

BOMBAY INDUSTRIAL RELATIONS (GUJARAT) RULES, 1961

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BOMBAY INDUSTRIAL RELATIONS (GUJARAT) RULES, 1961

In exercise of the powers conferred by section 123 of the Bombay Industrial Relations act, 1946 (Bom. XI of 1947), the Government of Bombay is pleased to make the following rules, namely:

1. Short title and application :-

(1) These rules may be called the Bombay Industrial Relations (Gujarat) Rules, 1961.

(2) On an from the date on which the Bombay Industrial Relations act, 1946 comes into force in the areas to which it is extended by the Bombay Industrial Relations (Gujarat Extension and Amendment) Act, 1961 (Gujarat XX of 1961), these rules shall apply to the whole of the State of Gujarat.

2. Definitions :-

(1) In these rules unless there is anything repugnant in the subject

or context,

(i) "Act" means the Bombay Industrial Relations Act, 1946;

(ii) "Form" means a form appended to these rules;

(iii) "Schedule" means a schedule appended to the Act;

(iv) 'Section' means a section of the Act.

(2) Words and expression not defined in these rules shall have the meanings assigned to them under the Act.

3. . :-

The State Government shall maintain two separate panel of an equal number of persons representing the interest of employers and employees for the purpose of appointment on Boards of Conciliation constituted under section 7. Before making appointments to these panels the State Government shall invite such organisations of employers and workers and such other bodies and persons as it may deem fit to recommend the names of suitable persons for this purpose. The members of the panels shall be selected from the names so recommended.

4. . :-

The list of panels constituted under rule 3 shall be published in the [Official Gazette.]

5. . :-

The name of any member of a panel who has been adjudged a bankrupt, or has been declared, insane or who has been convicted in a criminal proceeding, for an offence involving moral turpitude shall be removed from the panel.

6. . :-

Any vacancy-on these panels which may have been caused by resignation, death or by virtue of rule 5 shall be filled in the manner provided for in rule 3. The appointment of a person in every vacancy so filled shall be notified in the Official Gazette.

7. . :-

Any vacancy which has been created on a Board shall be filled by the State Government in the case of a member either by an independent person or from the panel concerned according as the original member was an independent person or a person from the panel and in the case of the Chairman by an independent person.

The name of the person so appointed shall be notified in the Official Gazette.

8. . :-

If a Chairman or any member of a Board is adjudged a bankrupt or is declared insane or is convicted in any criminal proceeding for an offence involving moral turpitude, he shall cease to be a member of such Board and the vacancy so created shall be filled in the manner laid down in rule 7.

9. . :-

A person shall not be eligible to be appointed to preside over a Labour Court unless he is or has been a Civil Judge or possesses the following qualifications :

(a) He has practised as an advocate or pleader in the High Court of Bombay or the High Court of Gujarat or in the Civil or Criminal Courts sub-ordinate to it for at least 3 years and either

(1) is a Bachelor of Laws of the recognised University, or

(2) has passed the examination for Pleaders held by the High Court, or

(3) has passed the Advocates Examination conducted by the Bombay Bar Council, or the Ahmedabad Bar Council, or

(4) has been admitted to the Bar of England Northern Ireland or Scotland;

(b) He has sufficient knowledge of Gujarati to enable him to speak, read and write and translate with facility from the written character into English and vice versa;

10. . :-

The registers of unions referred to in section 12 shall be maintained in Forms A, B and C.

11. . :-

The list of approved unions referred to in section 12 shall be maintained in Form D.

12. . :-

Applications by unions for registration under section 13 shall be in Form E.

13. . :-

The fee payable for registration of a union under section 14 shall be rupee one.

14. . :-

The certificate of registration issued by the Registrar under section 14 shall be in Form F.

14A. . :-

An application under sub-sec. (1) of sec. 16 by an applicant union shall in Form F-A.

15. . :-

The fee payable by a union which makes an application to the Registrar under section 16 shall be Rs. 10.

16. . :-

Every application made by a union under section 16 shall be published by the Registrar in the Official Gazette.

16A. . :-

The certificate of registration issued by the Registrar under section 16 shall be in Form FB.

17. . :-

Any union making an application for re-registration under section 17 shall apply in Form G.

18. . :-

The fee payable by a union for re-registration under section 17 shall be rupee one.

19. . :-

Any change in the address of the head office of a registered union shall be communicated in writing to the Registrar within seven days of such change, and the changed address shall be recorded in the appropriate register maintained under section 12.

20. . :-

(1) Any change in the name of a registered union shall be communicated in writing to the Registrar within seven days of the registration of such change under the Indian Trade Unions Act, 1926. The change in name shall be recorded by the Registrar in the appropriate register maintained under section 12 and notified in the Official Gazette.

(2) The Registrar shall certify under his signature at the foot of the

certificate issued under rule 14 of rule 16A that the new name has been registered.

21. . :-

(1) Every employer in any industry in any local area to which the Act applied under sub-section (3) of section 2 shall within seven days of the dates on which the Act comes into force and every employer in any industry in any local area to which all or any of the provisions of the act have been applied under sub- section (4) of section 2 shall also within seven days of the date on which such provisions of the act have been applied to that industry and thereafter on or before the tenth day of every month forward by registered letter to the Registrar a statement ins such form as the Registrar may require, showing correctly the number of employees employed by him on the first working day of the month. In all cases where work is done in two or more shifts, the employees in all the shifts shall be included in the number of employees of whom the return is to be made.

(2) Every employer of an undertaking in any such industry shall also forward to the Registrar such statement in the manner provided in sub-rule (1) within seven days of the date on which such undertaking was started by him after the coming into force of the Act or as the case may be, after the application of all or any of the provisions of the Act to such industry and therefore on or before the tenth day of every month.

22. . :-

Every registered Union shall, on or before the twentieth day of every month, forward by registered letter to the Registrar a statement in such form as the Registrar may require. Such statement shall, in the case of Union other than a Representative Union, show correctly the number of members the Union had in each occupation for the month immediately preceding the previous month separately for each undertaking f each employer, within the local area for which the Union is registered, with whom the members of the union were employed. In the case of a Representative Union such statement shall show correctly the total number of members the Union had in the industry concerned for the month immediately preceding the previous month within the local area for which the Union is registered. Where the Union is registered for more local areas than one there shall be a separate statement for each such local area.

