PART VI

PROPOSED DRAFT CONSTITUTION
PROPOSED DRAFT CONSTITUTION

The proposed Draft Constitution has been prepared with a view to define the rights and duties of different councils and their scope of activity in the management of an enterprise.

The terms used in this Chapter are as follows:

WORKS COUNCIL (WC) : is the body of members elected by the workers for representing them in different councils of the enterprise.

JOINT DEPARTMENTAL COUNCIL (JDC) : is the body represented equally by both management and workers' Representatives and formed at department level.

JOINT WORKS COUNCIL (JWC) : is the body represented equally by both management and workers' Representatives and formed at Works level.

Workers' Representative on J.W.C. shall be nominated by the JDC representative.
JOINT WORKS SUPERVISORY COUNCIL (JWSC) is the body composed of management and workers' representatives both equally represented. Workers representative on the board is nominated by the J.W.C. members. JWSC shall be formed when the enterprise has got several branches located at different towns or states.

WORKER DIRECTOR (WD) shall be nominated by the Works Council representatives directly or elected through secret ballot. He shall be looking after the interest of the workers remaining as a Director on the Board of Directors.

Formation of different councils shall depend on the number of workers in an enterprise, number of departments and number of branches located at different places. Figure 1 shows the type of councils that can be formed basing on these factors.
PROPOSED DRAFT CONSTITUTION

GENERAL PROVISIONS

1. Works Councils should be elected in all establishments that normally have 100 or more permanent employees with voting rights.

2. **Status of trade unions and employers' association**

   The employer and the works council shall work together in a spirit of mutual trust having regard to the collective agreements and in co-operation with the trade unions and employers' associations (if there be any) represented in the establishment for the good of the employees and of the establishment.

   In order to permit the trade unions represented in the establishment to exercise the powers and duties, their representatives be granted access to the establishment, in so far as this does not run counter to essential operational requirements, mandatory safety rules or the protection of trade secrets.

3. **Collective agreements requiring approval**

   The following may be determined by collective agreements:

   i) the setting up of additional bodies to represent employees belonging to certain employment categories or work areas, if such arrangement serves to facilitate the co-operation
between the works council and the employees in the conditions obtaining in the establishment covered by the collective agreement;

ii) the setting up of some other body to represent the employees of establishments whose specific nature makes it particularly difficult to establish work councils.

4. Employees

The term 'employee' comprises wage earners and salaried employees including persons employed for the purpose of their vocational training.

The following shall not be considered as employees:

i) in establishments belonging to a corporation, the members of the organs that are legally empowered to represent the corporation;

ii) partners in an ordinary commercial partnership, in so far as they are empowered by law, its own by-laws or the articles of association to represent the firm or to exercise management functions;

iii) persons whose employment is not primarily for the purpose of earning their livelihood but is chiefly inspired by
charitable or religious motives;

iv) persons whose employment is not primarily for the purpose of earning their livelihood but principally for their cure or recovery, rehabilitation, moral improvement or education.

5. Executive Staff

Who by their status and under their contract of employment —

i) are entitled on their own responsibility to engage and dismiss employees on behalf of the establishment or one of its departments; or

ii) are endowed with general authority or full power of representation or power to sign; or

iii) essentially carry out duties on their own responsibility which are normally assigned to them because of their particular experience and knowledge in view of the importance of the said duties for the existence and development of the establishment.

6. Voting rights

All employees who are 18 years of age or over should have voting rights.
7. **Eligibility**

All employees with voting rights who have been employed for not less than six months should be eligible to the works council. The said period of six months should be deemed to include any immediately preceding period, during which the employee was employed in another establishment belonging to the same company. Persons who by court judgement have been declared ineligible or debarred from holding public office should be ineligible to the works council.

If the establishment has been in existence for less than six months, such employees as are employed in the establishment and fulfill the other conditions for eligibility at the announcement of the election for the works council should eligible notwithstanding the requirement of six months' service.

8. **Number of members of works council**

The membership of the works council shall be as follows, according to the number of employees with voting rights normally employed in the establishment:

<table>
<thead>
<tr>
<th>Employees</th>
<th>Members</th>
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<tbody>
<tr>
<td>100 to 300</td>
<td>5 members</td>
</tr>
<tr>
<td>301 to 600</td>
<td>7 members</td>
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<tr>
<td>601 to 1000</td>
<td>9 members</td>
</tr>
<tr>
<td>1001 to 2000</td>
<td>11 members</td>
</tr>
<tr>
<td>2001 to 5000</td>
<td>15 members</td>
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</tbody>
</table>
In establishments employing more than 3000 employees
the number of members of the works council shall be increased by two
members for every additional fraction of 3000 employees.

