination Passed | Session | Name of the School |
|--------|----------------------|--------------|-------------|---------------|--------------------|---------|--------------------|
| 1      | 2                    | 3            | 4           | 5             | 6                  | 7       | 8                  |
|        |                      |              |             |               |                    |         |                    |

Note:-Copy of the Marks Sheet in support of having passed the examination duly attested by the Gazetted Officer should be enclosed.

**B. Details of the children for whom the educational assistance have already been availed from the Board.**

| SNo. | Name of the Children | Class for which assistance availed | Session | Amount of assistance | Date of receipt |
|------|----------------------|------------------------------------|---------|----------------------|-----------------|
|      |                      |                                    |         |                      |                 |
|      |                      |                                    |         |                      |                 |

Mobile No.....

Phone No.....

**Signature of the  
Registered Construction Worker**

51

### Declaration by the Applicant

I hereby declare that the particular furnished above are correct and true to the best of my knowledge. In the event of any information given above is ultimately found to be false. I will refund the amount received as assistance and I shall be personally liable for legal implications thereof. I further declare that I have not availed any similar assistance from any other welfare Board or Board constituted by the government of Jammu and Kashmir or government of India.

dated:  
place:

Signature of the Registered  
Construction Worker

### Certificate from the Principal/Head of the Institution/Authorized Officer of the concerned College/University

Photograph of the students to be attested by the Principal/Student

Photograph of the students to be attested by the Principal/Student

I hereby certify that \_\_\_\_\_  
and \_\_\_\_\_ S/O, D/O \_\_\_\_\_  
R/O \_\_\_\_\_ is/are reading in the \_\_\_\_\_  
class and \_\_\_\_\_ Class under Roll  
No. \_\_\_\_\_ and \_\_\_\_\_ respectively  
and the information furnished by the applicant at Column A is  
Correct.

Further, I certify that our college/university is Government  
recognized bearing recognition No \_\_\_\_\_  
dated \_\_\_\_\_ issued by the  
\_\_\_\_\_.

Signature of Principal/  
Head of the institution/Authorized Officer.

### For Office Use

After thorough examination of the application of the applicant with respect to the records available with this office following observations made:-

5. That the applicant is registered manual workers under Reg. No. \_\_\_\_\_ Dated \_\_\_\_\_
6. That the applicant has already availed Educational Assistance for his children namely \_\_\_\_\_ and \_\_\_\_\_ for an amount of Rs. \_\_\_\_\_ for the year \_\_\_\_\_ hence he is not entitled again for the year \_\_\_\_\_ for the same purpose.
7. That the applicant has not availed Educational Assistance for the children namely \_\_\_\_\_ and \_\_\_\_\_ for the year \_\_\_\_\_ hence entitled for Educational Assistance for the year \_\_\_\_\_.
8. That the children are students of Class \_\_\_\_\_ and \_\_\_\_\_ hence entitled for Rs. \_\_\_\_\_ as per guidelines of the Building and Other Construction Workers Welfare Board as Educational Assistance for the year \_\_\_\_\_

Scrutiny Officer/DEO

50

### Recommendations

I hereby recommended, after due verification a sum of Rs.....  
(rupees ..... ) as Educational Assistance in favour of  
Sh./Smt..... a registered worker under registration  
No..... dated.....

**Labour officer/Labour Inspector**

Upon the recommendation of the Labour Officer/Labour Inspector, Circle.....  
I approve an amount of Rs..... in favour of the registered manual worker  
applied for and the incharge of the B.C. Section is directed to prepared the applicants case  
accordingly for releaser of payment.

**Assistant Labour Commissioner,**

.....**District**

An amount of Rs.....paid to the applicant vide payees Account  
Cheque No.....dated.....or online credit to his  
Account through J&K Bank..... vide authority letter  
No.....dated.....

**Incharge  
B.C. Section**

**Form-III**  
**(See Rule-10)**

49

In the Employees Insurance court At.....

1. Name with full address

Applicant

Against

2. Name with full address

Opposite party.

Other particulars of the application specified in **rule-10**.

Date

Signature of the Applicant

(Verification by the Applicant)

The statement of facts contained in this application is to best of my knowledge and belief true and correct.

Date

Signature.

48

**Form-IV**  
**(See Rule-12)**

List of documents produced by applicant/opposite party.

1. In the case titled:
2. Name of the court:
3. Number, etc:

| Number | Description | Date, if any,<br>which the<br>documents<br>bear | Signature of party or<br>pleader or any<br>authorized<br>representative |
|--------|-------------|-------------------------------------------------|-------------------------------------------------------------------------|
| 1      | 2           | 3                                               | 4                                                                       |
|        |             |                                                 |                                                                         |

43

**Form-V  
(See Rule-13)  
Register of Proceedings**

Employees Insurance Court at.....

