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The Industrial Relations Code, 2020

Section 2 - Definitions

In this Code, unless the context otherwise requires,---
(a) "appellate authority" means an authority appointed by the appropriate Government toexercise such functions in such area as may be specified by that Government by notification in theOfficial Gazette;
(b) "appropriate Government" means,---
(i) in relation to any industrial establishment or undertaking carried on by or under theauthority of the Central Government or concerning any such controlled industry as may bespecified in this behalf by the Central Government or the establishment of railways includingmetro railways, mines, oil fields, major ports, air transport service, telecommunication, bankingand insurance company or a corporation or other authority established by a Central Act or acentral public sector undertaking, subsidiary companies set up by the principal undertakings orautonomous bodies owned or controlled by the Central Government including establishmentsof the contractors for the purposes of such establishment, corporation, other authority, publicsector undertakings or any company in which not less than fifty-one per cent. of the paid-upshare capital is held by the Central Government, as the case may be, the Central Government.
Explanation.--- For the purposes of this clause, the Central Government shall continue tobe the appropriate Government for central public sector undertakings even if the holding of theCentral Government reduces to less than fifty per cent. equity in that public sector undertakingafter the commencement of this Code;
(ii) in relation to any other industrial establishment, including State public sectorundertakings, subsidiary companies set up by the principal undertaking and autonomous bodiesowned or controlled by the State Government, the State Government:
Provided that in case of a dispute between a contractor and the contract labour employedthrough the contractor in any industrial establishment where such dispute first arose, theappropriate Government shall be the Central Government or the State Government, as the casemay be, which has control over such industrial establishment;
(c) "arbitrator" includes an umpire;
(d) "average pay" means the average of the wages payable to a worker,---
(i) in the case of monthly paid worker, in three complete calendar months;
(ii) in the case of weekly paid worker, in four complete weeks;
(iii) in the case of daily paid worker, in twelve full working days,
preceding the date on which the average pay becomes payable, if the worker had worked for threecomplete calendar months or four complete weeks or twelve full working days, as the case may be,and where such calculation cannot be made, the average pay shall be calculated as the average ofthe wages payable to a worker during the period he actually worked;
(e) "award" means an interim or a final determination of any industrial dispute or of anyquestion relating thereto by any Industrial Tribunal referred to in section 44 or National IndustrialTribunal referred to in section 46 and includes an arbitration award made under section 42;
(f) "banking company" means a banking company as defined in section 5 of the BankingRegulation Act, 1949 (10 of 1949) and includes the Export-Import Bank of India, the IndustrialReconstruction Bank of India, the Small Industries Development Bank of India established undersection 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), the ReserveBank of India, the State Bank of India, a corresponding new bank constituted under section 3 of theBanking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), acorresponding new bank constituted under section 3 of the Banking Companies (Acquisition andTransfer of Undertakings) Act, 1980 (40 of 1980);
(g) "certifying officer" means any officer appointed by the appropriate Government, bynotification, to perform the functions of a certifying officer under the provisions of Chapter IV;
(h) "closure" means the permanent closing down of a place of employment or part thereof;