9. Reduction in the number of council members

If the number of eligible employees in an establishment is
insufficient, the number of members in the works council shall be
the one specified for the next lower size of establishment.

10. Time of elections

Regular elections to the works council should be held every
three years some time between 1st March and 31st May.

Elections to the works council should be held outside this
period whenever -

1) by the end of eighteen months from the date of the last
election the number of employees regularly employed has
increased or decreased by one-half (but not by less
than fifty in any case);

11) the total membership of the works council, after all
the substitutes have been called upon, has fallen below the prescribed number;

iii) the works council decides to resign by the vote of a majority of its members;

iv) the works council is dissolved by court order; or

v) there is no works council in the establishment.

If an election for a works council has been held outside the period set aside for regular works council elections, a new election shall be held in the next period immediately following for regular elections for the works council. If at the beginning of the period fixed for regular elections the works council has been in office for less than a year, the new works council elections shall be held in the regular election period that follows.

11. **Election procedure**

The works council shall be elected directly by secret ballot. The election shall be conducted according to the principles of proportional representation; if only one list of candidates is submitted, the election shall be conducted according to the principles of majority representation.
In establishments in which the works council consists of only one member, he shall be elected by a simple majority; this rule shall also apply to groups which are entitled to only one representative on the works council.

Employees with voting rights shall be entitled to submit lists of candidates for the works council elections. Each list of candidates shall be signed by at least one-tenth of the voting members of the group, but not by less than three members with voting rights. The signatures of 100 members of the group shall be sufficient in all cases.

If an establishment has no works council, the recognised trade unions represented in the establishment shall be entitled to submit lists of candidates for election to the works council.

12. **Representation of different groups**

The works council should be composed as far as possible of employees of the various departments and non-autonomous ancillary establishments. At the same time, the works council should as far as possible comprise representatives of the various employment categories to which the employees of the establishment belong. The sexes should be represented according to their relative numerical strength.
13. **Appointment of the electoral board**

Not less than eight weeks before the end of its term of office the works council shall appoint an electoral board of three persons with voting rights one of whom shall be the chairman. The works council may increase the number of members on the electoral board if the proper conduct of the election so requires. In all cases the electoral board shall consist of an odd number of members. A substitute may be appointed for each member of the electoral board in order to replace him in his absence.

If no electoral board has been appointed by the beginning of the sixth week before the end of the term of office of works council, it shall be appointed by the Local Representative of Chief Labour Commissioner on receipt of an application from three or more persons with voting rights or a trade union represented in the establishment. The application may contain proposals as to the composition of the electoral board. In the case of establishments that normally employ more than one hundred employees with voting rights the local representative of Chief Labour Commissioner may also be appointed as member of the electoral board, or he may appoint persons who are not employed in the establishment but belong to a trade union represented in the establishment, if the proper conduct of the election so requires.
14. **Election of the electoral board**

If an enterprise has no works council, an electoral board shall be elected at a works meeting of the employees on a majority vote of those present. Such a meeting may be called by three employees of the establishment with voting rights or a trade union represented in the establishment; in doing so, the said employees or the trade union may make proposals as to the composition of the electoral board.

If a works meeting thus called is not held or fails to elect an electoral board, the board shall be appointed by the Chief Labour Commissioner or his representative on application from three or more persons with voting rights or a trade union represented in the establishment.

15. **Preparation and conduct of the election**

The electoral board shall without delay call the election, carry it out and announce the results. If the electoral board fails to carry out this duty, the C.L.C. or his representative shall act in its place on application from three or more employees with voting rights or a trade union represented in the enterprise.

If there is any doubt as to whether an ancillary establishment or a department of the establishment is independent or should
be treated as part of the principal establishment, the employer, any interested works council, any interested electoral board or a trade union represented in the establishment shall be entitled to apply to the C.L.C. or his representative for a decision before the election is held.

Directly after termination of the election the electoral board shall count the votes in public, record the results in writing and announce them to the employees of the establishment. The employer and the trade unions represented in the establishment shall each be sent a copy of the election records.

16. Contesting of elections

An election may be contested before the C.L.C. or his representative, if any of the essential rules respecting the right to vote, eligibility or electoral procedure have been infringed and no subsequent correction has been made, unless the infringement could not have altered or influenced the election results.

Such contestation may be made by any three or more persons with voting rights, a trade union represented in the establishment or the employer. The complaint should be lodged within two weeks of the announcement of the election results.
17. **Protection against obstruction and costs of election**

No person shall obstruct the election of a works council. In particular, no employee shall be restricted in his right to vote or to stand for election. Any attempt to influence a works council election by inflicting or threatening any unfavourable treatment or by granting or promising any advantage shall be unlawful.