| Applicant                           |  | Opposite party                    | Claim |
|-------------------------------------|--|-----------------------------------|-------|
| Date of presentation of application |  |                                   |       |
| Number of Proceeding                |  |                                   |       |
| Name                                |  |                                   |       |
| Description                         |  |                                   |       |
| Place of residence                  |  |                                   |       |
| Name                                |  |                                   |       |
| Description                         |  |                                   |       |
| Place of residence                  |  |                                   |       |
|                                     |  | Particulars                       |       |
|                                     |  | Amount or value, if any           |       |
|                                     |  | When the cause of action occurred |       |

| Appearance                                                 | Final order                               | Appeal                                                     | Execution.                                                                                                                                                                        |
|------------------------------------------------------------|-------------------------------------------|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Day for parties to appear<br>Applicant.<br>Opposite party. | Date<br>For whom.<br>For what, or amount. | Date of decision of appeal, if any.<br>Judgment in appeal. | Date of application<br>Against whom.<br>For what, and amount of money.<br>Amount of costs.<br>Date of order transferring to another<br>civil court of at<br>Other remarks, if any |
|                                                            |                                           |                                                            |                                                                                                                                                                                   |

46

**Form-VI  
(See Rule-17)**

**Summons for disposal of proceedings**

1. Title of the Case:

To

(Name, description and place of residence)

Whereas.....has instituted proceedings against you for.....you are hereby summoned to appear in this court in person or by authorized agent duly instructed and able to answer all material questions relating to the case, or who shall be accompanied by some person able to answer all such questions at.....o'clock in the..... noon on the day of.....20..... to answer the claim and as the day fixed for your appearance is appointed for the final disposal of the proceedings, you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

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

Given under my hand and the seal of the court, this day of..... 20..... court.

Notice:- (1) should you apprehend your witnesses will not attend of their own accord, you can have a summons from this court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on applying to the court and on depositing the necessary expenses.

(2). If you admit the claim you should pay the money into court together with the costs of the proceedings, to avoid execution of the decree, which may be against your person or property or both.

45

**Form-VII  
(See Rule-17)**

**Summons for settlement of issues.**

Case Titled:  
To  
(Name, description and place of residence.)

Whereas..... has instituted proceedings against you for..... you are hereby summoned to appear in this court in person or by authorized agent duly instructed, and able to answer all material questions relating to the case, or who shall be accompanied by some person able to answer all such questions at..... o'clock in the.....noon on the day of.....20.....to answer the claim and as the day fixed for your appearance is appointed for the final disposal of the proceedings, you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

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

Given under my hand and the seal of the court, this day of.....20.....court.

Notice:- (1) should you apprehend your witnesses will not attend of their own accord, you can have a summons from this court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on applying to the court and on depositing the necessary expenses.

(2). If you admit the claim you should pay the money into court together with the costs of the proceedings, to avoid execution of the decree, which may be against your person or property or both.

44

**Form-VIII**  
**{See Rule 24 (5)}**

Subject:- Application for setting aside the..... order  
dated .....  
(the grounds of application should be stated.)

Date

Signature of the Applicant

Verification by the applicant

The statement of facts contained in the application is to the  
best of my knowledge and belief true and correct.

Date  
Place

Signature

43

**Form-IX**  
**{See Rule 24 (5) & (6)}**  
**General Form**

**Case Titled:**

To

Whereas the above named has made application to this court that you are hereby warned to appear in this court in person or by a pleader duly instructed at.....o'clock in the noon, on the.....day of.....20..... to show cause against the application failing wherein, the said application will be heard and determined ex-parte.

Given under my hand and the seal of the court, this.....day of 20..... court.

412

**Form-X**  
**(See Rule-25)**

Summons to witness

Titled:

Whereas your attendance is required to..... on  
of the.....in the above proceedings, you are  
required (personally) to appear before this court on  
.....day of.....20 at.....o'clock in the  
and to bring with you (or to send to this.....

A sum of Rs.....being your travelling and other  
expenses and subsistence allowance for one day, is deposited  
with this court and will be tendered to you on the day you appear  
before the court. If you fail to comply with this order without  
a valid excuse, you will be subject to the consequences of non-  
attendance laid down in the rule-12 of order XVI of the Code of  
Procedure, 1908 (V of 1908).

Under my hand and the seal of the court, this.....  
.....20.....court.

- (1) if you are summoned only to produce a document and  
give evidence, you shall be deemed to have complied with  
the summons if you cause such document to be produced in this  
court on the day and hour aforesaid.  
If you are detained beyond the day aforesaid, a sum of  
.....will be tendered to you for each  
day of attendance beyond the day specified.

41

**Form-XI**  
**(See Rule- 38)**

Decree in Case  
Claim for.

This case coming on this day for final disposal before ..... in the presence of ..... for the applicant and of..... for the opposite party, it is ordered AND DECREED That ..... And that the sum of Rs..... be paid by the to the..... on account of the costs of this suit, with interest thereon at the rate of per cent per annum from this date to the date of realization.

Given under my hand and the seal of the Court, this day.....20..... court.

Costs of Suits

|                                  | Rs. P. |                               | Rs.P. |
|----------------------------------|--------|-------------------------------|-------|
| 1. Stamp application for         |        | Stamp for Power               |       |
| 2. Stamp for power               |        | Stamp for written statement   |       |
| 3. Stamp for exhibits            |        | Pleader's fee...              |       |
| 4. Pleader's fee                 |        | Subsistence for witnesses     |       |
| 5. Subsistence for witnesses     |        | Service of summons and notice |       |
| 6. Commissioner's fee            |        | Commissioner's fee            |       |
| 7. Service of summons and notice |        |                               |       |
| Total:-                          |        | Total:-                       |       |

40

**Form-XII**  
**(See Rule-40)**

Application for the execution of a decree  
In the court of .....

