



Ref No: 3/Lbr/1824

8 April 2026

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Principal Secretary
Department of Labour
Government of Uttar Pradesh
Lucknow, Uttar Pradesh

Subject: IIA's Objections and Suggestions on Draft Uttar Pradesh Industrial Relations Rules, 2021.

Sir,

On behalf of Indian Industries Association (IIA), we respectfully submit the following point-wise objections and suggestions on the Draft Uttar Pradesh Industrial Relations Rules, 2021 ("the Rules"), framed under the Industrial Relations Code, 2020 ("the Code").

At the outset, we acknowledge and appreciate the State Government's efforts toward codification and modernization of industrial relations laws. However, the present draft Rules contain several provisions that are procedurally onerous, commercially intrusive, and in certain respects inconsistent with the enabling framework of the Code. These issues are likely to adversely impact industrial harmony, ease of doing business, and investment—particularly for Micro, Small and Medium Enterprises (MSMEs).

Point-wise Objections and Suggestions

1. Excessive and Intrusive Disclosure Requirements:

Ref: Rule 50, 53, 55, 57 read with Annexure-I of Form XXXI; Sections 78(2), 79(2) & 80(1) of the Code

Objection:

Annexure-I to Form XXXI mandates employers seeking permission for lay-off, retrenchment or closure to furnish an extraordinarily wide range of commercially sensitive data, including:

- Annual and month-wise production figures for three preceding years (Item 6)

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- Inventory position item-wise and value-wise for the preceding twelve months (Item 19)
- Position of the order book for the next six months and one year (Item 9)
- Details of inter-corporate investments, names of inter-connected companies, interest of directors and officers in buying raw materials (Item 12)
- Buying and selling arrangements for the preceding three years (Items 20 & 21)
- Balance sheets and profit and loss accounts for three years (Item 11)

These requirements go substantially beyond what Sections 79(2) and 80(1) of the Code contemplate. The Code requires only that the employer apply for permission; it does not mandate disclosure of proprietary commercial intelligence. Compelling an employer to disclose future order book positions, inter-corporate investment details and directorial interests as a condition for retrenchment or closure permission is beyond the scope of the enabling provision and constitutes an unreasonable invasion of commercial confidentiality. For MSMEs in particular, assembling this volume of data within statutory notice periods (60 days for retrenchment, 90 days for closure) is practically infeasible and imposes disproportionate compliance costs.

Suggestion:

Annexure-I should be rationalized to require only information directly necessary for the Government to assess the bona fides of the application, namely:

- Number and categories of affected workers with their service details (Annexure-II already covers this)
- Broad financial justification — it should suffice to state that the establishment is unviable or surplus labour exists, without requiring audited accounts or detailed production data
- Confirmation of payment of statutory dues and retrenchment/closure compensation

Items 6, 8, 9, 11 (full balance sheets), 12, 19, 20 and 21 of Annexure-I should be deleted or made optional, to be furnished only if specifically called for by the

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competent authority. Commercially sensitive data disclosed in proceedings should be protected by a statutory confidentiality obligation.

A tiered approach should be introduced: MSME establishments (employing 100-299 workers) should face a simplified Annexure with reduced data requirements, consistent with the lower regulatory threshold originally applicable to them under the Industrial Disputes Act, 1947.

2. Absence of Time-Bound Approval Mechanism for Lay-off, Retrenchment and Closure:

Ref: Sections 78(2), 79(2) & 80(1) of the Code; Rule 50, 53, 55, 57

Objection:

The Rules prescribe the form and content of applications but do not impose any time limit within which the State Government or competent authority must dispose of an application for permission to lay-off, retrench or close down an establishment. This omission creates serious operational and legal uncertainty for employers:

- An employer who has given the mandatory 60-day notice for retrenchment (or 90 days for closure) may find that the permission is neither granted nor refused within that period, leaving the employer in legal limbo.
- Without a deemed-approval provision or a mandatory disposal timeline, applications may remain pending indefinitely, frustrating legitimate business decisions.
- The Code itself does not restrict the State from prescribing timelines in the Rules; their absence therefore reflects a policy gap that should be remedied.

Suggestion:

Insert a proviso or sub-rule providing that if the competent authority fails to communicate its decision within 45 days of the receipt of a complete application, permission shall be deemed to have been granted.