23. . :-

The Registrar may call upon any employer or any Union to produce such documents and supply such further information as he may deem necessary to prove that the information supplied under rules 21 and 22 is correct.

24. . :-

(1) The Registrar shall forward in the month of March, June, September and December every a consolidated statement for the quarter ending December, March, June and September respectively, for every industry separately to the Labour Officer of each local area containing

(i) where there is no Representative Union for an industry in a local area

(a) the number of members each Registered Union has in each occupation in each undertaking in the local area, and

(b) the number of employees employed in each occupation in each undertaking in the local area; and

(ii) where there is a Representative Union for an industry in a local area

(a) the number of members of the Representative Union in the industry in the local area, and

(b) the total number of employees in the industry in the local area.

(2) Such statements shall be open to inspection by any employer or any Union in the industry in the local area.

25. . :-

(1) Where no Representative Union exists for an industry in a local area any employer or any Union in such industry may call upon the Registrar in writing for information in connection with the total number of employees in any occupation or undertaking in such industry and the number of members each Registered Union has in any occupation in such industry.

(2) Where a Representative Union exists for an industry in a local area any employer or Union may call upon the Register in writing for information in connection with the total number of employees employed in the industry in the local area and the total number of

members of the Representative Union in the industry in the local area.

26. . :-

Every order passed under section 14, 15, 16, 23, 23-A 24 or and every order passed in appeal under section 20 or 24-A shall be published by the authority making the order in the Official Gazette and a copy of the same shall be forwarded to the Commissioner of Labour for publication in the Labour Gazette.

27. . :-

Any union desirous of being registered for an industry for more than one local area shall apply in Form E and the provisions of rules 13 and 14 shall apply to such registration.

28. . :-

An application by a union for being entered in the approved list under sub-sec. (1) of sec. 23 shall be in Form h and the application under sub-sec. (4) of that section shall be in Form HA.

28A. . :-

(1) For ascertaining the membership of unions for the purposes of the provisions of sections 13, 16, 17 or 23, the Registrar shall hold an inquiry in the manner hereafter provided.

(2) The Registrar shall fix a date for holding an inquiry for ascertaining such membership and shall give fifteen days notice thereof to the union or unions concerned.

(3) On receipt of such notice each such union may submit its objections, if any, to the Registrar in writing in duplicate and shall produce before the Registrar, the following documents:

(a) Membership Register;

(b) Counterfoils of receipts of subscription for five calendar months immediately preceding the calendar month in which the application is made;

(c) Minute book;

(d) Cash book;

(e) Bank Pass Book, if any;

(f) An audited statement of membership for each of the three calendar months immediately preceding the calendar month in

which the application is made; and

(g) Such other documents as the Registrar may from time to time direct during the course of an inquiry.

(4) Every such objection shall be accompanied by a deposit of Rs.5.

(5) Where the union to whom notice has been given under sub-rule (2) fails to be present before the Registrar on the date fixed for the inquiry or fails to produce the documents as required by sub-rule (3) then

(a) if such union is an applicant, the Registrar may dismiss the application; and

(b) if such union is an applicant, the Registrar may proceed with the inquiry ex-parte.

Provided that on sufficient cause being shown by the Union whose be open to inspection to other unions, who may be party to the inquiry, for a period of ten days from the date of their production or for such further period as the Registrar may allow.

(6) The documents produced at the inquiry by a union shall be open to inspection to other unions, who may be party to the inquiry, for a period of ten days from the date of their production or for such further period as the Registrar may allow.

(7) The Registrar may adopt such sampling method as he may deem fit in verifying the membership register of a union.

(8) Where in respect of objections raised against the membership of a union, the number of witnesses to be examined is very large, the Registrar may examine such number of witnesses as he may determine by adopting such sampling method, as the Registrar may deem fit. The Registrar may, with the consent of the parties, examine the witnesses in camera.

(9) If in the course of the inquiry, the Registrar comes to a conclusion that an objection raised against the membership of the union was frivolous vexatious, he may impose a fine not exceeding Rs. 5 for every such objection.

29. . :-

The President, the Vice-President, the General Secretary, the Secretary, the Joint Secretary, the Assistant Secretary, the Treasurer of an approved union, such members of the office staff of

the Union as have been authorised by the President in this behalf and such members of the union as have completed at least six months of membership and been authorised by the President in this behalf shall, subject to the following conditions, be entitled to collect sums payable by its members on the premises of an undertaking where wages are paid to them:

(a) the name or names of the officer or officers or member or members of the office staff or member or members of the union authorised in this behalf shall be intimated in advance to the employer and changes, if any, therein shall be communicated to the employer at least 24 hours before the date of collection;

(b) the officers, members of the office staff or members of the union visiting the undertaking for this purpose shall carry a letter of authority in Form I-A and such letter of authority duly signed by the General Secretary or Secretary of the Union shall be sufficient authority for the persons authorised under that letter to collect the sums.

(c) no coercion or force shall be used on any employee;

(d) the collection shall be made without causing hindrance to the staff of the undertaking or interference in the management's work;

(e) not more than 25 employees at a time shall be allowed together at the place where such sums are collected;

(f) collections shall be made on the usual pay day or days and the subsequent three days and the day or days on which unclaimed wages are paid;

Provided that (i) on the usual pay day or days the collection shall be made during the hours of payment, and 9ii) on any other days the collection shall be made during such hours as may be mutually agreed upon between the employer and the union subject to the condition that the period shall not be more than three hours on each of such days.

30. . :-

The President, the Vice-President, the General Secretary, the Secretary, the Joint Secretary, the Assistant Secretary and the Treasurer of an approved union, shall be entitled to put up or cause to be put up a notice board outside the time-keeper's office or at any other conspicuous place mutually agreed upon between the

employer and the union and affix notices thereon during the hours the undertaking is open:

Provided that

- (a) the notice board to be put up shall be of a reasonable size;
- (b) the notices to be affixed shall be signed either by the President, the Vice-President, the General Secretary, the Secretary, the Joint Secretary, the Assistant Secretary or the Treasurer: such notices shall relate to lawful activities of the union and shall not be of an offensive or provocative nature.