I, ..... Decree-holder, hereby apply for execution of the  
decree herein below set forth:-

|                      |                     |                |                                          |                                    |                                                    |                                                                                                                        |                                  |                             |                                                       |
|----------------------|---------------------|----------------|------------------------------------------|------------------------------------|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|----------------------------------|-----------------------------|-------------------------------------------------------|
| Number of proceeding | Name/s of party/ies | Date of decree | Whether any appeal preferred form decree | Payment or adjustment made, if any | Previous application, if any, with date and result | Amount with interest due upon the decree or other relief granted thereby together with particulars of any cross decree | Amount of costs, if any, awarded | Against whom to be executed | Mode in which the assistance of the court is required |
|                      |                     |                |                                          |                                    |                                                    |                                                                                                                        |                                  |                             |                                                       |

Applicant:

Opposite party:

Dated:

No:

Rs..... recorded on application, dated .....

Rs..... principal ..... (interest at ..... percent per annum, from date of order till payment)

As awarded in the decree subsequently incurred Total:-.....

Against the opposite party:

39

(when attachment and sale of movable property is sought). I pray that the total amount of Rs.....(together with interest on the principal sum up to date of payment) and the costs of taking out this execution, be realized by attachment and sale of the opposite party's movable property as per annexed list pad to me.

((when attachment and sale of immovable property is sought) I pray that the total amount of Rs.....(together with the interest on the principal sum up to date of payment ) and the costs of taking out this execution be realized by the attachment and sale of the opposite party's immovable property properly specified at the fees of this application and paid to me.

I declare that what is stated herein is true to the best of my knowledge and belief.

Signed  
Decree-holder

Date.....

38

**FORM-XIII**

**(See Rule- 45)**

**Nomination/Fresh Nomination/Modification of Nomination**

*(Strike out the words not applicable)*

To.....

(Give here name or description of the establishment with full address)

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

or

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

*\*Strike out unnecessary portion.*

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

| S.No. | Name in full with full address of nominee(s) | Relationship with the employee | Age of nominee | Proportion by which the gratuity will be shared |
|-------|----------------------------------------------|--------------------------------|----------------|-------------------------------------------------|
|       |                                              |                                |                |                                                 |

38

|       |  |  |  |  |
|-------|--|--|--|--|
| 1.    |  |  |  |  |
| 2.    |  |  |  |  |
| 3.    |  |  |  |  |
| So on |  |  |  |  |

**Manner of acquiring a "Family"**

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

Statement

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

Village..... Thana..... Sub-  
 division.....PostOffice.....  
 Pin-Code.....District.....State.....  
 ID.....Mobile Number.....

E-mail

Place:  
Date:

Signature/Thumb-impression of the  
Employee

**Certificate by the Employer**

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

Signature of the employer/Officer authorised  
Designation

Date:

Name and address of the establishment or rubber stamp thereof.

**Acknowledgement by the Employee**

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

Date: .....

Signature of the Employee

36

**FORM-XIV**

**{See Rule- 46 (1) (a), (b) & (c)}**

**Application for Gratuity by an Employee/Nominee/Legal Heir**

*(Strike out the words not applicable)*

To,.....

(Give here name or description of the establishment with full address)

Sir/Madam,

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

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

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

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

or
2. Name of nominee/legal heir, (if the gratuity is claimed by nominee/legal heir)
  - a. Name of Employee
  - b. Marital status of nominee/legal heir (unmarried /married /widow /widower)
  - c. Relationship of nominee/legal heir with the employee
  - d. Address in full of nominee/legal heir
  - e. Date of death and proof of death of the employee
  - f. Reference No. of recorded nomination if available

33

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

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

Place:

Date:

34

**FORM-XV**

**{See Rule-46 (2) (a) (i), (ii), (b) (d) & (e)}**

**Notice for Payment/Rejecting claim of Gratuity**

*(Strike out the words not applicable)*

To,.....

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

1. You are hereby informed that

(a) \*as required under rule 46 of the Code on Social Security, Jammu and Kashmir Rules 2020, that your claim for payments of gratuity as indicated on your application in **Form-XIV** under the said rules is not admissible for the reasons stated below:

Reasons (Here specify the reasons); or

(b) \*as required under rule 46 of the Code on Social Security, Jammu and Kashmir, Rules 2020 that a sum of Rs. ....(Rupees.....) is payable to you as gratuity/as your share of gratuity in terms of nomination made by .....on .....and.....recorded in this .....as a legal heir of.....an employee of this establishment.

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

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

4. Brief statement of calculation

(a) Date of appointment.

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

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

(d) Wages last drawn:

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

(f) Amount payable: *\*strike out para, if, not applicable*

Place:

Date:

Signature of the Employer/authorised officer.

Name or description of establishment or rubber stamp thereof.

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

33

**FORM-XVI**

**{See Rule 46 (4) (a) (iii)}**

**Application for Direction**

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

Application No.