Alternatively, prescribe a mandatory 60-day outer time limit for disposal, with automatic deemed approval in the absence of an order.

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Provide that where an application is deficient, the authority must intimate the deficiency within 15 days; thereafter the period of deficiency-cure shall not be counted against the employer.

Notice periods under Rule 50 for lay-off continuation applications (currently 15 days) should be synchronized with realistic operational timelines, particularly for seasonal industries.

3. **Multiplicity of Forms and Compliance Burden**

Ref: Rules 3 to 66 read with Forms I to XXXIV

Objection:

The Rules prescribe thirty-four forms (Form I through Form XXXIV), several of which are near-identical in content but addressed to different authorities or relating to marginally different procedural stages. For instance, Forms XXX and XXXI both deal with notice/application in relation to retrenchment or closure but serve overlapping purposes. Multiple copies of the same form are required to be sent simultaneously to the Conciliation Officer, Regional Labour Commissioner, Labour Commissioner, Employment Exchange, registered trade unions and the Labour Bureau — a total of five or more separate recipients in many cases.

This multi-copy, multi-authority filing regime is inconsistent with the Government of India's thrust on reducing the compliance burden and promotes duplication rather than efficiency.

Suggestion:

Introduce a Shram Suvidha-type single-point digital filing portal at the State level. A single electronic submission should automatically notify all required authorities.

Consolidate Forms XXX and XXXI into a single form with a checkbox mechanism to indicate the nature of the application (retrenchment or closure).

Prescribe a common combined notice cum application format, eliminating the need for the employer to prepare separate instruments for advance notice and permission application.

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Mandate online filing and acknowledgement within 24 hours of submission to ensure proof of compliance.

4. Aadhaar-Based Verification of Trade Union Members

Ref: Form III [sub-rule 7 of Rule 9]; Section 7 of the Code

Objection:

Form III requires the submission of trade union registration applications with Aadhaar-based verification of members. The Supreme Court of India, in Justice K.S. Puttaswamy v. Union of India (2018) 1 SCC 809, held that Aadhaar linkage cannot be mandated in contexts not covered by the Aadhaar Act, 2016. Mandating Aadhaar verification for trade union membership falls outside the permitted uses under the Aadhaar Act and may expose the government to legal challenge.

From an employer's perspective, disputes arising from verification failures — where workers claim membership is improperly excluded — will generate litigation and industrial unrest that adversely affects production.

Suggestion:

Replace Aadhaar-based verification with employer-certified rolls. The employer should be required to furnish a list of employees with their designation and date of joining, which the Registrar can cross-check against the trade union membership list.

Alternatively, allow self-declaration by members with a penalty for false declaration, rather than biometric Aadhaar linkage.

5. Lack of Clarity and Transparency in Recognition of Negotiating Union or Council

Ref: Section 14 of the Code read with Rule 21; Forms X and XI

Objection:

Rule 21 does not prescribe a transparent, time-bound and judicially reviewable mechanism for determining which union or council is the negotiating agent. The

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absence of a secret ballot requirement means that numerical majority may be asserted on the basis of membership lists that are unverified or inflated.

Where multiple unions exist in a single establishment — a common situation in larger units — the absence of a clear recognition protocol is a fertile ground for inter-union rivalry, coercive conduct and disruption of production.

From the employer's perspective, the uncertainty about who the legitimate negotiating partner is creates practical difficulties in concluding settlements that are binding on the entire workforce.

Suggestion:

Provide for determination of negotiating union through a secret ballot of all eligible workers in the establishment, conducted by the Registrar of Trade Unions or an independent agency, within 45 days of an application.

Prescribe that the recognized negotiating union shall have a minimum 51% verified membership among workers in the relevant bargaining unit.

Any representation or claim of majority by a union should be subject to an objection mechanism, with a designated authority empowered to decide within 30 days.

The Rules should clarify that only the recognized negotiating union or council can call for a legal strike, reducing the risk of wildcat stoppages by minority factions.