31. . :-

Subject to the provisions of Rules 32, 33 and 34, the President, the Vice-President, the General Secretary, the Secretary, the joint Secretary, the Assistant Secretary and the Treasurer of an approved union shall, for the purpose of the prevention of settlement of an industrial dispute, have a right and shall be permitted by the employer to do all or any of the acts mentioned in sub-clauses (i), (ii) and (iii) of clause 9c) of section 25.

32. . :-

The officers specified in rule 31 shall have a right and shall be permitted by the employer to hold discussions on the premises of the undertaking with the employees concerned who are members of the approved union.

Provided that

- (a) the union shall intimate in advance to the employer the name or names of the officer or officers authorised for the purpose and the name of the department or departments in which the members concerned are employed: and
- (b) the discussions shall be held in such manner as not to interfere with the working of the undertaking.

33. . :-

The officers of an approved union specified in rule 31 shall have a right to meet and discuss with an employer or any person appointed by him for the purpose the grievances of its members employed in his undertaking subject to the following conditions, namely:

- (a) the discussion shall ordinarily be held on two days in a week

during such hours as may be fixed by agreement between the employer and the union except in urgent cases when it may be held on any day at any time by previous appointment:

(b) the union shall ordinarily communicate in advance the nature of the grievances which it desired to discuss:

(c) the name of the officer authorised in this behalf shall either be communicated to the employer in advance or such officer shall carry a letter of authority in Form I-B. and serve letter of authority duly signed by the General Secretary or Secretary of the Union shall be sufficient authority for the persons authorised under that letter to meet and discuss with the employer or any person appointed by him the grievances of its members.

34. . :-

Any of the officers specified in rule 31 shall have a right and shall be permitted by the employer to inspect in any undertaking any place where any member of the union is employed provided he carries with him a letter of authority in Form I-C and informs the employer beforehand which place in the undertaking he desires to inspect and such letter of authority duly signed by the General Secretary or Secretary of the Union shall be sufficient authority for the persons authorised under that letter, to inspect in any undertaking any place aforesaid.

35. . :-

(1) The following shall be the fees for the purposes of subsection (6) of section 26:

Table of Maximum Fees for Legal Aid.

		Industrial	Labour
		Court	Court
		Rs.	Rs.
(1)	For each conference with legal adviser.	40	20
(2)	For drawing up an application.	50	25
	written statement, memorandum		
	of appeal, or petition of more than		
	15 foolscan typed		

	15 foolscap typed pages.		
(3)	For drawing up an application,	30	15
	written statement, memorandum		
	of appeal, or petition of less than		
	15 foolscap typed pages		
(4)	For appearance in Court (per day).	80	40
(5)	For opinion of legal adviser in writing.	60	30
(6)	For appearance in Chamber matter	23	10
	or for appearance before-the officer		
	of the Court.		
(7)	Fees for retainer.	30	30

(2) Fees in excess of those prescribed in sub-rule (1) may be given to senior counsels or legal practitioners of high standing in matters of importance or difficulty before the Industrial Court.

36. . :-

Any association of employers desiring recognition as an association of employers under the Act shall apply to the REgistrar in Form J. On receipt of such application, which shall be in duplicate, the Registrar shall forward a copy of the application to the State Government with such remarks as he may deem necessary.

37. . :-

(i) Every association of employers which has been recognised by the State Government under section 27 shall notify to the Registrar of every change, which occurs in its name-, Memorandum of Association of Constitution or membership within seven days of such change.

(ii) Any such change in the name of an association of employers shall be notified in the Official Gazette.

38. . :-

Any employer in an industry, not being a member of an association of employers connected with that industry, who has agreed to be represented in any proceeding under the act by such association, shall send intimation in writing to that effect to the Registrar and shall send copies of such intimation to the Labour Officer for the local area, to the authority holding the proceeding and to the representative union for the industry, if any.

39. . :-

(1) Where more employers than one are affected or under any of the provisions of the Act deemed to be affected and no association of employers is under sub-section (2) of section 27 entitled to represent all of them, the representative determined in the following manner shall be entitled to act as their representative:

(a) Where there is an association of employers and two-thirds or more of the employers who are not members of the association agree to be represented by the association, that association:

(b) Where there is an association of employers but less than two-thirds of the employers who are not members of the association are in favour of their being represented by the association, not more than five representatives elected from among all the employers at a meeting held by the Labour Officer for the purpose, provided that at least one of the representatives shall be from among the employers who have not agreed to be represented by the association:

(c) In all other cases, not more than five representatives elected by the employers at a meeting held by the Labour Officer for the purpose:

Provided that where the number of employers affected or deemed to be affected does not exceed five no election shall be held and all the employers concerned shall be entitled to act as the representative.

(d) any vacancy in the representatives elected under clause (b) or (c) shall be filled by election at a meeting of the employers held by the Labour Officer for the purpose.

(2) The names of persons elected as representatives shall be communicated by the Labour Officer to the Registrar and the authority holding the proceeding.

40. . :-

(1) Where there is no Representative Union in respect of any industry in any local area the Labour Officer for the local area or a person deputed by him for the purpose shall hold meetings of the employees in each undertaking in the industry and each occupation there in at such place and time as he deems fit. At such meeting the employees may elect five representatives from among themselves.

(2) Where an election has been held under sub-section (1) of section 28, within two years from the date on which such election is held and within each succeeding two years thereafter the Labour Officer or any person deputed by him for the purpose shall hold meetings of the employees for the purpose of electing fresh representative from among themselves.

(3) After the election of the representatives of employees the Labour Officer shall intimate the names of the persons elected to the employer concerned. Copies of such intimation shall be sent to the Registrar, the Chief Conciliator and the Conciliator for the industry in the local area.

41. . :-

Subject to the provisions of sub-section (4) of section 28, the persons elected under rule 40 shall function as the representative of employees until such time as fresh elections are held by the Labour Officer and the names of the persons so elected are communicated by him to the employer concerned.

