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# Delegation Of Powers Under The Industrial Relations Code, 2020: An Analysis Of The Gazette Notification Dated 8th May, 2026

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## Introduction

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The **Industrial Relations Code, 2020** (Act No. 35 of 2020) came into force on 21st November, 2025, consolidating three foundational labour statutes. The Code represents a significant structural overhaul of India's industrial relations framework, aimed at simplifying procedures, enhancing dispute resolution mechanisms, and providing greater flexibility to employers while preserving workers' rights.

The three consolidated statutes are:

- The Trade Unions Act, 1926
- The Industrial Employment (Standing Orders) Act, 1946
- The Industrial Disputes Act, 1947

Barely six months after its commencement, the Ministry of Labour and Employment issued a significant notification under the Code. By **Gazette Notification S.O. 2323(E)**, published in the Extraordinary Gazette of India on 8th May, 2026, the Central Government exercised its power of delegation under Section 100 of the Code.

This notification delegates the Central Government's powers under Sections 78, 79, and 80 of the Code to officers of the rank of Joint Secretary and above, in the Ministry of Labour and Employment, who are responsible for the Industrial Relations portfolio. The notification was issued under the signature of Ms. Deepika Kachhal, Joint Secretary, Ministry of Labour and Employment.

This article examines the legal basis for the delegation, the scope of powers so delegated, the significance of Sections 78, 79, and 80 to employers and workers alike, and the practical implications of this administrative measure.

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## The Legal Foundation: Section 100 of the Code

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**Section 100** of the Industrial Relations Code, 2020 is the enabling provision for delegation of powers. It authorises the appropriate Government, by notification, to direct that any power exercisable by it under the Code or the rules made thereunder may also be exercised by an officer or authority subordinate to it.

In cases where the appropriate Government is the Central Government, the power may be delegated to an officer subordinate to the Central Government, or to the State Government, or to an officer subordinate to the State Government.

Delegation of powers is a standard feature of administrative law. Given the scale and diversity of India's industrial economy, it is practically impossible for the Central Government as a collective body to personally examine each application for lay-off, retrenchment, or closure filed by establishments under its jurisdiction.

The **delegation mechanism** therefore enables efficient, timely, and expert-level decision-making at the officer level, without diluting the statutory safeguards built into the Code.

The notification confines the delegation strictly to officers of the rank of **Joint Secretary and above**, looking after Industrial Relations in the Ministry. This is a senior, gazetted rank, ensuring that decisions on such consequential matters as closure of an undertaking or mass retrenchment are taken by officers with adequate seniority, experience, and accountability.

## Scope of the Delegation: Sections 78, 79, and 80

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The notification delegates powers under three specific sections of the Code, all of which fall under **Chapter X**. Chapter X contains special provisions relating to lay-off, retrenchment, and closure in certain industrial establishments.

These provisions apply to establishments that are not of a seasonal character or one in which work is performed only intermittently, and in which not less than **three hundred workers** were employed on an average per working day in the preceding twelve months.

### Section 78: Prohibition of Lay-off

Section 78 prohibits an employer in a covered establishment from laying off workers without first obtaining the **prior permission of the appropriate Government**, subject to certain exceptions such as shortage of power or natural calamity.

Key procedural requirements and consequences under Section 78:

1. The employer is required to file an application setting out the reasons for the intended lay-off.
2. A copy must be simultaneously served on the workers concerned.
3. The Government then has sixty days to communicate its order; silence beyond that period is deemed grant of permission.
4. Where permission is refused, or where no application was made, the lay-off is deemed illegal and the workers are entitled to all benefits as if they had not been laid off at all.

### Section 79: Conditions Precedent to Retrenchment

Section 79 requires that before retrenching a worker who has completed not less than one year of continuous service, the employer in a Chapter X establishment must fulfil specific conditions.

- The employer must give the worker **three months' notice in writing** (or pay in lieu of notice).
- The employer must obtain **prior permission** from the appropriate Government.
- Where permission is refused or not sought, the retrenchment is deemed illegal.
- Workers in permitted retrenchments are entitled to compensation equivalent to fifteen days' average pay for every completed year of continuous service.

### Section 80: Procedure for Closure

Section 80 governs the **closure of undertakings** in Chapter X establishments. The procedure involves the following steps:

1. An employer intending to close down an undertaking must apply for prior permission at least **ninety days** before the intended closure, stating the reasons clearly.
2. Simultaneous service must be made on workers' representatives.
3. The sixty-day deemed-approval rule similarly applies here.
4. Where closure is effected without permission or against a refusal, it is deemed illegal from the date of closure.
5. Workers who have completed one year of continuous service in a permitted closure are entitled to compensation equivalent to fifteen days' average pay for every completed year of service.

## Significance and Practical Implications

The notification carries practical importance for establishments where the Central Government is the appropriate Government. For such establishments, it provides **clarity on which authority to approach** when filing applications under Sections 78, 79, or 80.

Prior to this notification, the 'appropriate Government' for such establishments was nominally the Central Government itself, leaving some ambiguity about the designated receiving officer. The notification resolves this by identifying Joint Secretary-level officers in the Ministry of Labour and Employment as the competent authority.

For **workers and trade unions**, the notification is also relevant because it identifies the Ministry-level officers who will examine and consider applications affecting lay-off, retrenchment and closure. Under Section 78(4), Section 79(3), and Section 80(2), the appropriate Government is required to give a reasonable opportunity of hearing to workers concerned before granting or refusing permission.

Knowing that this hearing will be conducted by identified officers in the Ministry provides workers with a **clear point of engagement**.

From a broader perspective, the notification should be read as an **implementation measure**. It does not amend Sections 78, 79 or 80, change the statutory threshold for covered establishments, or modify the consequences of non-compliance. Its function is narrower but important: it ensures that the Central Government's statutory role in examining and considering applications is capable of being discharged through specified senior officers.

It is also worth noting that the notification is framed as an **operational delegation**, not as a legislative amendment. Accordingly, employers should continue to assess the substantive requirements of Sections 78, 79 and 80 separately, while treating S.O. 2323(E) as identifying the competent delegated authority for Central Government-jurisdiction establishments.

## Conclusion

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The Gazette Notification S.O. 2323(E) dated 8th May, 2026 is a focused but consequential administrative measure. While it does not introduce new substantive rights or obligations, it performs an essential function in the Code's implementation architecture: it names the human face of the 'appropriate Government' for the purposes of **lay-off, retrenchment, and closure applications** in Central Government-jurisdiction establishments.

By vesting this authority in Joint Secretaries and above looking after Industrial Relations, the Central Government has ensured that decisions on these weighty matters remain at a senior, specialised level, consistent with the consequences they carry for both workers and employers.

As the Industrial Relations Code, 2020 continues to be implemented across the country, it is expected that similar clarificatory and operational notifications will follow, further refining the administrative machinery through which the Code's objectives of industrial harmony, worker protection, and employer flexibility are to be achieved.

For more details, write to us at: [contact@indialaw.in](mailto:contact@indialaw.in)

*Reference: S.O. 2323(E), Ministry of Labour and Employment, Gazette of India (Extraordinary), Part II, Section 3, Sub-section (ii), dated 8th May, 2026 | Industrial Relations Code, 2020 (Act No. 35 of 2020), as on 2nd April, 2026.*

## Related Practice Areas

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Labor and Employment Compliance