

To

THE MINISTRY OF LABOUR AND EMPLOYMENT

COMMENTS AND SUGGESTIONS ON

ON

**THE DRAFT OCCUPATIONAL SAFETY,
HEALTH AND WORKING CONDITIONS
(CENTRAL) RULES, 2025**

FEBRUARY 2026



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To,
The Ministry of Labour & Employment
Shram Shakti Bhawan,
Rafi Marg,
New Delhi - 110001

13th February 2026

Subject: SUBMISSION OF COMMENTS ON THE DRAFT OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS (CENTRAL) RULES, 2025

Respected Authorities,

In furtherance of the notification dated 30th December 2025 issued by the Ministry of Labour & Employment inviting comments/suggestions on the Draft Occupational Safety, Health and Working Conditions (Central) Rules, 2025, we, the members of the Kautilya Society, RGNUL hereby submit our comments and suggestions on the Draft Bill. **The Kautilya Society, RGNUL** was established in 2024 as a branch of the Kautilya Society initiative by the **Vidhi Centre for Legal Policy** to promote student-led policy research to promote a culture of policy research among law students to further the Constitutional vision of socio-economic and political justice.

As part of our objectives of being a research-driven Centres, and as law students who understand the importance of policy making, we have conducted in-depth research into the existing framework of labour law in India, and have prepared the following document with our recommendations for the Bill.

We thank the Ministry of Labour & Employment for placing the Draft Occupational Safety, Health and Working Conditions (Central) Rules, 2025 in the public domain and granting all stakeholders and the general public the opportunity to provide their suggestions and comments.

Regards,

KAUTILYA SOCIETY, RGNUL



COMMENTS ON THE DRAFT OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS (CENTRAL) RULES, 2025

INTRODUCTION

We respectfully draw the Ministry's attention to the following issues:

1. **Incomplete rule-making on matters within the Central Government's competence.**

The Occupational Safety, Health and Working Conditions Code, 2020 ('OSH Code') empowers the Central or State Government, as the case may be, to frame rules for establishments where it is the "appropriate government." The present Draft Rules apply to establishments under the control of the Central Government. However, rules have not been framed on several matters where the Central Government is the appropriate government under the Code. These include, inter alia:

- (i) provision of welfare facilities;
- (ii) administration and operation of the Social Security Fund; and
- (iii) hours of work, intervals for rest, and spread-over of working hours.

2. **Departure from existing regulatory standards.**

The Draft Rules introduce substantive departures from the standards prescribed under the existing legal framework in relation to:

- (i) qualifications and eligibility criteria for grant of licence to contractors; and
- (ii) the threshold for mandatory annual health examinations.

In particular, the Draft Rules adopt an age-based threshold for annual medical examinations and dilute the qualifications required for contractors to obtain licences. A comparative analysis of the key differences between the existing rules and the Draft Rules is set out in this note.

3. **Lack of clarity and possible inconsistency with the Code.**

The Code authorises the appropriate government to frame rules on, among other things: (i) the class or category of establishments required to constitute a Safety Committee; and (ii) the conditions subject to which a contractor's licence may be granted. The Draft Rules lack clarity regarding the criteria for constitution of Safety Committees. Further, certain provisions appear to be inconsistent with the scheme of



the Code, particularly in relation to the allocation of responsibilities and liabilities of contractors.

4. **Mandatory Aadhaar requirement for mine workers.**

The Draft Rules require mine workers to furnish their Aadhaar number as a condition for medical examination. This requirement may be inconsistent with the judgment of the *Justice K.S. Puttaswamy (Retd.) v. Union of India*, wherein the Supreme Court held that Aadhaar may be mandated only for the purpose of expenditure on subsidies, benefits, or services drawn from the Consolidated Fund of India. The proposed requirement does not appear to fall within this permissible category and may therefore be constitutionally vulnerable.

1. Non-Specification of Rules in Respect of Statutorily Mandated Matters

[Chapters II, IV, V, VI, VII, IX, XI, XIII and XIV, read with Section 136 of the Occupational Safety, Health and Working Conditions Code, 2020]

Issue:

The Draft Occupational Safety, Health and Working Conditions (Central) Rules, 2025 (“Draft Rules”) do not frame rules in respect of several matters which the Occupational Safety, Health and Working Conditions Code, 2020 (“OSH Code”) expressly requires to be prescribed by the Central Government.

A. Statutory Framework

Under Section 136 of the OSH Code, the Central Government is empowered to make rules for carrying out the provisions of the Code in respect of establishments for which it is the “appropriate Government.”