The costs of the election shall be borne by the employer. Any loss of working time entailed by voting or candidature or the performance of duties on the electoral board shall not give the employer a right to reduce the remuneration.

18. **Term of office**

The regular term of office of a works council shall be three years. It shall run from the announcement of the election results or, if a works council is still in office at that date, from the end of the term of office of that council. The term of office shall expire not later than 31st May of the year in which the regular works council elections are to be held.

19. **Continuation in office**

The works council shall continue in office until the new works council has been elected and the election results have been announced.
20. Dereliction of statutory duties

One-fourth or more of the employees with voting rights or the employer or a trade union represented in the establishment may apply to the Chief Labour Commissioner or his representative for an order to remove from office any member of the works council or to dissolve the council on the grounds of grave dereliction of its statutory duties. The works council itself may also apply for the removal of a member.

Where a works council is dissolved, the C.L.C. or his local representative shall without delay appoint an electoral board for a fresh election.

Where the employer has grossly violated his duties, the works council or a trade union represented in the establishment may apply to the C.L.C. or his representative for an order to the employer enjoining him to cease and desist from an act, allow an act to be performed or perform an act. If the employer does not obey an executory order to cease and desist from an act or allow an act to be performed, the C.L.C. shall, on application and after prior warning, impose a fine on him for each such violation.
21. **Termination of membership**

Membership of the works councils shall be terminated by:

i) expiry of the term of office;

ii) resignation from the works council;

iii) termination of the contract of employment;

iv) loss of eligibility;

v) removal from office or dissolution of the works council by court order.

A member of a works council who becomes a member of another employment group shall continue to represent the group for which he has been elected. The same shall to substitutes.

22. **Substitutes**

Whenever a member leave the works council he shall be replaced by a substitute. The foregoing shall apply to the replacement of a member of a works council who is temporarily unable to act.

The substitutes shall be taken in turn from the unelected employees on the same candidate lists as the members who are to be replaced. After all persons on one list of candidates have been taken, the substitute shall be taken from the candidate list from which the
next seat would be filled in accordance with the principles of proportional representation. If a member who is leaving or unable to act was elected on the principles of majority representation, the sequence of the substitutes shall be in accordance with the number of votes obtained. When a member of the minority group leaves the works council, due consideration shall be given in selecting a substitute from that group only.

25. Treatment of persons employed in the establishment

The employer and the works council shall ensure that every person employed in the establishment is treated in accordance with the principles of law and equity and in particular that there is no discrimination against persons on account of their race, creed, nationality, origin, political or trade union activity or convictions or sex.

24. Protection

Members of the works council, the conciliation committee, an arbitration body set up by collective agreement and a grievance committee shall not be interfered with or obstructed in the discharge of their duties. They shall not be prejudiced or favoured by reason of their office.
25. **Secrecy**

Members and substitute members of the works council shall be bound to refrain from divulging or making use of trade or business secrets that have come to their knowledge as a result of their membership on the works council and which the employer has expressly stated to be confidential. This obligation shall be maintained even after they have ceased to belong to the works council. It shall not apply as between members of the works council. Moreover it shall not apply as regards dealing with members of the Joint Departmental Council, Joint Works Council, Joint Works Supervisory Council and Workers' Directors or in the proceedings of the conciliation committee, the arbitration body set up by collective agreement or a grievance committee.

26. **Convening of meetings**

The first meeting of the works council shall be convened by the electoral board. The meeting shall be presided over by the chairman of the electoral board, until the works council has appointed one of its own members to preside over the election of officers.

27. **Agenda Sub-Committee**

The different councils shall constitute agenda sub-committees consisting of two to four members each from management and the workers.
to serve as a liaison group between the councils and the men on
the shop-floor and entrusted with the responsibility of drawing
up the agenda for each meeting, having regard to the suggestions
and ideas obtained from the employees of the departments by personal
contacts.

38. Notice of meeting

The notice of meeting together with the agenda finalised
by the Agenda Sub-Committee shall ordinarily be sent by the Secretary
to each of the council members at least seven days before the date
of the meeting.

39. Meetings

The council shall meet as often as necessary but not less
than once every month at a fixed time on a fixed day of each month
decided upon by the council. In fixing the meetings the council shall
take account of the operational needs of the establishment.

40. Quorum for the meetings

Fifty per cent each of members representing management and
employees shall constitute the quorum for a meeting of the Council.
No quorum will be necessary for an adjourned meeting.
31. **Attendance of trade union delegates**

If one-fourth of the members or the majority of a group represented on the council so request, a delegate of a trade union represented on the council may be invited to attend meetings in an advisory capacity; in that case the trade union shall be notified in good time of the time of the meeting and its agenda.