Date

BETWEEN

(Name in full of the applicant with full address)

AND

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

1. The applicant is an employee of the above-mentioned employer/a nominee of late..... an employee of the above-mentioned employer/a legal heir of late..... and employee of the abovementioned employer, and is entitled to payment of gratuity under section 53 of the Code on Social Security, 2020 on account of his own/aforesaid employee's superannuation on.....(date)/his own retirement/aforesaid employees' resignation on.....(date) completion of.....years of continuous service/his own/aforesaid employees' total disablement with effect from .....(date)due to accident/disease death of aforesaid employee on.....
2. The applicant submitted an application under Rule..... of the Code on Social Security Jammu and Kashmir Rules, 2020 on the .....but the above-mentioned employer refused to entertain it/issued a notice dated the..... under clause .....of sub-rule of rule .....offering an amount of gratuity which is less than my due/issued a notice dated .....the under clause..... of sub-rule.....of rule..... rejecting my eligibility to payment of gratuity. The duplicate copy of the said notice is enclosed.
3. The applicant submits that there is a dispute on the matter (specify the dispute).
4. The applicant furnishes the necessary particulars in the annexure hereto and prays that the Competent Authority may be pleased to determine the amount of gratuity payable to the petitioner and direct the above-mentioned employer to pay the same to the petitioner.
5. The applicant declares that the particulars furnished in the annexure hereto are true and correct to the best of his knowledge and belief.

Date:

Signature/Thumb impression of the applicant.

31

FORM – XVII

{See Rule 46 (5) (a) (8)}

**Notice for Appearance before the Competent Authority/Summon**

*(Strike out the words not applicable)*

To,

(Name and address of the employer/applicant)

Whereas Shri .....an employee under you/a nominee(s)/legal heir(s) of Shri.....an employee under the above-mentioned employer, has/have filed an application **under rule 46** of the Code on Social Security Jammu and Kashmir Rules, 2020 alleging that---

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

Now, therefore, you are hereby called upon/summoned to appear before the Competent Authority at .....(place)either personally or through a person duly authorized in this behalf for the purpose of answering all material questions relating to the application on the ..... day of .....20..... at ..... 'O' clock in the forenoon/afternoon in support of/to answer the allegation; and as the day fixed for your appearance is appointed for final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely in support of your allegation/defence.

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

Whereas your attendance is required to give evidence/you are required to produce the documents mentioned in this list below, on behalf of ..... in the case arising out of the claim for gratuity by..... Form..... and referred to this Authority by an application under section 56 of the Code on Social Security, 2020, you are hereby summoned to appear personally before this Authority on the ..... day of .....20..... at ..... 'O'clock in the forenoon/afternoon and to bring with you for to send to this Authority) the said documents. List of documents-

- 1.
- 2.
3. so on

Given under my hand and seal, this .....day of .....20.....

Competent Authority  
under the Code on Social Security Code, 2020

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

30

**FORM – XVIII**

**{See Rule 46 (11), (12)(h)}**

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

*(Strike out the words not applicable)*

To,

(Name and address of employer)

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

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

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

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

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

Given under my hand and seal, this .....day of.....20.....

Competent Authority  
under the Code on Social Security Code, 2020

Copy to:

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

**Note.---** *(Strike out paragraphs if not applicable)*

29

**FORM – XIX**

**{(See Rule 46 (13))}**

**Application for Recovery of Gratuity**

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

Application No.

Date

BETWEEN

(Name in full of the applicant with full address)

AND

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

1. The applicant is an employee of the above-mentioned employer/a nominee of late..... an employee of the above mentioned employer/a legal heir of late .....an employee of the above-mentioned employer, and you were pleased to direct the said employer in your notice dated the .....under **sub-rule (11) or sub-rule (12) of rule 46** of Code on Social Security (Central) Rules, 2020 for payment of a sum of Rs..... as gratuity payable under the Code on Social Security, 2020.
2. The applicant submits that the said employer failed to pay the said amount of gratuity to me as directed by you although I approached him for payment.
3. The applicant therefore prays that a certificate may be issued under section 129 of the Code for recovery of the said sum of Rs. ....due to me as gratuity in terms of your direction.

Signature/Thumb-impression of applicant.

Place:

Date:

Note.—Strike out the words not applicable.

Signature of the Employer  
Name:  
Designation and Address

station:-  
Date:-

7. If the employer had already established an Approved Gratuity Fund before notification of the rules, details of board of trustees of the gratuity fund may be furnished:  
a). Date of constitution of the board of Trustees  
b). Names and Addresses of the Board of Trustees

- 01. Name of the Establishment
- 02. Address of the Establishment
- 03. Name of the Employer
- 04. Address of the Employer
- 05. No. of Employees Insured
- 06. Details of the Insurance Company
  - a) No. of Insurance Policy
  - b) Date of Commencement of Insurance Policy
  - c) terms of Insurance policy (copy of the Insurance Policy to be enclosed
  - d) details of employees insured details for employees shall be furnished in Form-III

Application for Registration of an Establishment with the controlling Authority under Section 57.

{{See Rule 47 (3) (i)}}

Form-XX

28

In hereby opt to continue the existing insurance scheme in lieu of the compulsory insurance notified under section 57 of the Code on Social Security 2020. The details of existing Insurance Scheme are-

**Option to continue under the Existing Insurance under Section 57.**

{{See Rule 47(4)}}

Form-XXI

28

a) No. of Insurance Policy :

b) Date of commencement of Insurance Policy:

c) Terms and conditions of Insurance Policy (Copy of the insurance policy to be enclosed):

d) No. of employees covered (details of employees to be furnished in Form-III:

e) Details of registration of the trust:

f) Name and address of the trustees:

g)

Station:-

Date:-

Signature of the Employer

Name:

Designation and Address

**Details of Employees of the Establishment Covered under the Compulsory Insurance under section 57 of the code:**

{See Rule 47(3) (i) & (ii)}

**Form-XXII**

26

- a) Name of the employee :
- b) Name of Father/Husband:
- c) Designation/Category :
- d) Date of Joining/appointment:
- e) Wages of the Employees :
- f) Date of Admission to Compulsory Insurance:
- g) Date of Retirement:

station:-  
Date:-

Signature of the Employer

Name:

Designation and Address

**Complaint to the Inspector-cum-Facilitator**

(See Rule 49)

**FORM - XXIII**

25

To,

The Inspector-cum-Facilitator

(Under The Code on Social Security, 2020)

Sir,

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

You are therefore requested, to direct the employer to pay the amount to me/ to set aside the discharge or dismissal done by the employer.