The OSH Code designates the Central Government as the appropriate Government for, inter alia:

1. Establishments under the authority of the Central Government;
2. Railways, mines, major ports, banks, and other specified establishments; and
3. Corporations, autonomous bodies, and public sector undertakings in which the Central Government holds not less than 51% of the share capital.



In contrast, the State Government is the appropriate Government for establishments such as factories (other than those under Central control), plantations, and newspaper establishments.

B. Delegated Legislative Scheme under the Code

The OSH Code contemplates that numerous substantive obligations and procedural safeguards shall be operationalised through subordinate legislation. These include, inter alia:

- Provision and maintenance of welfare facilities;
- Standards relating to health, safety, and working conditions;
- Administration and utilisation of the Social Security Fund;
- Hours of work, intervals, spread-over, and restrictions on double employment;
- Manner of suspension or cancellation of licences;
- Procedure for enquiry, appeals, and related fees.

The statutory formulation in these provisions consistently employs the phrase “as may be prescribed,” thereby making the framing of rules integral to the effective enforcement of the Code.

C. Deficiency in the Draft Rules

Notwithstanding the above statutory mandate, the Draft Rules omit to prescribe rules in respect of several such matters falling within the exclusive rule-making domain of the Central Government.

The absence of rules in areas where the Code explicitly mandates prescription results in:

1. Regulatory incompleteness, as statutory obligations remain incapable of practical implementation;
2. Uncertainty and administrative discretion, contrary to the legislative scheme; and
3. Potential legal vulnerability, insofar as the delegated legislative framework contemplated by Parliament remains only partially operationalised.

A detailed list of provisions under the Code for which corresponding Rules have not been framed is set out in Table 1 below.



SECTION	PROVISIONS IN THE OSH CODE, 2020	MISSING PROVISIONS IN THE DRAFT RULES, 2025
3(1) – Late fee for delayed registration (Chapter II: Registration)	The Code permits the registering officer to entertain applications filed after the specified period on payment of such late fee as may be prescribed by the appropriate Government.	Draft Rules do not prescribe the amount or manner of levy of late fee.
3(2) – Registration application (Chapter II: Registration)	Applications for registration are to be submitted in such form and manner and with a fee as may be prescribed.	Draft Rules specify the form and manner but do not prescribe the fee payable for registration (Rules 3(1), 3(2) and Form I).
22(1) – Safety Committee (Chapter IV: Occupational Safety and Health)	Appropriate Government may require establishments to constitute a Safety Committee with worker representatives chosen in such manner as may be prescribed.	Where there is no sole negotiating union or negotiating council, the Rules do not specify the manner in which workers will choose their representatives. Disputes may be referred to the Regional Labour Commissioner (Rule 26(2)(b)).
30 – Restriction on double employment in factory and mine (Chapter VII)	Workers shall not be allowed to work in a mine or factory if they have worked in a similar establishment within the preceding twelve hours, except in circumstances as may be prescribed.	Draft Rules do not prescribe the circumstances under which such work may be permitted.
36 – Powers and duties of District Magistrate (Chapter IX)	District Magistrate shall exercise such powers and duties of the Inspector-cum-Facilitator in respect of mines as may be prescribed by the Central Government.	Draft Rules do not prescribe the powers and duties to be exercised by the District Magistrate.
50(2) – Cancelling or suspension of licence (Chapter XI)	Licence of a contractor may be suspended or cancelled in such manner as may be prescribed after giving an opportunity of being heard.	Draft Rules do not prescribe the manner of suspension or cancellation of licence (Rule 84).
55(2) – Payment of wages in certain cases (Chapter XI)	Wages to be paid through bank transfer or electronic mode, and where not practicable, payment to be made in such manner as may be prescribed.	Draft Rules do not prescribe the alternative manner of payment where electronic transfer is not practicable (Rules 87 and 88).



66(3) – Audio-visual workers (Chapter XI)	Agreement relating to audio-visual workers to be forwarded to such authority as may be prescribed.	Draft Rules do not specify the authority to whom such agreement is to be forwarded.
111(1) – Enquiry for penalties (Chapter XIV)	Appropriate Government may appoint an officer for holding enquiry for penalties in such manner as may be prescribed.	Draft Rules do not prescribe the manner of holding such enquiry.
111(3) – Appeal against penalties	Appeal against penalty may be filed in such form, manner and with such fee as may be prescribed.	Draft Rules do not prescribe the form, manner or fee for filing such appeal.
115(2) – Sources of fund (Chapter XIII: Social Security Fund)	Fund may be financed from such other sources as may be prescribed by the appropriate Government.	Draft Rules do not specify additional sources of funding.
115(3) – Administration of fund	Fund to be administered and expended in such manner as may be prescribed, including transfer to other welfare funds.	Draft Rules do not prescribe the manner of administration or utilisation of the Fund.
119(6) – Common licence for contractor, factories and to industrial premises, etc	Appeal against orders relating to common license to be filled with such fee as may be prescribed.	Draft Rules do not provide for appeal or prescribe the fee payable.