32. **Decisions of the council**

The decisions of the council shall be deemed to be adopted if the majority of the members present vote in favour. In case of a tie the motion shall be taken to be defeated. At least one-half of the members of the council must take part in a vote to constitute a quorum; members may be replaced by substitutes.

33. **Minutes of proceedings**

Minutes shall be kept of all proceedings of the council, giving at least the text of all decisions taken and the majority by which they were adopted. The minutes shall be signed by any of the three - Chairman, Vice-Chairman or Secretary of the Council. It shall be prepared and circulated within 10 days of the holding of the meeting. Copies of the summary of the minutes shall be posted on all sectional notice boards.
All the members attended the meeting shall be provided with a copy of the minutes. Any objections to the minutes shall be lodged in writing without delay; they shall be attached to the minutes.

Members of the council shall be entitled at any time during working hours to inspect all records of the council and its committees.

34. Deferment of decisions

If a majority of the representatives of one group are of the opinion that a decision of the council considerably prejudices serious interests of the employees they represent, the decision shall at their request be deferred for one week (counted from the date on which the decision is taken) to allow time for an attempt to come to an agreement, where appropriate with the assistance of the trade unions represented in the establishment. On expiry of this period a fresh decision shall be taken on the matter at issue. If the initial decision is confirmed, no further deferment may be requested; the same rule shall apply if the initial decision is adopted with only minor amendments.

35. Action of council's recommendations

The head of the department concerned shall take action on on such of the recommendations of the council as are within his powers
and refer the rest with his recommendation to the next higher authority along with all relevant information, so as to enable the latter to arrive at a decision. When a recommendation of the council is not accepted by management, the latter should give reasons for its non-acceptance.

36. Expenses of the council and material facilities

Any expenses arising out of the activities of the council shall be defrayed by the employer. The employer shall also provide to the necessary extent the premises, material facilities and office staff required for the meetings, consultations and day-to-day operation of the council.

37. Consultation hours

The council may fix hours for consultation during working hours. The time and place of such consultation hours shall be fixed in agreement with the employer. If no agreement is reached the matter shall be decided by the conciliation committee. The award of the conciliation committee shall take the place of an agreement between the employer and the works council.

Any loss of working time entailed by making use of consultation hours or otherwise seeking the assistance of the council shall not give the employer a right to reduce the employee's remuneration.
Honorary nature of post; loss of working time

The post of council member shall be an honorary and unpaid one.

The members of the council shall be released from their work duties without loss of pay to the extent necessary for the proper performance of their functions, having regard to the size and nature of the establishment.

By way of compensation for council activities which for operational reasons must be performed outside working hours, a member of council shall be entitled to corresponding time off without loss of pay. Such time off shall be granted within a month; if this cannot be done for operational reasons, the time spent on such activities shall be remunerated on the same basis as extra work.

In scheduling the time for attending training and educational courses the council shall take account of the operational requirements of the establishment. It shall notify the employer in good time of the attendance of training and educational courses and of the time at which they are held. If the employer feels that the operational
requirements of the establishment have not sufficiently been
taken into account, he may submit the case to the conciliation
committee. The award of the conciliation committee shall take
the place of an agreement between the employer and the council.

Each member of the council shall be entitled during his
regular term of office to a paid release for one month to enable
him to attend training and educational courses that have been
approved for this purpose by the competent authority after consul­
tation with the central organisation of trade unions and employers'
associations.

39. Annual Meeting

There shall be an annual general meeting of the council
every year at which a report of the year's activities shall be
reviewed. It shall be an open meeting attended by workers and top
managerial staff and directors and any worker interested can joint
and put questions. Management representatives shall be prepared to
answer those questions.

40. Standing orders

Further provisions respecting the conduct of business should
be laid down in writing in standing orders to be adopted by the council
by majority vote of its members.
41. **Conciliation committee**

Whenever the need arises a conciliation committee shall be set up for the purpose of settling differences of opinion between the employer and the Joint Departmental Council, Joint Works Council or Joint Works Supervisory Council. A standing conciliation committee may be established by works agreement.

The conciliation committee shall be composed of assessors appointed in equal number by the employer and the works council and of an independent chairman accepted by both sides. If no agreement can be reached on a Chairman, he shall be appointed by the Chief Labour Commissioner or his representative. The latter shall also decide in cases where no agreement can be reached on the number of assessors.

The conciliation committee shall adopt its decisions by majority vote after oral proceedings. The chairman shall not participate in the voting; in the case of a tie the discussion shall be resumed and the chairman shall participate in the subsequent vote. The decisions of the conciliation committee shall be recorded in writing, signed by the chairman and transmitted to the employer and the council.