42. . :-

Copies of the intimation referred to in sub-rule (3) of rule 40 shall be affixed by the employer prominently outside the time- keepers' office and at the entrance through which the majority of the employees enter the undertaking.

43. . :-

(1) The employees in an occupation or undertaking desiring to recall a representative of employees shall send a requisition in writing to the Labour Officer for the local area. Such requisition shall be signed by at least twenty per cent, of the employees in the occupation or undertaking as the case may be and shall state the reasons for the recall.

(2) On receipt of such a requisition the Labour Officer shall as soon as may be hold a meeting of the employees in the occupation or undertaking as the case may be, and explain to them the object of the meeting. If the majority of the employees present at the meeting decides to recall the representative or representatives mentioned in the person or persons so recalled shall be deemed to have ceased to represent the employees concerned.

(3) The Labour Officer shall intimate to the employer concerned, the Chief Conciliator for the Industry in the local area and the Registrar the name or names of the persons who have been so recalled.

44. . :-

Any vacancy in the representatives elected under sub-section (1) or (3) of section 28 shall be filled by election in the manner prescribed in rule 40:

Provided that when the vacancy is caused by a recall under subsection (4) of section 28 the Labour Officer may call upon the same meeting as the one called for the purpose of recalling to elect fresh representative or representatives as the case may be in place of the person or persons recalled.

45. . :-

Employees desiring to authorise under clause (iii) of section 30 any Qualified or Primary Union in the industry in which they are employed shall do so through their elected representatives who shall inform in writing to that effect the employer concerned the Registrar, the Conciliator for the industry in the local area and the Labour Officer for the local area:

Provided that where there are no elected representatives of the employees concerned such authority and intimation shall be given through the employees, not exceeding five, selected by them for the purpose.

46. . :-

Where the Labour Officer is the representative of employees, the Labour Officer, shall, before entering into any agreement under section 44 or 44A or settlement under section 44B or 58, place the terms of such agreement or settlement before a meeting of the employees concerned. Such meeting shall be convened by the Labour Officer or any person deputed by him for the purpose at such place and time as the Labour Officer may decide and in such

manner as he deems fit. If the majority of the employees present at the meeting accept the terms of agreement or settlement all the employees affected shall be deemed to have accepted the terms of such agreement or settlement.

47. . :-

(1) Where in any proceeding the persons entitled to appear or act under clause (v) of section 30 are more than five the Labour Officer or any person deputed by him for the purpose shall hold a meeting of such persons at such place and time as he deems fit. The person elected at the meeting shall be entitled to appear or act as the representative of employees in that proceeding and their names shall be communicated by the Labour Officer to the employers and association of employers concerned, the Chief Conciliator, the Registrar and the authority holding the proceeding.

(2) The number of persons to be elected under sub-rule (1) shall be determined in the following manner:-

Number of persons entitled to act under clause (v) of section 30.	Number of person to be elected to act instead.
Less than 15	5
15 to 50	9
51 to 100	13
101 to 200	17
201 to 400	21
401 and above	25

47A. . :-

Manner of election of two persons from amongst employees in disputes.- Where in any arbitration referred to the Labour Court or Industrial Court under section 72, the number of persons entitled to appear or act under sub-section (1) of section 33-A on either side exceeds five, the Labour Officer or any person deputed by him for the purpose shall hold a meeting of the employees of such side at such place and time as he deems fit and conduct elections to enable the employees of such side to elect two persons from amongst themselves to appear or act in that arbitration proceeding and on two persons being so elected their names shall be communicated by the Labour Officer or as the case may be the deputed person to the employer concerned, the Registrar and to the authority holding the arbitration proceedings.]

48. . :-

Within six weeks of the date of the application of the Act or any provisions thereof to any industry in any local area, and in the case of an undertaking started after the application of the Act or any provisions thereof to such industry within six months of the starting of the undertaking, every employer in the industry concerned shall forward by registered letter to the Commissioner of Labour, three copies of the draft standing orders which he proposes to adopt for regulation the relations between him and his employees:

Provided that where an employer, who is a member of an association of employers, notifies the Commissioner of Labour in writing that he has agreed to the association submitting such standing orders on his behalf and the association submits the standing orders within the period specified in sub-section (1) of section 35 he shall be deemed to have complied with the provisions of that sub-section.

49. . :-

(1) The Commissioner of Labour shall forward a copy of the draft standing orders to the representative of employees of the undertaking concerned and to such other interests concerned in the industry as he may deem fit to consult and ask them to send their views thereof within 30 days of the date on which the copy of such orders was forwarded to them.

(2) On receipt of the views of the representative of employees and the interests concerned or on the expiry of the period 30 days of the date of despatch of the draft standing orders whichever is earlier, the Commissioner of Labour shall call a conference of the representative of employees and employers and such other interests in the industry as may have been addressed by him under sub-rule (1) for consultation and then settle the standing orders finally.

Provided that the standing orders may be settled finally by the Commissioner of Labour without calling such conference, if the representatives or employees and employers and such other interests concerned in the industry agree in writing to the draft standing orders forwarded by the Commissioner of Labour under sub-rule (1).

50. . :-

(1) The Commissioner of Labour after he has settled the standing orders, shall forward a copy of such standing orders to the Registrar and shall also send copies of the same to the Labour Officer for the local area, the employer or the association of employers as the case may be, the representative of employees concerned, the Industrial Court and the Labour Court concerned.

(2) The Registrar shall, as soon as the standing order have been recorded, intimate to the employer or the association of employers as the case may be and to the representative of employees concerned the date on which the standing orders were recorded.

(3) After the expiry of a period of 30 days from the date of their coming into operation the employer concerned unless an appeal has been filed under sub-section (1) of section 36, print the standing orders settled and forwarded to him by the Commissioner of Labour in English and also in Gujarati:

Provided that in undertakings where more than twenty percent, of the total number of employees employed are Mussalmans such standing orders shall also be printed in Urdu.

(4) Where an appeal has been filed under sub-section (1) of section 36 the standing orders as settled by the Industrial Court shall be printed by the employer in the same manner as prescribed by sub-rule (3).