Table 1: Tabular Statement of provisions for which corresponding rules are not set out under the OSH Rules.

2. Deviations from Existing Statutory and Regulatory Framework

[Rules 6 and 75 of the Draft Occupational Safety, Health and Working Conditions (Central) Rules, 2025]

Issue:

Rules 6 and 75 of the Draft Rules introduce substantive departures from the existing regulatory framework governing (i) employer-sponsored annual health examinations, and (ii) eligibility criteria for the grant of licence to contractors engaging contract labour. These changes represent a shift from the standards contained in the extant rules framed under the principal labour enactments now subsumed within the OSH Code.



A. Annual Health Examination (Rule 6)

The Draft Rules introduce an **age-based threshold** for employer-sponsored annual medical examinations.

Under the earlier regulatory regime (including rules framed under the Factories Act and other sector-specific labour laws), medical examinations were typically linked to:

- Nature of employment (e.g., hazardous processes),
- Occupational exposure, and
- Risk-based classification of establishments.

The shift to an age-based criterion may alter the scope of coverage and potentially narrow entitlement in establishments where occupational risk, rather than age, is the principal determinant of vulnerability. The legal implication of such change lies in whether it is consistent with the overarching objective of the OSH Code to ensure uniform and adequate standards of occupational health and safety across sectors.

B. Eligibility for Grant of Contractor's Licence (Rule 75)

Rule 75 prescribes eligibility conditions for grant of licence to contractors engaging contract labour. An applicant shall not:

1. Be an undischarged insolvent; or
2. Have been convicted of a criminal offence involving imprisonment exceeding three months at any time during the preceding two years.

Additionally, Rule 47(2) permits grant of a “work-specific licence” even where the applicant does not fulfil the prescribed eligibility criteria.

1. Comparison with Existing Framework

Under the earlier rules governing contract labour:

- A licence could be refused if the applicant was an undischarged insolvent;
- Had been convicted within the preceding five years of an offence involving moral turpitude; or



- Had had a licence revoked or suspended within the preceding three years.

The Draft Rules thus:

- Reduce the look-back period from five years to two years;
- Replace the standard of “moral turpitude” with a quantitative imprisonment threshold (more than three months); and
- Omit express disqualification based on prior suspension or revocation of licence.

2. Interaction with Revocation and Suspension Provisions

A contractor’s licence may be suspended or cancelled if:

- It was obtained by misrepresentation of facts; or
- The licence holder contravenes licence conditions or provisions of the Code, including provisions that may attract imprisonment up to three months.

However, the Draft Rules do not expressly disqualify a contractor whose licence has been suspended or revoked from immediately reapplying. Consequently, a contractor whose licence is cancelled for statutory contraventions may remain formally eligible to seek a fresh licence, subject only to the limited disqualifications in Rule 75.

3. Comparative Regulatory Practice

Other regulatory regimes adopt stricter safeguards:

- Under rules framed pursuant to the Drugs and Cosmetics Act, 1940, licensing authorities may refuse an application where the applicant’s prior licence has been revoked or suspended.
- Regulations under the Food Safety and Standards Act, 2006 provide that a food business operator whose licence has been suspended or cancelled may reapply only after a prescribed cooling-off period and upon demonstrating compliance with corrective measures.

These frameworks recognise prior regulatory non-compliance as a relevant factor in assessing fitness for relicensing.



C. Legal Implications

The deviations introduced in the Draft Rules raise the following considerations:

1. **Regulatory Dilution:** The reduction of the disqualification period and omission of prior suspension/revocation as an eligibility criterion may weaken compliance incentives.
2. **Inconsistency with Preventive Regulatory Objectives:** Licensing frameworks in labour law serve a gatekeeping function to ensure responsible contractors operate within regulated sectors.
3. **Potential for Repetitive Non-Compliance:** Absence of a cooling-off period or explicit bar following revocation may undermine the deterrent effect of cancellation proceedings.

A reconsideration of the eligibility framework, particularly with respect to prior revocation or suspension and the adequacy of the look-back period, may be warranted to ensure consistency with the protective purpose of the OSH Code.



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