In cases where the award of the conciliation committee takes the place of an agreement between the employer and the works council,
the conciliation committee shall act at the request of either side. If one side fails to appoint members or if the members appointed by one side fail to attend after being convened in due time, the chairman and the members present shall make the award without them. In taking its decisions the conciliation committee shall have due regard to the interests of the establishment and of the employees concerned as reasonably assessed.

The employer or the works council may make an appeal to the Chief Labour Commissioner or his representative on the grounds that the conciliation committee has exceeded its powers, but only two weeks of the date of notification of the award.

In all other cases the conciliation committee shall act only if both sides so request or agree to its intervention. In such cases its award shall take the place of an agreement between the employer and the council only if both sides have accepted the award in advance or accept it subsequently.

Further details of procedure in the conciliation committee may be fixed by works agreement.

42. Execution of joint decisions, works agreements

Agreements between the council and the employer including those based on an award of the conciliation committee shall be
executed by the employer save where otherwise agreed in particular cases. The works council shall not interfere with the management of the establishment by any unilateral action.

Works agreements shall be negotiated by the works council and the employer and recorded in writing. They shall be signed by both sides, except where they are based on an award of the conciliation committee. The employer shall keep the works agreement in a suitable place in the establishment.

Works agreements shall not deal with remuneration and other conditions of employment that have been fixed or are normally fixed by collective agreement.

Works agreements shall be mandatory and directly applicable. Any rights granted to employees under a works agreement cannot be waived except with the agreement of the works council. Such rights cannot be forfeited. Any time limits for invoking these rights shall be valid only in so far as they are laid down by collective or works agreement; the same shall apply to any reduction of the periods provided for the lapsing of rights.

Unless otherwise agreed, works agreements may be terminated at three months' notice. After the expiry of a works agreement its
provisions shall continue to apply until a fresh agreement is made
in respect of all matters in which an award of the conciliation
committee may take the place of an agreement between the employer
and the council.

43. General duties

The works council shall have the following general duties:

a) To see that effect is given to Acts, ordinances, safety
regulations, collective agreements and works agreements
for the benefit of the employees;

b) to make recommendations to the employer for action bene-
fiting the establishment and the staff;

c) to receive suggestions from employees and if they are found
to be justified, to negotiate with the employer for their
implementation, it shall inform the employees concerned
of the state of negotiations and their results;

d) to promote the rehabilitation of disabled persons and
other persons in particular need of assistance;

e) to study operational results and current and long-term
departmental production problems;
f) to advise on steps necessary at departmental level to promote and rationalise production, improve methods, layout and processes; improve productivity and discipline; eliminate waste; effect economies with a view to lowering costs, eliminate defective work and improve the quality of products; improve the upkeep and care of machinery, tools and instruments; promote efficient use of safety precautions and devices; promote employees' welfare, improve working conditions and better functioning of the department.

The employer shall supply comprehensive information to the council in good time to enable it to discharge its duties. The council shall, if it so requests, be granted access at any time to any documentation it may require for the discharge of its duties. This includes any financial documents.

In discharging the duties the council may, after making a more detailed agreement with the employer, call on the advice of experts in as far as the proper discharge of its duties so requires. The experts shall be bound to observe secrecy.
44. **General principles**

The employer and the works council shall meet together and discuss the matters at issue with an earnest desire to reach agreement and make suggestions for settling their differences.

Acts of industrial warfare between the employer and the works council shall be unlawful; the foregoing shall not apply to industrial disputes between collective bargaining parties. The employer and the works council shall refrain from activities that interfere with operations or imperil the tranquility of the establishment. They shall refrain from any activity within the establishment in promotion of a political party.
JOINT DEPARTMENTAL COUNCIL

1. Where there are several departments in an enterprise, joint departmental councils shall be established for each department. Size of the J.D.C. shall depend on the size of the workforce but normally it shall consist between two to ten representatives of management and an equal number of representatives of workers.

The council shall have a Chairman, Vice-Chairman and a Secretary.

a) The Chairman shall be nominated by the management from amongst its representatives on the council.

b) The Vice-Chairman shall be nominated by the workers' representatives on the council.

c) The Secretary shall be elected by the Council. He may or may not be a member of the council but shall be an employee working in or attached to the department covered by the council. A non-member secretary shall have no right to vote, but shall have right to take part in the discussions of the council.

Considering the size of the department, several departments may also be grouped under one J.D.C.
2. The council shall normally hold its meetings once a month and shall prepare minutes of the meetings and distribute it to all of the members. It shall also place a copy of the minutes or a summary of the same in the departmental notice board.

All other activities of the Joint Departmental Councils shall be governed by the conditions laid down in the "GENERAL PROVISIONS" of the Proposed Draft Constitution.