(5) Every set of standing orders printed as required by sub-rule (3) or (4) shall be posted by the employer concerned prominently on a special board to be maintained for the purpose outside the time keeper's office or at the entrance through which the majority of the employees enter the undertaking and also in all the departments where the employees concerned are working.

51. . :-

Any employer intending to effect any change in respect of an industrial matter mentioned in Schedule II shall give notice of such intention to the representative of employees in Form K.

52. . :-

Any employee who desired a change in respect of an industrial matter not specified in Schedule I or III shall given notice to the employer through the representative of employees in Form L.

53. . :-

(1) Any employee or a Representative Union desiring a change in respect of (i) any order passed by the employer concerned under Standing Orders or (ii) any industrial matter arising out of the application or interpretation of Standing Orders or (iii) an industrial matter specified in Schedule III shall make an application in writing to the employer. An application for change in respect of an order passed by the employer under standing orders shall be made within a period of six months from the of such order. Where such application is made by an employee it may be made to the employer direct or through the Labour Officer for the local area or the representative of employees concerned. A copy of the application shall be forwarded to the Commissioner of Labour and in cases where such application is not made through the Labour Officer for the local area to that officer.

(2) Where an application has been made by an employee under sub- rule (1) the employer and the employee may arrive at an agreement within fifteen days of the receipt of the application by the employer or within such further period as may be mutually fixed by the employer and the employee or the Labour Officer for the local area or the representative of employees as the case may be.

(3) Where an application has been made by a Representative Union under sub-rule (1), the employer and the Representative Union may arrive at an agreement within fifteen days of the receipt of the application by the employer or within such further period as may be mutually agreed upon by the parties.

54. . :-

The agreement referred to in sub-section 91) of section 44 shall be sent to the Registrar by registered letter and to the other officers specified therein by ordinary post.

55. . :-

(1) The Joint Committee shall consist of ten members of whom five shall be nominated by the registered union from among the employees in the undertaking or occupation concerned and five appointed by the employer concerned.

(2) Within 30 days of the decision to constitute a Joint Committee for an undertaking or occupation and every 12 months thereafter the employer and the registered union shall appoint or nominate persons to represent them on the committee.

(3) Before making such nominations the registered union shall call a meeting and consult the employees of the undertaking or occupation concerned as the case may be:

Provided that no such meeting may be called before making a nomination for the first time.

55A. . :-

A copy of an order made by the State Government under subsection (1) of section 49 shall be sent to the union and the employer concerned by registered post.

56. . :-

In the event of a member of the Joint Committee ceasing to be employed in the undertaking or occupation or retiring or ceasing in any other way to be a member of such a Committee, the vacancy shall be filled by nomination in the manner prescribed in rule 55 by the registered union or appointment by the employer according as the person who has ceased to be a member was nominated by the union or appointed by the employer.

57. . :-

(1) The Chairman of a Joint Committee shall be appointed by the members of the Committee from among themselves at its first meeting which will be convened by the employer.

(2) If the members cannot agree upon the person to be appointed as Chairman the employer and the registered union which nominated the members of the Joint Committee shall be entitled to appoint by agreement the Chairman from among the members.

(3) Failing agreement between the employer and the union the Chairman shall be appointed by the employer and the union respectively in rotation for a period of six months.

58. . :-

The Chairman, who shall convene and preside over the meeting of the Joint Committee, shall circulate the agenda of the meeting to the members along with the notice of the meeting, except in the case of a special meeting at least 48 hours before the meeting. He shall cause the minutes of every meeting recorded and get them confirmed at the next meeting. He shall also communicate, as required by sub-section (2) of section 51, the decisions of the Joint Committee to the registered union and the employer as well as the

Labour Officer and the Commissioner of Labour.

59. . :-

(1) The Joint Committee may meet as often as convenient but not less than once a month. In cases of urgency, a special meeting of the Committee may be called by giving not less than six hours' notice at the request of either side. The meetings shall be held during working hours unless otherwise agreed upon between the two sides. The proceedings of the meetings shall be conducted in a language understood by a majority of the employees.

(2) No business other than that appearing on the agenda, shall be transacted at any meeting unless both sides agree to its introduction.

(3) The presence of three-fifths of the members from each side of the Committee shall be necessary to form a quorum.

(4) The decision of the Committee shall be arrived at by agreement between the two sides, but if no such agreement is possible the decision shall be taken by vote of the majority of the members present. The Chairman shall have one vote and in case of a tie a casting vote.

60. . :-

The agreement referred to in sub-section (1) of section 52 shall be sent to the Registrar by registered letter and to the labour Officer by ordinary post.

61. . :-

The special intimation referred to in sub-section (2) of section 52 shall be sent in Form M.

61A. Constitution of Joint Management Council :-

Any employer who is required by an order made under sub-section (1) of section 53- A to constitute a Joint Management Council shall constitute within a period of ninety days from the date of the said a Joint Management Council consisting of ten members, out of which the number of representatives of the employer to be nominated by the employer and the number of representatives of employees engaged in the undertaking to be elected from amongst themselves shall be such as may be determined by the employer so however that the number of representatives of the employees on the Council shall not be less than the number of representatives of the

employer.

61B. Appointment of Election Officer :-

For the purpose of conducting election of representatives of employees engaged in the undertaking the employer shall designate one of the officers employed in the undertaking as an Election Officer, who shall be in charge of conducting election. The employer shall communicate the name and designation of the person so designated or nominated to the Labour Officer and the Commissioner of Labour.

61C. Fixation of stages of election :-

(1) The Labour Officer having the jurisdiction over the area in which the undertaking exist shall in consultation with the Election Officer and subject to sub-rule (2) fix the date, hour and place for the following stages of election, namely:

- (a) election of representatives of employees on the Council,
- (b) receipt of nomination papers,
- (c) scrutiny of nomination papers, and
- (d) scrutiny and counting of votes.

(2) The date for receipt of nomination papers shall not be later than 7th day after the date of notice under sub-rule (3) and the date for scrutiny of nomination shall be the day immediately following the last date for receipt of nomination papers.

(3) At least one month before the date fixed for election, the Election Officer shall notify to the employees concerned the dates fixed under sub-rule (1) and call upon the employees to elect their representatives and to send nominations for that purpose.