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

Date.....

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

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

.....

Date.....

Signature or thumb impression of the Women/Aggrieved person

*\*Strike out unnecessary portion.*

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

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

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

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

Sir,

.....(Address)

(Appointed under the Code on Social Security, 2020)

The Authority,

To,

**FORM-XXIV**  
**{See Rule 49 (2) (b)}**  
**Appeal**

24

24

FORM-XXV

{See Rule 53}

Notice Book

- 1. Name of the Establishment:
- 2. Postal Address:
- 3. Name of the Employer/ Manager/Occupier: (with full Particulars)

| Name of the Employee | Employee Code/ No. | Time /date of Injury/accident | Place of Injury | Cause of Injury | Any other relevant information. | Sign. Of Employee/ acting a person bonafide. |
|----------------------|--------------------|-------------------------------|-----------------|-----------------|---------------------------------|----------------------------------------------|
|                      |                    |                               |                 |                 |                                 |                                              |
|                      |                    |                               |                 |                 |                                 |                                              |
|                      |                    |                               |                 |                 |                                 |                                              |
|                      |                    |                               |                 |                 |                                 |                                              |
|                      |                    |                               |                 |                 |                                 |                                              |

|      |     |     |                    |                      |
|------|-----|-----|--------------------|----------------------|
|      |     |     |                    |                      |
| 1    | 2   | 3   | 4                  | 5                    |
| Name | Sex | Age | Name of Employment | Full Postal Address. |

STATEMENT

Signature and designation of person  
Making the report.

- (a). Time of the accident:
- (b) Place where the accident occurred:
- (c) Manner in which deceased was/were employed at the time:
- (d) Cause of the accident:
- (e) Any other relevant particulars (I have etc.)

under:-  
 The circumstances attending the death of the employee/employees were as  
 whose particulars are given in the statement annexed.  
 I have the honour to submit the following report of an Accident which  
 occurred..... (date), at ..... (here enter details of the premises)  
 and which resulted in the death of the employee/employees of  
 Sir.  
 .....

To

REPORT OF FATAL ACCIDENTS

{See Rule 55}

FORM - XXVI

23

FORM XXVII

{See Rule 56 (1)}

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the \_\_\_\_\_ day of \_\_\_\_\_ previous for period of \_\_\_\_\_ months. The said employee has in receipt of half-monthly payments which have continued from the \_\_\_\_\_ day of 20\_\_\_\_ until the day 20\_\_\_\_ amounting to Rs \_\_\_\_\_ in all. The said employee's monthly wages are estimated at Rs \_\_\_\_\_. The employee is over the age of 15 years/will reach the age of 15 years on \_\_\_\_\_

It is further submitted that \_\_\_\_\_ the employer of the said employee, has agreed to pay and the said employee has agreed to accept, the sum of Rs. \_\_\_\_\_ in full settlement of all and every claim under the Chapter VII of the Code on Social Security, 2020 in respect of all disablement of temporary nature arising out of the said accident, whether now or hereafter to become a manifest, it is, therefore requested that this memorandum be duly recorded.

Dated \_\_\_\_\_ 20\_\_\_\_

Signature of the employer \_\_\_\_\_

Witness \_\_\_\_\_

Signature of the employer \_\_\_\_\_

Witness \_\_\_\_\_

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

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

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

Employee

[Empty rectangular box for employee signature]

Dated \_\_\_\_\_ 20\_\_\_\_

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

Witness: \_\_\_\_\_

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

32

(Note: - This form may be varied to suit special cases, e.g. injury by occupational diseases, agreement when employee is under legal disability, etc.)  
The money has been paid and this receipt signed in my presence.

Dated \_\_\_\_\_ 20 \_\_\_\_\_  
[Empty box for signature]

Employee

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

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

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

Witness \_\_\_\_\_  
Signature of the employer \_\_\_\_\_  
Witness \_\_\_\_\_  
Signature of the employer- \_\_\_\_\_  
Dated \_\_\_\_\_ 20 \_\_\_\_\_

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

Rs. \_\_\_\_\_ on \_\_\_\_\_ Rs. \_\_\_\_\_ on \_\_\_\_\_  
Rs. \_\_\_\_\_ on \_\_\_\_\_ Rs. \_\_\_\_\_ on \_\_\_\_\_  
Rs. \_\_\_\_\_ on \_\_\_\_\_ Rs. \_\_\_\_\_ on \_\_\_\_\_

It is hereby submitted that on the \_\_\_\_\_ day of 20 \_\_\_\_\_ personal injury was caused to \_\_\_\_\_ residing at \_\_\_\_\_ by accident arising out of and in the course of his employment in \_\_\_\_\_. The said injury has resulted in permanent disablement to the said employee of the following nature, namely:-  
The said employee monthly wages are estimated at Rs. \_\_\_\_\_. The employee is over the age of 15 years/ will reach the age of 15 years on \_\_\_\_\_. The said employee has prior to the date of this agreement, received the following payment, namely :-

MEMORANDUM OF AGREEMENT

{See Rule 56 (1)}

FORM-XXVIII

21

( Note:- This form may be varied to suit special cases, e.g. injury by occupational diseases, etc.)