6. Overbroad and Undifferentiated Restrictions on Change in Service

Conditions

Ref: *Section 40 of the Code read with Rule 39 and Form XIX; Third Schedule of the Code*

Objection:

Form XIX requires an employer to give 21 days' advance notice (under Section 40 of the Code) before effecting any change in the conditions of service covered by the Third Schedule. The Third Schedule is wide and encompasses matters such as 'any

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increase or reduction in the number of persons employed' and 'withdrawal of any customary concession or privilege'. The Rules do not distinguish between:

- Genuinely material changes affecting wages, grade, hours or seniority, and
- Routine administrative adjustments such as rescheduling of shifts within the permitted shift duration, redeployment within the same grade, or withdrawal of informal ad hoc concessions.

Requiring 21 days' notice even for minor managerial decisions impairs operational agility, particularly in industries requiring rapid response to market conditions.

Suggestion:

Define 'material change in service conditions' in the Rules, limiting the notice obligation to substantive changes in wage structure, working hours, leave entitlements, or category/grade.

Routine redeployments, administrative shift rescheduling within permitted limits, and withdrawal of informal practices not forming part of the standing orders or any settlement should be expressly exempted from the notice requirement.

The notice period should be differentiated: 21 days for material changes; 7 days for minor administrative changes that are notified to the Conciliation Officer.

The 21-day notice requirement should be suspended in cases of exigency or force majeure, subject to immediate intimation to the Conciliation Officer.

7. Absence of Graded Penalty Structure and Opportunity to Rectify

Ref: Section 87 and 89 of the Code; Rule 61; Form XXXII

Objection:

While Section 89 of the Code and Rule 61 provide for compounding of offences, the Rules do not:

- Differentiate between first-time technical defaults (such as delay in filing a return) and deliberate, repeated or serious violations
- Prescribe a schedule of compounding amounts calibrated to the gravity of the offence and the size of the establishment

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- Provide an opportunity to an employer to rectify a technical default before a notice for compounding is issued

Form XXXII indicates that compounding is available only for offences committed 'for the first time'. However, the absence of a graded penalty schedule means that even minor technical omissions can attract the maximum compounding amount. For MSMEs, disproportionate penalties for technical defaults can be economically debilitating.

Suggestion:

Introduce a Schedule of Compounding Amounts classifying offences into three tiers:

- Category A (minor technical defaults): e.g., delay in filing returns — compounding amount not exceeding ₹5,000 for MSMEs, ₹10,000 for larger establishments
- Category B (procedural violations): e.g., failure to give required notices — ₹10,000 for MSME and ₹20,000 for larger establishment
- Category C (substantive violations): e.g., illegal retrenchment, non-payment of dues — ₹15,000 for MSME and ₹50,000 for larger establishment

Provide a mandatory 15-day prior rectification notice before invoking compounding or prosecution for Category A and B offences. Only if the default persists after the rectification period should formal action be initiated.

For MSME establishments, a 50% concession on compounding amounts should be provided, consistent with the principle of ease of doing business.

8. Wide and Unstructured Discretionary Powers of Authorities

Ref: Rules 40, 43, 46, 50, 55, 57, 61; Sections 42, 53, 78, 79, 80

Objection:

Several provisions of the Rules vest wide discretionary powers in administrative authorities — Conciliation Officers, Labour Commissioners, and Compounding Officers — without prescribing:

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- Objective criteria for the exercise of discretion
- Reasons to be recorded in writing for decisions
- Timelines within which discretion must be exercised

This creates scope for inconsistent, arbitrary or mala fide application, adversely affecting employers who require regulatory predictability to plan their operations and investments.

Suggestion:

Mandate that all orders, decisions and directions of authorities under the Rules be supported by written, reasoned orders communicated to all parties.

Adopt risk-based inspection criteria, limiting inspections of MSME establishments with clean compliance records to once every five years, and replacing routine inspections.

Prescribe a right of appeal to a designated authority (above the original authority) against discretionary orders, with appeal timelines of 30 days.

Conduct of authorities should be governed by a published Service Charter committing to timeliness and transparency.

9. Procedural Imbalance between Employers and Trade Unions

Ref: Section 62 of the Code; Rules 48 and 49; Forms XX and XXIX

Objection:

The Rules impose strict procedural requirements on employers declaring a lock-out (Form XXIX) — including advance notice, detailed statement of reasons, and copies to multiple authorities — while the requirements for a strike notice (Form XX) are comparatively less onerous. More significantly:

- Wildcat or 'go-slow' actions by workers do not attract commensurate procedural consequences under the Rules
- There is no mechanism in the Rules to penalize trade unions for giving strike notices as a coercive tactic without genuine intent to resolve disputes

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- Employers facing illegal strikes or go-slow actions have no expedited remedy within the Rules framework — they must approach courts, which is time-consuming and expensive

Suggestion:

Ensure procedural parity: any notice or declaration by trade unions (whether of strike or industrial action) should be subject to the same level of authority-notification as employer lock-out notices.