3. If there are two or more Joint Departmental Councils are there in an enterprise, a Joint Works Council shall be established.

4. Each J.D.C. shall appoint to the Joint Works Council two of its members if it includes representatives of both groups - technical and clerical, or one of its members if it consists of representatives of one group only.

5. The Joint Departmental Councils shall appoint at least one substitute for each member of the Joint Works Council and establish their order of succession to office.

6. The council shall have the right to co-opt. in consultative capacity, persons employed in or attached to the department(s) having particular or special knowledge of any particular matter under
discussion. Such co-opted members shall not be entitled to vote and shall be present at meetings only for the period during which the particular subject is before the council.

7. The functions of Joint Department Councils shall be as follows:

a) To study operational results and current and long-term departmental production problems.

b) To advise on steps necessary at departmental level to promote and rationalise production; improve methods, layout and processes; improve productivity and discipline; eliminate waste, effect economies with a view to lowering costs; eliminate defective work and improve the quality of products; improve the upkeep and care of machinery, tools and instruments; promote efficient use of safety precautions and devices; promote employees' welfare and activities like sports/picnics etc; encourage suggestions; improve working conditions and better functioning of the department.

c) To implement the recommendations or decisions of the Joint Works Supervisory Council or the Joint Works Council approved by management.
4) To refer any matter to the Joint Works Council for their consideration or advice.
JOINT WORKS COUNCIL

1. There shall be a Joint Works Council for the whole works consisting of equal members of both management and workers. The size of the works Joint Works Council shall depend on the number of departments in an enterprise. The workers' representatives on the Joint Works Council shall be nominated by the members of the different Joint Departmental Councils and management representatives shall be nominated by the management. Among the workers' representatives, one may be the officer of the recognised union in the enterprise nominated by the Union.

2. The council shall have a Chairman, a Vice-Chairman and a Secretary.

   a) The Chairman shall be nominated by management free amongst its representatives on the Council.

   b) The Vice-Chairman shall be nominated by the workers' representatives on the Council.

   c) The Secretary shall be elected by the Council. He may or may not be a member of the council but shall be an
employees of the company. The non-member Secretary shall have no right to vote, but shall have right to take part in the discussions of the council.

3. The council shall have the right to co-opt, in consultative capacity, persons employed in or attached to different departments and having particular or special knowledge of any particular matter under discussion. Such co-opted members shall not be entitled to vote and shall be present at meetings only for the period during which the particular subject is before the council.

4. For specific purposes, the Council shall have the right to form sub-committees whose membership may extend beyond the membership of the council. All the sub-committees shall be formed on the basis of equal representation. The sub-committees may be formed in the line of a) Suggestion Box Committee, b) Welfare Committee, c) Canteen Committee, d) Safety Committee, e) Safety Appliances Committee, f) Production Committee, g) Medical and Public Health Committee, etc.

5. The council shall normally hold its meetings once a month and shall prepare minutes of the meetings which should be distributed among all members of the council. A copy of the minutes shall also be placed on the Notice Board for general information.
6. If there are two or more branches are there of the same enterprise located at different towns or different states, each Joint Works Council shall nominate two of its members to the Joint Works Supervisory Council.

7. The Joint Works Council shall appoint at least one substitute for each member of the Joint Works Supervisory Council and establish their order of succession to office.

8. Each member of the Joint Works Council shall have as many votes as there are members of his group having voting rights and recorded in the voters' list of the establishment in which he was elected.

Where a member of the Joint Works Council has been appointed to represent more than one department, he shall have as many votes as there are members of his group with voting rights who are recorded in the voters' lists of the establishment for which he has been appointed. Where two or more members of the Departmental Council are appointed to represent a group, the votes shall be apportioned among them.

9. The functions of the Joint Works Council shall be as follows:
a) To study operational results and current and long-term production problems of the works as a whole.

b) To advise on steps necessary to promote and rationalize production; improve methods, layout and processes; improve productivity and discipline; eliminate waste; effect economies with a view to lowering costs; eliminate defective work and improve the quality of products; improve the upkeep and care of machinery, tools and instruments; promote efficient use of safety precautions and devices; promote employees' welfare and activities like sports/picnics; encourage suggestions; improve working conditions and better functioning of the works as a whole.

e) To plan and supervise the work of different sub-committees within the frame work of duly approved budgets and company rules and procedures.

d) To follow up the implementation through the appropriate Joint Departmental Councils of its recommendations or decisions approved by management.
e) To refer any matter to the Joint Supervisory Works Council for their consideration or advice.

f) To advise on any matter referred to it by the Joint Departmental Councils or by the Joint Works Supervisory Council or by the management.