(4) The notice to be issued under sub-rule (3) shall be in English Gujarati and the language understood by a majority of the employees concerned and affixed on the notice board or given adequate publicity amongst the employees. A copy of the notice shall be forwarded to the Labour Officer and the Commissioner of Labour.

61D. Nomination of candidates :-

(1) Every nomination shall be made on a nomination paper in Form LA and the forms shall be supplied by the Election Officer to any

employee on his requisition.

(2) Every nomination paper shall be duly filled in and signed by the proposer and the seconder and subscribed by the candidate himself as consenting to the nomination and shall be delivered to the Election Officer, on or before the date and time appointed under sub-rule (1) of rule 61 C, who shall preserve the same in sealed covers till the date of scrutiny.

(3) Nothing in this rule shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the Election Officer for election:

Provided further that not more than one nomination paper shall be proposed and seconded by any voter.

61E. Scrutiny of nomination papers and preparation of list of validly nominated candidates :-

(1) On the date fixed for the scrutiny of nomination papers the Labour Officer shall scrutinise the nomination papers and reject such of them as are not valid. The Labour Officer may permit the candidates and one proposer and seconder of each candidate to remain present at the time of scrutiny:

Provided that where a candidate or a proposer or seconder is unable to be present at the time of scrutiny he may send a person duly authorised for the purpose.

(2) For the purpose of sub-rule (1) a nomination paper shall be held to be not valid if

(a) the candidate or his proposer or seconder is not an employee of the undertaking;

(b) there has been a failure to comply with the provisions of rule 61 D;

(c) the signature of the candidate or his proposer or his seconder is not genuine or has been obtained by fraud;

(3) The Labour Officer shall not reject any nomination paper on the ground of any technical defect which is not of a substantial character.

(4) The Labour Officer shall endorse on each nomination paper his decision accepting or rejecting the same, and if the nomination paper is rejected, shall record in writing a brief statement of reasons such rejection.

(5) The decision of the Labour Officer regarding acceptance or rejection of the nomination paper shall be final.

61F. Withdrawal of candidature :-

(1) Any candidate may withdraw his candidature by a notice in writing in duplicate subscribed by him and delivered before three O'clock in the afternoon on any day within three days after completion of scrutiny of nominations, to the Labour Officer either by such candidate in person or by his proposer who has been authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of withdrawal of his candidature under sub-rule (1), shall be allowed to cancel the said notice.

(3) On receipt of such notice, the Labour Officer shall note thereon the date and time at which it was delivered to him and satisfy himself as to the genuineness of the notice and the identity of the person delivering it.

61G. List of candidates :-

On the completion of scrutiny of nominations and after expiry of the period within which a candidate may withdraw his candidature under rule 61-F, the Labour Officer shall forthwith under his signature publish on the notice board of the undertaking a list of validly nominated candidates in alphabetical orders.

61H. Procedure in contested and uncontested elections manner of voting at elections :-

(1) If the number of candidates who have been validly nominated is equal to or less than the number of representatives to be elected on the Council, the Labour Officer shall forthwith declare the candidates elected without any votes being taken.

(2) If the number of candidates is more than the number of representatives to be elected, the Labour Officer shall prepare a list of contesting candidates in the same order in which the list of candidates published under rule 61-G appears and cause it to be placed on the notice board of the undertaking, and voting shall

take place on the date fixed for election.

(3) The voting shall be conducted by the Election Officer by secret ballot. The Election Officer may, if necessary, fix suitable voting hours for the different shifts.

(4) Every employee entitled to vote shall have as many votes as the number of representatives to be elected on the council:

Provided that each voter shall be entitled to cast only one vote in favour of any one candidate.

61I. Employer to provide ballot boxes and ballot paper :-

(1) The employer shall provide sufficient number of ballot boxes and ballot papers for the purpose of voting. Every ballot box shall be so made that ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked and the seals being broken.

(2) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates:

Provided that if two or more candidates bear the same name, they shall be distinguished by their designation or place of residence or in some other manner.

(3) The ballot paper to be used for voting shall contain a serial number and such distinguishing mark as the Labour Officer may decide.

61J. Ballot boxes to be locked and sealed before commencement of poll :-

(1) The Election Officer shall immediately before the commencement of the voting allow the candidates and their agents to inspect each ballot box to be used at the voting and shall demonstrate to them that it is empty.

(2) The ballot box shall be closed, sealed and placed in full view of the agents of the candidates.

61K. Admission for voting :-

The Election Officer shall regulate the number of employees to be admitted at any one time for the purpose of voting and shall exclude therefrom all persons except.

(a) the candidates or their agents:

(b) public servants including the members of the police force, if any on duty.

(c) such other persons as the Election Officer may admit for the purpose of identifying the voters.

61L. Candidates and agents not to communicate with voters :-

(1) Candidates and their agents shall not speak to or address any voter nor carry on any propaganda in the undertaking at the time of voting. If the candidates or their agents have objections to any employee voting they may communicate the same to the Labour Officer, provided such objections are on any of the following grounds, namely:

(i) that the employee is not entitled to vote under the rules,

(ii) that the employees claim to be a voter entitled to a vote is false; or

(iii) that the employees has already voted at the election.

(2) The Election Officer may cause any person contravening the provisions of sub-rule (1) to be expelled from the place of voting and person so expelled shall not be re-admitted while the voting is in progress.

61M. Issue of ballot papers :-

(1) No ballot paper shall be issued before the hour fixed for the commencement of voting.

(2) No ballot paper shall be issued to any employee after the hour fixed for the closing of voting except to those who are present at the actual place of voting at the time of closing of the voting. These employees may be allowed to record their vote even after the closing hour fixed for voting. If any question arises as to whether an employee was present at the actual place of voting at the time of closing of the poll, it shall be decided by the Election Officer and his decision shall be final.

61N. Voting by proxy prohibited :-

There shall be no voting by proxy.

61O. Counting of Votes :-

(1) The counting of the votes shall be done by the Labour Officer immediately after the election is over. The counting shall be done in the presence of the candidates or their authorised nominees, which number shall not exceed one for each candidate.