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

Dated \_\_\_\_\_ 20\_\_\_\_

Employee

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

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

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

Witness \_\_\_\_\_

Signature of the employee \_\_\_\_\_

Signature of the employer \_\_\_\_\_

\_\_\_\_\_ 20\_\_\_\_  
It is further submitted that \_\_\_\_\_ the employers of the employee, has agreed to pay and on the behalf of the said employee, has agreed to accept half monthly payments @ of Rs. \_\_\_\_\_ for the period of the said temporary disablement. This agreement is subject to the condition that the amount of the half monthly payments may be varied in accordance with the provision of the Chapter VII of the Code on Social Security, 2020, on account of an alternation in the earning of the said employee during disablement. It is further, stipulated that all rights of communication under section 80 of the code are unaffected by this agreement. It is, therefore, requested that this memorandum be duly recorded. Dated \_\_\_\_\_

Who is at present in receipt of wages amounting to Rs. \_\_\_\_\_ on wages per month. The said employee monthly wages prior to the accident are estimated at Rs. \_\_\_\_\_. The employee is subject to a legal disability by reason of \_\_\_\_\_. It is hereby submitted that on the \_\_\_\_\_ day of 20\_\_\_\_ personal injury was caused to \_\_\_\_\_ residing at \_\_\_\_\_ by accident arising out of and in the course of his employment in \_\_\_\_\_. The said injury has resulted in temporary disablement to the said employee.

MEMORANDUM OF AGREEMENT

{See Rule 56 (1)}

FORM-XXIX

20

12

FORM -XXXI

{See Rule 56 (2)(iii) & (3) (iv)}

Take notice that registration of the agreement to pay compensation said to have been reached between you \_\_\_\_\_ and \_\_\_\_\_ on the \_\_\_\_\_ 20\_\_ have been refused for the following reasons namely:- .....

Dated \_\_\_\_\_ 20\_\_

Competent Authority

17

**FORM (XXXII)**  
**{See Rule 56 (3) (ii)}**

Whereas an agreement to pay compensation is said to have been reached between \_\_\_\_\_ and \_\_\_\_\_ and whereas \_\_\_\_\_ has /have applied for registration of the agreement under section 89 of the Code on Social Security, 2020 and whereas it appears to me that the said agreement ought not to be registered for following reasons, namely:-.....

\_\_\_\_\_ an opportunity will be afforded to you of showing cause on \_\_\_\_\_ 20 \_\_\_\_\_ by the said agreement should be registered. If no adequate cause as shown on that date, registration of the agreement will be refused.

Competent Authority

(16)

FORM (XXXIII)

{See Rule 56 (3) (ii)}

Whereas an agreement to pay compensation is said to have been reached between \_\_\_\_\_ and \_\_\_\_\_ and whereas \_\_\_\_ has /have applied for registration of the agreement under section 89 of the Code on Social Security, 2020 and whereas it appears to me that the said agreement ought not to be registered for following reasons, namely \_\_\_\_\_ an opportunity will be afforded to the said \_\_\_\_\_ of showing cause on \_\_\_\_\_ 20 \_\_\_\_\_ by the said agreement should not be registered.

Any representation which you have to make with regard to the said agreement should be made on that date. If adequate cause is then shown the agreement may be registered.

Dated \_\_\_\_\_ 20 \_\_\_\_\_

Competent Authority

15

FORM (XXXIV)

{See Rule 60}

Register of agreements for the year \_\_\_\_\_ 20 \_\_\_\_\_

| S. No | Date of agreement | Date of registration | employer | Employee | Initial of Competent Authority | Reference order rectifying the register |
|-------|-------------------|----------------------|----------|----------|--------------------------------|-----------------------------------------|
| 1     | 2                 | 3                    | 4        | 5        | 6                              | 7                                       |
|       |                   |                      |          |          |                                |                                         |

14

**FORM – XXXV**

**{See Rule 66 (1) (a)}**

**REGISTER OF WOMEN EMPLOYEES**

Name of establishment

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

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

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

13

**FORM XXXVI**

**{See Rule 66 (3) (a) & (b)}**

**Unified Annual Return A. General Part:**

- (a) Name of the establishment.....  
Address of the establishment: House No./Flat No. ....Street  
No./Plot No. ....t4321.....  
Town.....District.....State.....pin code.....
  
- (b) Name of the employer.....  
Address of the employer:  
House No./Flat No. ....Street No./Plot No. ....  
Town.....District.....State.....pin code.....  
E-mail ID.....Telephone Number.....Mobile number.....
  
- (c) Name of the manager or person responsible for supervision and control of establishment  
.....  
Address:  
House No./Flat No.....Street No./Plot No.....  
Town.....District.....State.....pin code.....  
E-mail ID.....Telephone Number.....Mobile number...