10. In all other matters the Joint Works Council shall be guided by the principles laid down under 'GENERAL PROVISIONS' of the Proposed Draft Constitution.
JOINT WORKS SUPERVISORY COUNCIL

1. Where there are two or more branches of the same enterprise located at different towns or different states, there shall be a Joint Works Supervisory Council at the headquarters of the enterprise.

2. Each Joint Works Council of different branches shall nominate two of its members to the Joint Works Supervisory Council if it includes representatives of both groups or one of its members if it consists of representatives of one group only. Where two members are appointed, they must not be from the same group.

3. The size of the Joint Works Supervisory Council shall depend on the number of the Joint Works Council.

4. The council shall have a Chairman, a Vice-Chairman and a Secretary.

   a) The Chairman shall be nominated by management from amongst its representatives on the council.

   b) The Vice-Chairman shall be nominated by the workers' representatives on the Council.
e) The Secretary shall be elected by the Council. He may or may not be a member of the council but shall be an employee of the company. The non-member Secretary shall have no right to vote, but shall have right to take part in the discussions of the council.

3. The council shall have the right to co-opt., in consultative capacity, persons employed in or attached to different departments and having particular or special knowledge of any particular matter under discussion or experts and specialist from outside the company. Such co-opted members in shall not be entitled to vote and shall be present at meetings only for the period during which the particular subject is before the council.

6. For specific purposes with special significance, the council shall have the right to form sub-committees whose membership may extend beyond the membership of the council. Sub-Committees shall act within the provisions of the Joint Works Supervisory Council and under its direct supervision. The Sub-committees shall submit its reports/suggestions to the JWOC for its consideration.
7. The council shall normally hold its meetings once in three months and shall prepare minutes of the meetings which should be distributed among all the members of the council. One copy of the minutes shall be kept in a proper place so that any member of the works council can inspect it.

8. Each member of the Joint Works Supervisory Council shall have as many votes as there are members of his group having voting rights and recorded in the voters' list of the establishment in which he was elected.

9. Where a member of the Joint Works Supervisory Council has been appointed to represent more than one branch, he shall have as many votes as there are members of his group with voting rights who are recorded in the voters' lists of the establishment for which he has been appointed. Where two or more members of the Joint Works Council are appointed to represent a group, the votes shall be apportioned among them.

10. The functions of the Joint Works Supervisory Council shall be as follows:
a) To advise Management on all matters concerning the 
working of the industry in the fields of production 
and welfare.

b) To advise Management in regard to economic and 
Financial matters placed by Management before the 
council, provided that the council may discuss 
questions dealing with general economic and financial 
matters concerning the company which do not deal with 
questions effecting the relations of the company with 
its shareholders.

c) To consider, and advise on any matter referred to it 
by the Joint Works Council.

d) To follow up the implementation through the Joint 
Works Councils of any recommendations made by it 
and approved by the company.

11. In all other matters the Joint Works Supervisory Council 
shall be guided by the principles laid down under 'GENERAL PROVISIONS'
of the Proposed Draft Constitution.
1. Worker Director shall be nominated or elected by the members of the works council in all enterprises. Number of Worker Director on the board shall be determined depending on the size of the Board of Directors.

2. In the government companies at least fifty per cent directors on the Board shall be drawn from the Works Council and in the private companies until fifty-one per cent share is distributed to the workers at least one-third directors on the board shall be drawn from the Works Council.

3. Worker Director shall normally be in the office for a term of two years but can be extended for a further period of one year if Works Council decides to retain him on the board.

4. Functional responsibility of the Worker Director will be to co-ordinate the functions of JWC, JWCO with the management, to decide the general policy of the company with other members of the Board, to look after the personnel problems of the enterprise and finally to maintain a balance between the workers and management.
5. Any member of the Joint Works Council or Joint Works Supervisory Council or the employer may apply to the Chief Labour Commissioner for an order to remove him from the office on the grounds of grave dereliction of his statutory duties.

6. He shall be paid allowances as applicable to other directors as long as he is in the office. A portion of his allowance shall be contributed to a fund of the Works Council earmarked for the development and welfare of the workers. The amount to be contributed shall be decided by the Works Council.
STAFF MATTERS

1. **Manpower planning**

   The employer shall inform the works council in full and in good time of matters relating to manpower planning including in particular present and future manpower needs and the resulting staff movements and vocational training measures and supply the relevant documentation.

   The works council may make recommendations to the employer relating to the introduction and implementation of manpower planning.

2. **Notification of vacancies**

   The works council may request that all vacancies or vacancies for certain types of jobs are notified for internal competitions within the establishment before they are filled.