Insert a provision enabling employers to lodge a complaint before the Conciliation Officer if a notice of strike is issued without first exhausting the bipartite negotiation mechanism, with a fast-track disposal mechanism (7 days).

Provide that no-work-no-pay shall apply automatically during periods of illegal strike or go-slow, without the employer being required to separately declare or prove illegality before a court.

Trade unions that call or participate in illegal strikes should face suspension of recognition for a defined period, creating symmetry with penalties imposed on employers for illegal lock-outs.

10. Mandatory Upfront Payment Obligations During Financial Distress

Ref: Sections 70 and 75 of the Code; Rule 50, 55; Form XXXI

Objection:

The Code and the Rules require that employers, as a condition for seeking permission or as a declaration in the application, affirm that all dues including retrenchment/closure compensation will be paid 'before or on the expiry of the notice period' (see Form XXXI, paragraph 5). This is:

- Impractical during genuine financial distress, which is typically the very reason triggering retrenchment or closure
- Inconsistent with the position where insolvency proceedings are pending (the Rules acknowledge this in the alternative declaration in Form XXXI), but do not adequately account for pre-insolvency financial difficulty

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- Not aligned with the MSME sector's cash-flow realities, where upfront lump-sum payments of large compensation amounts may be genuinely impossible without access to credit

Suggestion:

Allow staggered payment of retrenchment/closure compensation over a period not exceeding 12 months from the effective date, with a mandatory bank guarantee or secured escrow arrangement for the full amount.

Provide that where an employer is unable to pay upfront due to certified financial difficulty, a payment plan approved by the competent authority shall discharge the employer's obligation.

Align this provision with the Insolvency and Bankruptcy Code, 2016, to avoid duplication and conflict in cases where corporate insolvency proceedings are in progress.

11. Duplication in Reporting and Multi-Authority Submission Requirements

Ref: Rules 50, 53, 55, 57, 66; Forms XXX, XXXI

Objection:

Every form under the Rules — whether notice of retrenchment, application for permission, or notice of strike/lock-out — requires physical copies to be submitted simultaneously to:

- The Regional Additional/Deputy Labour Commissioner
- The Labour Commissioner
- The Employment Exchange
- All registered trade unions operating in the establishment
- The Labour Bureau

This five-authority distribution is anachronistic, increases the employer's compliance burden, and creates scope for disputes where one authority claims non-receipt.

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Suggestion:

Mandate single-point electronic filing through a dedicated State portal, with automatic distribution to all required authorities by the system.

Any dispute as to whether a notice was duly served should be resolved solely by reference to the system-generated acknowledgement, without requiring the employer to produce postal receipts or affidavits of service.

Consolidate the functions of the Regional Labour Commissioner and the Labour Commissioner in respect of information receipt, so that a single submission satisfies both.

12. Deviation from Central Rules Framework — Competitiveness Concern

Ref: *Industrial Relations (Central) Rules, 2022; Articles 19(1)(g) and 301 of the Constitution of India*

Objection:

The draft U.P. Rules are in several respects more burdensome than the Industrial Relations (Central) Rules, 2022 notified by the Government of India under the same Code. Notable deviations include:

- Annexure-I of Form XXXI in the U.P. Rules demands far more detailed financial and commercial disclosure than the corresponding Central form
- The U.P. Rules do not appear to provide for digital or online filing, whereas the Central framework encourages it
- Penalty and compounding provisions under the U.P. Rules lack the graduated structure that Central guidance contemplates

This creates a regulatory disadvantage for Uttar Pradesh vis-a-vis States that follow the Central framework, potentially deterring investment into U.P. and driving existing investors to consider relocation.

