

The Industrial Relations Code, 2020

Section 42 - Voluntary reference of disputes to arbitration

(1) Where any industrial dispute exists or is apprehended and the employer and the workers agree to refer the dispute to arbitration, they may, by a written agreement, refer the dispute to arbitration, and the reference shall be to such person or persons as an arbitrator or arbitrators as may be specified in the arbitration agreement.

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

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

(4) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer.

(5) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators:

Provided that---

(i) where such industrial dispute is the industrial dispute other than the termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the workers shall be represented before the arbitrator,---

(a) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or

(b) where there is no negotiating union or negotiating council, by the Trade Union; or

(c) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;

(ii) where such industrial dispute relates to termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the concerned workers shall be represented in person or through a representative authorised by him.

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

(7) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (5), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

(8) Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations under this section.