(i) "conciliation officer" means a conciliation officer appointed under section 43;
(j) "conciliation proceeding" means any proceeding held by a conciliation officer under thisCode;
(k) "controlled industry" means any industry the control of which by the Union has beendeclared by any Central Act to be expedient in the public interest;
(l) "employee" means any person (other than an apprentice engaged under the ApprenticesAct, 1961) (52 of 1961) employed by an industrial establishment to do any skilled, semi-skilled orunskilled, manual, operational, supervisory, managerial, administrative, technical or clerical workfor hire or reward, whether the terms of employment be express or implied, and also includes aperson declared to be an employee by the appropriate Government, but does not include any memberof the Armed Forces of the Union;
(m) "employer" means a person who employs, whether directly or through any person, or onhis behalf or on behalf of any person, one or more employee or worker in his establishment andwhere the establishment is carried on by any department of the Central Government or the StateGovernment, the authority specified by the head of the department in this behalf or where noauthority is so specified, the head of the department, and in relation to an establishment carried onby a local authority, the chief executive of that authority, and includes,---
(i) in relation to an establishment which is a factory, the occupier of the factory as definedin clause (*n*) of section 2 of the Factories Act, 1948 (63 of 1948) and, where a person has beennamed as a manager of the factory under clause (*f*) of sub-section (*1*) of section 7 of the saidAct, the person so named;
(ii) in relation to any other establishment, the person who, or the authority which hasultimate control over the affairs of the establishment and where the said affairs are entrustedto a manager or managing director, such manager or managing director;
(iii) contractor; and
(iv) legal representative of a deceased employer;
(n) "executive", in relation to a Trade Union, means the body by whatever name called, towhich the management of the affairs of a Trade Union is entrusted;
(o) "fixed term employment" means the engagement of a worker on the basis of a writtencontract of employment for a fixed period:
Provided that---
(a) his hours of work, wages, allowances and other benefits shall not be less than that ofa permanent worker doing the same work or work of similar nature;
(b) he shall be eligible for all statutory benefits available to a permanent workerproportionately according to the period of service rendered by him even if his period ofemployment does not extend to the qualifying period of employment required in the statute;and
(c) he shall be eligible for gratuity if he renders service under the contract for a period ofone year;
(p) "industry" means any systematic activity carried on by co-operation between an employerand worker (whether such worker is employed by such employer directly or by or through anyagency, including a contractor) for the production, supply or distribution of goods or services witha view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual orreligious in nature), whether or not,---
(i) any capital has been invested for the purpose of carrying on such activity; or
(ii) such activity is carried on with a motive to make any gain or profit, but does notinclude ---
(i) institutions owned or managed by organisations wholly or substantially engagedin any charitable, social or philanthropic service; or
(ii) any activity of the appropriate Government relatable to the sovereign functionsof the appropriate Government including all the activities carried on by the departmentsof the Central Government dealing with defence research, atomic energy and space; or
(iii) any domestic service; or
(iv) any other activity as may be notified by the Central Government;
(q) "industrial dispute" means any dispute or difference between employers and employers orbetween employers and workers or between workers and workers which is connected with theemployment or non-employment or the terms of employment or with the conditions of labour, ofany person and includes any dispute or difference between an individual worker and an employerconnected with, or arising out of discharge, dismissal, retrenchment or termination of such worker;
(r) "industrial establishment or undertaking" means an establishment or undertaking in whichany industry is