Suggestion:

Align the U.P. Rules substantively with the Industrial Relations (Central) Rules, 2022, particularly in relation to:

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- The format and content of the permission application (Annexure-I of Form XXXI) — which should not exceed the information required under the Central form
- Provisions for online/digital filing and acknowledgement
- Graded penalty and compounding structure

Any deviation from Central Rules must be justified by identifiable State-specific labour market conditions and should be proportionate to the objective pursued.

The State Government should engage with MSME Associations and Employer Federations in a structured stakeholder consultation before finalizing the Rules.

13. Standing Orders — Unreasonable Burden on Establishments Below Threshold

Ref: Section 29 of the Code read with Rule 32 and Form XVIII

Objection:

Section 29 of the Code requires establishments employing 300 or more workers to maintain certified standing orders. However, the Rules do not clearly exempt establishments below this threshold from maintaining any form of standing orders, creating ambiguity about whether model standing orders apply automatically to smaller units.

For MSMEs employing between 100 and 299 workers — who were previously not required to have certified standing orders under the Industrial Employment (Standing Orders) Act, 1946 — an automatic application of model standing orders without a simplified adoption procedure is burdensome.

Suggestion:

Explicitly clarify in the Rules that establishments employing less than 300 workers are not required to certify standing orders, and that model standing orders apply to them only upon their voluntary adoption.

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For establishments voluntarily adopting model standing orders, prescribe a simple one-page adoption notice to the Labour Commissioner in lieu of the full certification process.

All those establishments having less than 300 employees and who have adopted certified standing orders in the past when threshold limits were less should be allowed to adopt Model Standing Orders and their previous Certified Standing Orders should automatically be revoked.

14. Grievance Redressal Mechanism — Absence of Employer-Side Remedy

Ref: Section 91 of the Code read with Rule 63 and Form XXXIII

Objection:

Form XXXIII provides for a complaint mechanism under Section 91 of the Code for changes in conditions of service. However, this mechanism, as structured in the Rules, is predominantly designed to address worker complaints against employers. There is no symmetrical mechanism for employers to obtain expedited relief against:

- Unions that deliberately misrepresent membership numbers to claim recognition
- Workers or unions that engage in coercive practices during conciliation
- False or frivolous complaints filed to delay legitimate business decisions such as retrenchment

Suggestion:

Create a parallel complaint mechanism under the Rules and constitute an Employers Grievance Cell to enable the employers to lodge formal complaints against trade unions or workers for:

- Illegal strikes or work stoppages
- Deliberate misrepresentation in recognition or membership claims
- Coercive conduct during conciliation or negotiation

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Prescribe a fast-track disposal mechanism for employer complaints, with a 21-day outer time limit.

Provide for an anti-abuse provision: where a complaint is found to be false or frivolous, the complainant should be liable to a reasonable cost imposed by the adjudicating authority.

The Employers Grievance Cell should essentially have one member from reputed MSME Association of the State such as Indian Industries Association.

Conclusion

The Draft U.P. Industrial Relations Rules, 2021 require comprehensive revision before notification. The Rules as currently drafted impose disclosure obligations that are commercially untenable, create procedural asymmetry against employers, lack time-bound decision-making mechanisms, and deviate adversely from the Central Rules framework. These deficiencies, if uncorrected, will impair the investment climate in Uttar Pradesh and work against the State Government's laudable objective of emerging as a leading industrial destination.

It is respectfully recommended that:

- The Rules be revised to align substantively with the Industrial Relations (Central) Rules, 2022, particularly on disclosure requirements, digital filing, and penalty structures.
- All prescriptions of Annexure-I of Form XXXI be rationalized to exclude commercially sensitive business intelligence not necessary for the statutory purpose.
- Deemed approval provisions and mandatory disposal timelines be introduced for all permission applications.
- A single-window digital filing portal be mandated, eliminating multi-authority physical submission requirements.
- Standing order obligations be clearly confined to establishments with 300 or more workers.

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- A graded penalty structure with rectification opportunities be introduced for technical and minor defaults.
- Procedural parity between employers and trade unions be ensured throughout the Rules.
- Formal stakeholder consultation with employer associations and MSME bodies be conducted before the Rules are finalized.

Indian Industries Association (IIA) remains committed to constructive engagement with the State Government in the formulation of fair and balanced industrial relations legislation that supports employment generation, investor confidence, and industrial growth in Uttar Pradesh.

With Regards

Yours faithfully

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