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

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

**C. Details of Employer, Contractor and Contract Labour:**

|                            |                                                                                                                                                                                                                                                                                                                                                                                            |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-----------------|------|----------|-------|----------|-----------|------------------|--------|--------|--|--|--|
| 01.                        | Name of the employer in the case of a contractor's establishment.                                                                                                                                                                                                                                                                                                                          |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |
| 02.                        | Date of commencement of the establishment.                                                                                                                                                                                                                                                                                                                                                 |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |
| 03.                        | Number of Contractors engaged in the establishment during the year.                                                                                                                                                                                                                                                                                                                        |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |
| 04.                        | Total Number of days during the year on which Contract Labour was employed.                                                                                                                                                                                                                                                                                                                |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |
| 05.                        | Total number of man-days worked by Contract Labour during the year.                                                                                                                                                                                                                                                                                                                        |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |
| 06.                        | Name of the Manager or Agent (in case of mines).                                                                                                                                                                                                                                                                                                                                           |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |
| 07.                        | <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Address House No./Flat No.</td> <td style="width: 33%;">Street/Plot No.</td> <td style="width: 33%;">Town</td> </tr> <tr> <td>District</td> <td>State</td> <td>Pin Code</td> </tr> <tr> <td>E-mail ID</td> <td>Telephone Number</td> <td>Moblie</td> </tr> <tr> <td>Number</td> <td></td> <td></td> </tr> </table> | Address House No./Flat No. | Street/Plot No. | Town | District | State | Pin Code | E-mail ID | Telephone Number | Moblie | Number |  |  |  |
| Address House No./Flat No. | Street/Plot No.                                                                                                                                                                                                                                                                                                                                                                            | Town                       |                 |      |          |       |          |           |                  |        |        |  |  |  |
| District                   | State                                                                                                                                                                                                                                                                                                                                                                                      | Pin Code                   |                 |      |          |       |          |           |                  |        |        |  |  |  |
| E-mail ID                  | Telephone Number                                                                                                                                                                                                                                                                                                                                                                           | Moblie                     |                 |      |          |       |          |           |                  |        |        |  |  |  |
| Number                     |                                                                                                                                                                                                                                                                                                                                                                                            |                            |                 |      |          |       |          |           |                  |        |        |  |  |  |

**D. Working hours and weekly rest day:**

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

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

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

**Wage rates (Category Wise):**

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

11

**F. (a) Details of Payments:**

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

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

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

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

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

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

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

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

10

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

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

**Declaration**

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

Place

Date

Sign. Here

9

**FORM-XXXVII**

{See Rule 67}

**Notice to the Employer who committed an offence for the first time for compounding of offence under subsection (1) of section 138 of the Code on Social Security, 2020**

**Notice No.....**

**Date:**

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

**PART – I**

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

**PART –II**

In view of the above, you have an option to pay the above-mentioned amount within fifteen days from the date of issue of this notice and return the application duly filled in Part – III of this notice. In case the said amount is not paid within the specified time, necessary action for filing of prosecution shall be initiated without giving any further opportunity in this regard.

**(Signature of the Compounding Officer)**

**Date:**

**Place:**

2

**PART – III**

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

**Ref: Notice No.....**

**Date:**

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

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

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

**Dated:**

**Place:**

**PART – IV**

**Composition Certificate**

**Ref: Notice No.....**

**Date:**

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

**(Signature)**

**Name and Designation of the Officer**

**Date:**

**Place:**

7

**FORM-XXXVIII**

{See Rule 68 (4) (b)}

**Form for Reporting Vacancies to Career Centres**

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

|                                                                            |                                                                                                                                                                                                                                                                                                                             |           |                      |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------------------|
| 1                                                                          | <b>Particulars of the employer:</b><br>Name:<br>Address with pin code:<br>Telephone No. :<br>Mobile No.:<br>Email address :<br>Name & Type of Establishment<br>(Central Government, State Government,<br>PSU,<br>Autonomous, Private, etc)<br>Registration No of establishment under<br>Code:<br>Economic activity details: |           |                      |
| 2.                                                                         | <b>Particulars of the indenting<br/>Officer:</b><br>Name:<br>Designation:<br>Telephone No. :<br>Mobile No.:<br>Email address :                                                                                                                                                                                              |           |                      |
| 3.                                                                         | <b>Particulars of vacancy(ies):</b> the<br>(a) Designation/nomenclature of<br>vacancy(ies) to be filled<br><br>(b) Description of duties of the post<br>(job role/functional role)                                                                                                                                          |           |                      |
| (c) Qualifications/Skills required<br>(educational, technical, experience) |                                                                                                                                                                                                                                                                                                                             | Essential | Desirable/Preferable |