carried on:
Provided that where several activities are carried on in an establishment or undertaking andonly one or some of such activities is or are an industry or industries, then,---
(i) if any unit of such establishment or undertaking carrying on any activity, being anindustry, is severable from the other unit or units of such establishment or undertaking whichis not carrying on or aiding the carrying on of any such activity, such unit shall be deemed tobe a separate industrial establishment or undertaking;
(ii) if the predominant activity or each of the predominant activities carried on in suchestablishment or undertaking or any unit thereof is an industry and the other activity or eachof the other activities carried on in such establishment or undertaking or unit thereof is notseverable from and is, for the purpose of carrying on, or aiding the carrying on of, suchpredominant activity or activities, the entire establishment or undertaking or, as the case maybe, unit thereof shall be deemed to be an industrial establishment or undertaking;
(s) "insurance company" means a company as defined in section 2 of the Insurance Act, 1938(4 of 1938);
(t) "lay-off" (with its grammatical variations and cognate expressions) means the failure,refusal or inability of an employer on account of shortage of coal, power or raw materials or theaccumulation of stocks or the break-down of machinery or natural calamity or for any otherconnected reason, to give employment to a worker whose name is borne on the muster rolls of hisindustrial establishment and who has not been retrenched.
Explanation.--- Every worker whose name is borne on the muster rolls of the industrialestablishment and who presents himself for work at the establishment at the time appointed for thepurpose during normal working hours on any day and is not given employment by the employerwithin two hours of his so presenting himself shall be deemed to have been laid-off for that daywithin the meaning of this clause:
Provided that if the worker, instead of being given employment at the commencement of anyshift for any day is asked to present himself for the purpose during the second half of the shift forthe day and is given employment then, he shall be deemed to have been laid-off only for one-halfof that day:
Provided further that if he is not given any such employment even after so presenting himself,he shall not be deemed to have been laid-off for the second half of the shift for the day and shallbe entitled to full basic wages and dearness allowance for that part of the day;
(u) "lock-out" means the temporary closing of a place of employment, or the suspension ofwork, or the refusal by an employer to continue to employ any number of persons employed byhim;
(v) "major port" means a major port as defined in clause (*8*) of section 3 of the Indian PortsAct, 1908 (15 of 1908);
(w) "metro railway" means the metro railway as defined in sub-clause (*i*) of clause (*1*) ofsection 2 of the Metro Railways (Operation and Maintenance) Act, 2002 (60 of 2002);
(x) "mine" means a mine as defined in clause (*j*) of sub-section (*1*) of section 2 of the MinesAct, 1952 (35 of 1952);
(y) "National Industrial Tribunal" means a National Industrial Tribunal constituted undersection 46;
(z) "negotiating union or negotiating council" means the negotiating union or negotiatingcouncil referred to in section 14;
(za) "notification" means a notification published in the Official Gazette of India or theOfficial Gazette of a State, as the case may be, and the expression "notify" with its grammaticalvariation and cognate expressions shall be construed accordingly;
(zb) "office-bearer", in relation to a Trade Union, includes any member of the executivethereof, but does not include an auditor;
(zc) "prescribed" means prescribed by rules made under this Code;
(zd) "railway" means the railway as defined in clause (31) of section 2 of the Railways Act,1989 (24 of 1989);
(ze) "registered office" means that office of a Trade Union which is registered under this Codeas the head office thereof;
(zf) "registered Trade Union" means a Trade Union registered under this Code;
(zg) "Registrar" means a Registrar of Trade Unions appointed by the State Government undersection 5;
(zh) "retrenchment" means the termination by the employer of the service of a worker for anyreason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, butdoes not include---

(i) voluntary retirement of the worker; or
(ii) retirement of the worker on reaching the age of superannuation; or
(iii) termination of the service of the worker as a result of the non-renewal of thecontract of employment between the employer and the worker concerned on its expiry or ofsuch contract being terminated under a stipulation in that behalf contained therein; or
(iv) termination of service of the worker as a result of completion of tenure of fixedterm employment; or
(v) termination of the service of a worker on the ground of continued ill-health;
(zi) "settlement" means a settlement arrived at in the course of conciliation proceeding andincludes a written agreement between the employer and worker arrived at otherwise than in thecourse of conciliation proceeding where such agreement has been signed by the parties thereto insuch manner as may be prescribed and a copy thereof has been sent to an officer authorised in thisbehalf by the appropriate Government and to the conciliation officer;
(zj) "standing orders" means orders relating to matters set-out in the First Schedule;
(zk) "strike" means a cessation of work by a body of persons employed in any industry actingin combination, or a concerted refusal, or a refusal, under a common understanding, of any numberof persons who are or have been so employed to continue to work or to accept employment andincludes the concerted casual leave on a given day by fifty per cent. or more workers employed inan industry;
(zl) "Trade Union" means any combination, whether temporary or permanent, formedprimarily for the purpose of regulating the relations between workers and employers or betweenworkers and workers, or between employers and employers, or for imposing restrictive conditionson the conduct of any trade or business, and includes any federation of two or more Trade Unions:
Provided that the provisions of Chapter III of this Code shall not affect ---
(i) any agreement between partners as to their own business; or
(ii) any agreement between an employer and those employed by him as to suchemployment; or
(iii) any agreement in consideration of the sale of the goodwill of a business or ofinstruction in any profession, trade or handicraft;
(zm) "Trade Union dispute" means any dispute relating to Trade Union arising between twoor more Trade Unions or between the members of a Trade Union inter se;
(zn) "Tribunal" means an Industrial Tribunal constituted under section 44;
(zo) "unfair labour practice" means any of the practices specified in the Second Schedule;
(zp) "unorganised sector" shall have the same meaning as assigned to it in clause (*l*) of section2 of the Unorganised Workers' Social Security Act, 2008 (33 of 2008);
(zq) "wages" means all remuneration, whether by way of salary, allowances or otherwise,expressed in terms of money or capable of being so expressed which would, if the terms ofemployment, express or implied, were fulfilled, be payable to a person employed in respect of hisemployment or of work done in such employment, and includes,---
(i) basic pay;
(ii) dearness allowance;
(iii) retaining allowance, if any,
but does not include---
(a) any bonus payable under any law for the time being in force, which does not formpart of the remuneration payable under the terms of employment;
(b) the value of any house-accommodation, or of the supply of light, water, medicalattendance or other amenity or of any service excluded from the computation of wages bya general or special order of the appropriate Government;
(c) any contribution paid by the employer to any pension or provident fund, and theinterest which may have accrued thereon;
(d) any conveyance allowance or the value of any travelling concession;
(e) any sum paid to the employed person to defray special expenses entailed on him bythe nature of his employment;
(f) house rent allowance;
(g) remuneration payable under any award or settlement between the parties or orderof a court or Tribunal;
(h) any overtime allowance;