(2) On completion of counting, the Labour Officer shall declare the names of the candidates elected on the Council. Copies of the list of such elected representatives shall be sent by the Labour Officer to the Commissioner of Labour, Registrar and the employer concerned.

(3) The Labour Officer and the Election Officer may avail of such clerical assistance as is necessary for holding the election.

61P. Grounds for rejection of ballot papers :-

(1) The Labour Officer shall reject a ballot paper, if:

(a) It bears any mark or writing by which the voter can be identified;

(b) It does not bear the mark which it should have borne under the provisions of sub-rule (3) of Rule 61-I.

(c) If it bears a serial number of mark different from the one authorised under sub-rule (3) of Rule 61-I.

(d) The Labour Officer is satisfied that the ballot papers is spurious or that it has been so damaged or mutilated that its identity as a genuine ballot paper cannot be established;

(e) If no vote is recorded thereon;

(f) If votes are given in favour of more than the require number of candidates;

(g) If the mark indicating the vote thereon is placed in such a manner as to make it doubtful to which candidate the vote has been given.

(2) The decision of the Labour Officer as to the validity of the ballot paper contained in a ballot box shall be final.

61Q. Equality of votes :-

If after the counting of the votes is completed, an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of those candidates to be declared elected, the Labour Officer shall, forthwith, decided between those candidates by lot and proceed as if the candidate in favour of whom, the lot

falls had received an additional vote.

61R. Adjournment of Poll in emergencies :-

(1) If at an election the proceedings are interrupted or obstructed by any riot or open violence or if at an election it is not possible to take the poll on account of any other sufficient cause, the Labour Officer may adjourn the polling to a later date. The Labour Officer shall report the circumstances to the Commissioner of Labour whenever a Poll is adjourned under this sub-rule (2). The provisions of these rules governing the original poll shall, mutatis mutandis apply to the fresh poll taken under this rule.

61S. Fresh poll in the case of destruction of ballot boxes :-

(1) If at an election any ballot box is unlawfully taken out of the custody of the Labour Officer or in any way tampered with either accidentally or intentionally, destroyed or lost, such election shall be considered as invalid.

(2) Whenever the polling in any undertaking has become invalid under sub-rule (i) the Labour Officer shall as soon as practicable thereafter report the event to the Labour Commissioner and shall fix a date for taking a fresh poll in such undertaking.

(3) All the provisions of these rules governing the original poll shall mutatis mutandis apply to the fresh poll taken under this rule.

61T. Arrangements for election :-

The employer shall be responsible for all arrangements in connection with the election.

61U. Appointment of Chairman :-

(1) The Chairman of the Council shall be appointed by the members of the Council from amongst themselves at its first meeting which shall be convened by the employer immediately after the constitution of the Council:

Provided that.-

(i) Where a representative of an employer has held the office of a Chairman of a Council of an Undertaking, there shall be appointed a representative of employees to be the Chairman of the immediate next succeeding council of that undertaking.

(ii) Where a representative of employees has held the office of a

Chairman of a Council of an undertaking there shall be appointed a representative of the employer to be the Chairman of the immediately next succeeding Council of that undertaking.

1[(2) The Chairman, who shall circulate the agenda of the meeting to the members alongwith the notice of the meeting, except in the case of a special meeting, at least 48 hours before the meeting. He shall cause the minutes of every meeting to be recorded and to be got confirmed at the next meeting. The Chairman shall, as expeditiously as possible, but not later than seven days from the date of the meeting, send a copy of the minutes to the employers. The employer shall immediately on receipt of the minutes, but in no case later than to the members of the Council, registered union, the Labour Officer and the Commissioner of Labour].

2 [(3) In the absence of the Chairman at any meeting the members present at the meeting shall elect from amongst themselves, by a majority of votes, one member who shall preside at such meeting.]

1. Subs. by Notfn. dated 6-4-1977.

2. Ins. by Notfn. dated 6-4-1977.

61V. Council to be constituted from time to time and vacancies how to be filled :-

(1) Within ninety days of the general or special order made under sub-section (1) of section 53-A requiring an employer to constitute a Joint Management Council and every three years thereafter the employer shall constitute or as the case may be, reconstitute the Council.

(2) Where on account of any reason whatsoever a representative of the employer or, as the case may be, that of the employees on the

Provided that nothing in this rule shall derogate from the power of the employer to revoke at any time the nomination of his representative.

(b) A member who is a representative of employees shall cease to be such member on his ceasing to be an employee.

61W. Number of meetings :-

(1) The Council may meet as often as necessary but not less than once **1**[in every month]. In case of urgency, a special meeting of

the Council may be called by giving not less than six hours notice at the request of two members. The proceedings of the meeting shall be conducted in a language understood by a majority of the members of the Council.

(2) No business other than that appearing on the agenda shall be transacted at any meeting unless the members of the Council unanimously agree to its introduction.

(3) The presence of a least two members representing the management and two members representing the employees shall be necessary to form a quorum:

2 [Provided that if at any meeting atleast two members representing management and two members representing the employees are not present the meeting shall be adjourned by the Chairman, or in his absence by the members present, to a date not later than seven days from the date of the original meeting and it shall be lawful to dispose of the business at such adjourned meeting if not less than any four members are present.]

(4) Decision of the Council shall be arrived at by a vote of the majority of the members present. The Chairman shall have one vote and in the event of any equality of votes the Chairman, shall in addition to his vote as a member of the Council, have a second or casting vote.

1. Subs. by Notfn. dated 6-4-1977

2. Ins. by Notfn. dated 6-4-1977.

61X. Meeting when to be held :-

The Council shall ordinarily meet during working hours of the undertaking concerned on any working day.

61Y. Annual Return :-

Every employer who is required to constitute a Joint Management Council under sub-section (1) of section 53-A shall submit to the Commissioner of Labour, in duplicate, an yearly return in Form L.B. Such return shall be delivered or sent by post so as to reach the office of the Commissioner of Labour not later than three weeks after the expiry of the year to which it relates.

61Z. Duties of the Council :-

It shall be the endeavour of the Council:

(i) to improve the working conditions of the employees;

- (ii) to encourage suggestions from the employees;
- (iii) to assist in the administration of laws and agreements;
- (iv) to serve generally as an authentic channel of communication between the management and the employees;
- (v) to create in the employees a sense of participation;
- (vi) to render advice, in the general administration of Standing Orders and their amendment when needed;
- (vii) to render advice on matters pertaining to retrenchment, rationalisation, closure, reduction in or cessation of operations.