19

**FORM -XXX**

**{See Rule 56 (2) (i)}**

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

Dated \_\_\_\_\_ 20\_\_\_\_

Competent Authority

6

|                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                  |                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-------------------------------------------------------------------------------------|
| (i) Educational Qualifications<br>(ii) Technical Qualifications<br>(iii) Skills<br>(iv) Experience                                                                                                                                                                                                                                                                                                                                                       |                                  |                                                                                     |
| (d) Age Limits, if any<br>( Age as on last date of application)                                                                                                                                                                                                                                                                                                                                                                                          |                                  |                                                                                     |
| (e) Preferences (such as Ex-servicemen, persons with disabilities, women, etc) if any                                                                                                                                                                                                                                                                                                                                                                    |                                  |                                                                                     |
| (f) duration of employment<br>(i) 3-6 months                                                                                                                                                                                                                                                                                                                                                                                                             | Number of posts                  |                                                                                     |
| (ii) 6-12 months<br>(iii) 12 months and more                                                                                                                                                                                                                                                                                                                                                                                                             |                                  |                                                                                     |
| 4. <b>Whether there is any obligation for arrangement for giving reservation/preference</b> to any category of persons such as Scheduled Caste(SC), Scheduled Tribe(ST), Economically Weaker Sections(EWS), Other Backward Classes(OBC), Ex-serviceman and persons with disabilities (pwd) , etc, in filling up the vacancies: <b>Yes/No</b><br><br>( if yes, give the number of vacancies to be filled by such categories of persons as detailed below) |                                  |                                                                                     |
| Category                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Number of vacancies to be filled |                                                                                     |
| (a) Scheduled Caste<br>(b) Scheduled Tribe<br>(c) OBC<br>(d) EWS<br>(e) Ex-Serviceman<br>(f) Persons with disabilities (pwd)<br>(g) women<br>(h) Others(specify)                                                                                                                                                                                                                                                                                         | Total                            | *By Priority candidates<br>*(Applicable for Jammu and Kashmir Government vacancies) |
| 6. <b>Pay and Allowances:</b><br>For Government vacancies: Mention pay level/pay scale of the post with basic pay/pay per month with other details if any<br><br>For others: Mention minimum total emoluments per month with other details, if any.                                                                                                                                                                                                      |                                  |                                                                                     |

5

|     |                                                                                                                                                                                         |        |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| 7.  | Place of work ( Name of the town/village and district, pin code ,etc. in which it is situated)                                                                                          |        |
| 8.  | Mode of Application(email, online, in writing, etc) and Last date for receipt of applications.                                                                                          |        |
| 9.  | Particulars of officer to whom the applications be sent/candidates should approach<br>(Mention Name, designation, email id, address , telephone No., website address in case of online) |        |
| 10. | Mode of Recruitment<br>{Through Career Centre, Placement Agency , self management, any other mode(specify) }                                                                            |        |
| 11. | Would like to prefer submission of list of eligible candidates registered with Career Centre                                                                                            | Yes/No |
| 12. | Any other relevant information                                                                                                                                                          |        |

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

(For Official Use- to be filled by Career Centre)

|     |                                              |  |
|-----|----------------------------------------------|--|
| 13. | Name, address, email id of the Career Centre |  |
| 14. | Date of receipt of Vacancies                 |  |
| 15. | NIC Code of the establishment/               |  |
| 16. | NCO Code of the post                         |  |
| 17. | Unique Vacancy ID(number)                    |  |

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

4

**NOTE:**

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

3

**FORM-XXXIX**

{See Rule 68 (7)}

**Form EIR (Employment Information Return)**

**Yearly Return to be submitted to the Career Centre (Regional) for the Year ended.....**

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

|                                                      |  |
|------------------------------------------------------|--|
| Name & Address of the Employer                       |  |
| Whether – Head Office                                |  |
| Branch Office                                        |  |
| Type of Establishment<br>(Public /Private Sector)    |  |
| Nature of business/Principal activity                |  |
| <b>Establishment Registration No. under the Code</b> |  |

**1. (a) EMPLOYMENT**

Total number of *manpower of establishment* including working *proprietors/partners//contingent* paid and contractual workers, out-sourced workers excluding part-time workers and apprentices. (The figures should include every person whose wage or salary *is paid*).

| Category                                                                          | On the last working day of the previous Year | On the last working day of the Year under report |
|-----------------------------------------------------------------------------------|----------------------------------------------|--------------------------------------------------|
| MEN                                                                               |                                              |                                                  |
| WOMEN                                                                             |                                              |                                                  |
| Other<br>(Transgender)                                                            |                                              |                                                  |
| <b>TOTAL :</b><br>PWD<br>(person<br>s with<br>disabilities) out<br>of above total |                                              |                                                  |

(EIR-continued)

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

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

3. **MANPOWER SHORTAGES:**

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

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

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

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

| Occupation | Number of employees                                                                                                                                                                      |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | Please give as far as possible approximate number of vacancies in each occupation you are likely to fill during the next financial year due to retirement/ expansion or re-organisation. |

1

| Description | Men | Women | Others<br>(transgender) | Total | PWD<br>(persons with disabilities)<br>out of total |
|-------------|-----|-------|-------------------------|-------|----------------------------------------------------|
| 1           | 2   | 3     | 4                       | 5     | 6                                                  |
| *           |     |       |                         |       |                                                    |
|             |     |       |                         |       |                                                    |
|             |     |       |                         |       |                                                    |
| Total :     |     |       |                         |       |                                                    |

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

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

To  
The Career Centre,  
.....

Note:-

1. This return is to be rendered to the Career Centre (Regional) within 30 days after the end of the *financial year* concerned by establishments/employers vide their obligation under the Code on Social Security, 2020 (Chapter XIII-Employment Information and Monitoring).
2. The main purpose in obtaining the information from employers is to know
  - (i) the vacancies/employment opportunities available;
  - (ii) type of personnel who are in short supply; and
  - (iii) future job opportunities for providing vocational guidance to the jobseekers and connecting them with the employers. This is helpful in ascertaining the skill needs also. Employers too will be able to call on the Career Centres for getting suitable candidates as per their requirements.