(i) any commission payable to the employee;
(j) any gratuity payable on the termination of employment; or
(k) any retrenchment compensation or other retirement benefit payable to theemployee or any *ex gratia* payment made to him on the termination of employment:
Provided that, for calculating the wage under this clause, if any payments made by theemployer to the employee under sub-clauses (*a*) to (*i*) exceeds one-half, or such other per cent. as may be notified by the Central Government, of all remuneration calculated under this clause,the amount which exceeds such one-half, or the per cent. so notified, shall be deemed to beremuneration and shall be accordingly added in wages under this clause:
Provided further that for the purpose of equal wages to all genders and for the purpose ofpayment of wages the emoluments specified in sub-clauses (*d*), (*f*), (*g*) and (*h*) shall be taken forcomputation of wage.
Explanation. --- Where an employee is given in lieu of the whole or part of the wagespayable to him, any remuneration in kind by his employer, the value of such remuneration inkind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemedto form part of the wages of such employee;
(zr) "worker" means any person (except an apprentice as defined under clause (*aa*) of section2 of the Apprentices Act, 1961) (52 of 1961) employed in any industry to do any manual, unskilled,skilled, technical, operational, clerical or supervisory work for hire or reward, whether the termsof employment be express or implied, and includes working journalists as defined in clause (*f*) ofsection 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) andMiscellaneous Provisions Act, 195 (45 of 1955) 5 and sales promotion employees as defined inclause (*d*) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of1976), and for the purposes of any proceeding under this Code in relation to an industrial dispute,includes any such person who has been dismissed, discharged or retrenched or otherwiseterminated in connection with, or as a consequence of, that dispute, or whose dismissal, dischargeor retrenchment has led to that dispute, but does not include any such person---
(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950(46 of 1950), or the Navy Act, 1957 (62 of 1957); or
(ii) who is employed in the police service or as an officer or other employee of a prison;or
(iii) who is employed mainly in a managerial or administrative capacity; or
(iv) who is employed in a supervisory capacity drawing wages exceeding eighteenthousand rupees per month or an amount as may be notified by the Central Government fromtime to time:
Provided that for the purposes of Chapter III, "worker"---
(a) means all persons employed in trade or industry; and
(b) includes the worker as defined in clause (*m*) of section 2 of the Unorganised Workers' SocialSecurity Act, 2008 (33 of 2008).

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