61ZA. Administrrating functions with which the Council shall be entrusted by employer :-

The Council shall be entrusted by the employer with administrative functions in respect of:

- (i) operation of vocational training and apprenticeship schemes;
- (ii) preparation of schedules of working hours and breaks and of holidays; and
- (iii) payment of rewards for valuable suggestions received from the employees.

61ZB. Matters in respect of which the Council shall be entitled to receive information :-

The council shall be furnished by the employer with information in respect of:

- (i) general economic situation of the concern;
- (ii) the state of the market, production and sales programmes;
- (iii) organisation and general running of the undertaking;
- (iv) circumstances affecting the economic position of the undertaking;
- (v) methods of manufacture and work;
- (vi) the annual balance sheet and profit and loss of statement and connected documents and explanation; and
- (vii) long term plan for expansion, re-employment etc.]

61ZC. . :-

Every member of the Council shall have, and shall be permitted by the employer concerned to exercise, a right to free movement in the various department and work premises at any time during the working hours of the undertaking for the purpose of obtaining first hand knowledge and experience with regard to the matters mentioned in section 53-B and rules 61-Z, 61-Z-A and 61- Z-B to enable him to discharge effectively his duties and functions as member of the Council.]

62. . :-

The statement of the case referred to in section 54 shall be in Form N.

63. . :-

On receipt of the statement of the case under section 54 the Conciliator for the industry in the local area shall send an intimation to the parties to the dispute to appear before him at such time and place as may be specified in the intimation. He shall hold discussions, either jointly or separately, with the employer and the representative of employees at such places and at such times as he may deem fit, and shall endeavour to bring about a settlement of the dispute.

64. . :-

The memorandum of settlement referred to in sub-section (1) and (4A) of section 58 shall be drawn up in Form O.

65. . :-

The memorandum of settlement drawn up under rule 64 shall be published by the Registrar in the Official Gazette and a copy of the same shall also be forwarded to the Commissioner of Labour.

66. . :-

The notice referred to in sub-section (2) of section 59 shall be served on the parties concerned by registered letter.

67. . :-

(1) When an industrial dispute has been referred to a Board under sub-section (1) of section 59, the Board shall at its first sitting call upon the parties in such order as it thinks fit to state their case.

(2) Any member of a Board may administer an oath.

68. . :-

A submission entered into by the parties under section 66 shall be

published by the Registrar in the Official Gazette and a copy of the same shall be forwarded to the Commissioner of Labour and also to the arbitrator, Labour Court and the Industrial Court as the case may be.

69. . :-

Where an industrial dispute between employers and employees has been referred by the State Government under sub-section (1) of section 72 to the arbitration of the Industrial Court or the Labour Court, the Industrial Court or the Labour Court as the case may be shall send a notice to the employers of such employees that they have been made parties to such arbitration.

70. . :-

On receipt of a copy of an award forwarded under sub-section (1) of section 74 the Registrar shall publish it in the Official Gazette and shall forward a copy of the same to the Commissioner of Labour.

71. . :-

Every application under sub-section (1) of section 79 shall be made in Form P and shall be forwarded to the Labour Court for the local area concerned by registered post or be presented to the Clerk of the Court or any other subordinate officer authorised by the Court in this behalf.

72. . :-

(1) The record of industrial matters referred to in clause (a) of section 111 shall be maintained by the Commissioner of Labour.

(2) For each industry, the record of such industrial matters shall be maintained separately by the Commissioner of Labour.

72A. . :-

(1) The State Government may, by special or general order notified in the Official Gazette, require any employer, or employers generally in any industry to

(i) maintain records of strikes, stoppages, lockouts, closures including lay-off, attendance and absenteeism, labour turnover, premises, rationalisation, usages and rules of discipline in such form or forms in the Appendix to these rules as it may consider appropriate for such industries, and

(ii) submit copies thereof to the Commissioner of Labour or such other officer as may be authorised in this behalf by the State Government at such times as may be specified in the order: and

(2) The Commissioner of Labour or the officer authorised under sub-rule (1) may then obtain similar data and particulars from any other person who, in his opinion is competent to furnish such data and particulars,

72B. . :-

(1) Before holding an inquiry under section 112, the officer authorised under the said section shall indicate to the employer concerned the particulars in respect of which the accuracy of the records maintained by him is to be present during the inquiry if the employer so desires.

(2) The officer holding the inquiry shall, on demand, give the persons concerned a written receipt for any record or document produced by him if the officer considers it necessary to retain such record or document in his possession.

(3) Any record or document retained under sub-rule (2) shall be returned to the person concerned as soon as practicable and in any case on completion of the inquiry.

73. . :-

Before proceeding to hold an inquiry under sub-section (1) of section 112 the officer authorised by the State Government shall give at least three clear days intimation to the employer concerned. He shall also specify in the intimation the particular records which he desires to verify.

74. . :-

(1) A notice under sub-section (1) or (30 of section 116 shall be in form Q.

(2) A subsequent notice under sub-section (4A) of section 116 shall be inform R.

(3) Every such notice or subsequent notice shall be sent by registered post.

75. . :-

(1) If in any proceeding before the Registrar, a Conciliator or a

Board the authority holding the proceeding requires any information in connection with such proceeding in a particular form the may call upon the party concerned to submit such information in that form.

(2) A Conciliator or a member of a Board shall have power, after giving reasonable notice, to enter the place or places where the employees concerned are employed or the office of any union or the premises provided by an employer for the residence of his employees for the purpose of holding a proceeding under the Act.

75A. . :-

The information furnished by a party under sub-section (4) of section 118 shall be verified by an affidavit.

76. . :-

Whenever any letter, notice, statement or intimation is required to be forwarded or sent under any of these rules by registered post to any person it shall be deemed to be sufficient compliance with these rules.if such letter, notice statement or intimation is delivered by hand and an acknowledgement in writing by or on behalf of such person, is obtained in respect of such delivery.