3. **Guidelines for selection**

   Guidelines for the selection of employees for recruitment, transfer, regrading and dismissal shall require the approval of the works council. If no agreement is reached on the guidelines or their content, the employer may apply to the conciliation committee for a decision. The award of the conciliation committee shall take
the place of an agreement between the employer and the works council.

A transfer means assignment to another work area which is expected to continue for more than one month or involves a substantial change in the conditions in which the work is to be performed. In the case of employees who are not, by the nature of their employment relationship, as a rule permanently employed on the same job, the assignment of the job to be performed shall not be deemed to constitute a transfer.
FINANCIAL MATTERS

1. Finance Committee

A finance committee shall be established in all companies that normally have more than 100 permanent employees. It shall be the duty of the finance committee to consult with the employer on financial matters and report to the works council.

The employer shall confer the finance committee in full and in good time of the financial affairs of the establishment and supply the relevant documentation in so far as there is no risk of disclosing the trade or business secret of the company and demonstrate the implications for manpower planning.

The following, inter alia, are financial matters covered by this provision:

1) the economic and financial situation of the company;
2) the production and marketing situation;
3) the production and investment programmes;
4) rationalisation plans;
5) production techniques and work methods, especially the introduction of new work methods;
vi) the reduction of operations in or closure of establishments or part of establishments;

vii) the transfer of establishments or parts of establishments;

viii) the amalgamation of establishments;

x) any other circumstances and projects that may materially affect the interests of the employees of the company.

2. Appointment and composition of the Finance Committee

The Finance committee shall consist of not less than three and not more than seven members, who shall be employees of the company and at least one of whom shall be a works council member. The committee members should have the necessary qualifications for their functions.

The members of the finance committee shall be appointed by the works council for a period corresponding to its own term of office. Where a Joint Works Council has been established, the members of the finance committee shall be appointed by the said council; in this case the term of office of the committee members shall end on the expiration date for the term of office of the majority of the members of the Joint Works Council.
The works council may decide by majority vote of its members to assign the functions of the finance committee to a committee of the works council. The membership of such committee shall not exceed the number of members of the works committee. The works council may appoint additional employees to the committee, without, however, exceeding the number of members on the committee.

3. **Meetings**
   
a) The finance committee shall meet once a month.

b) The employer or his representative shall attend the meetings of the finance committee. He may be accompanied by competent employees of the company including members of the executive staff. Experts may be requested to attend the meetings but they shall be bound to observe secrecy.

c) The finance committee shall without delay give a full report on each meeting to the works council.

d) The annual balance sheet shall be explained to the Finance Committee in conjunction with the works council.
4. **Settlement of differences**

If despite of request from the finance committee information on financial matters is not furnished or not furnished in good time or if the information given is inadequate and if no agreement on the matter is reached between the employer and the works council, the matter shall be decided by the conciliation committee. The award of the conciliation committee shall take the place of an agreement between the employer and the works council. The conciliation committee may call in experts if it needs their evidence to take a decision.

5. **Information to employees**

In companies that normally have more than 1,000 permanent employees, the employer shall report to the staff in writing on the financial situation and progress of the company at least once every calendar year after obtaining clearance from the finance committee.
SOCIAL MATTERS

1. Rights of participation

The works council shall have a right of participation in the following matters in so far as they are not prescribed by legislation or collective agreement:

a) matters relating to the order by operation of the establishment and the conduct of employees in the establishment;

b) the commencement and termination of the daily working hours including breaks and the distribution of working hours among the days of the week;

c) any temporary reduction of extension of the hours normally worked in the establishment;

d) the time and place for and the form of payment of remuneration;

e) the establishment of general principles for leave arrangements and the preparation of the leave schedule as well as fixing the time at which the leave is to be taken by individual employees, if no agreement is reached between the employer and the employees concerned;
f) arrangements for the prevention of employment accidents and occupational diseases and for the protection of health on the basis of legislation or safety regulations;

g) the assignment of an notice to vacate accommodation . . . that is rented to employees in view of their employment relationship as well as the general fixing of the conditions for the use of such accommodation;

h) principles for suggestion schemes in the establishment.

2. Works agreements on a voluntary basis

The following matters, inter alia, may be governed by works agreements:

a) supplementary measures to prevent employment accidents and eliminate health hazards;

b) the establishment of social services whose scope is limited to the establishment, company etc.;

c) measures to promote capital formation.

3. Prevention of employment injuries

The works council shall support the authorities that are competent for the prevention of employment injuries, the statutory
accident insurance schemes and other competent bodies in their efforts to eliminate safety and health hazards by offering suggestions, advice and information and endeavour to ensure that the provisions respecting the protection of labour and the prevention of accidents are observed in the establishment.

The members delegated by the works council shall take part in the discussions between the employer and the safety delegates or the safety committee.