**माहितीचा अधिकार अधिनियम-२००५ च्या कलम ४(१) (ख)**
**मधील १७ उपकलमांची माहिती.**

**(एक) रचना, कार्य व कर्तव्ये यांचा तपशिल.**

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| **कार्यालयाचे नांव** | : | उद्योग, ऊर्जा व कामगार विभाग (खुद्द), (उद्योग कक्ष) |
| **पत्ता** | : | दालन क्र.११४ (विस्तार इमारत), पहिला मजला,<br>मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,<br>मंत्रालय, मुंबई - ४०० ०३२. |
| **कार्यालय प्रमुख** | : | प्रधान सचिव (उद्योग)<br>(दूरध्वनी क्र.०२२-२२०२५३९३) |
| **शासकीय विभागाचे नांव** | : | उद्योग, ऊर्जा व कामगार विभाग |
| **कार्यालयीन वेळ** | : | सकाळी ९.४५ ते संध्याकाळी ५.३० वा.पर्यन्त |
| **साप्ताहिक सुट्टी व विशिष्ट सेवेसाठी ठरविलेल्या वेळा** | : | सर्व रविवार या शिवाय प्रत्येक महिन्यातील दुसरा व चौथा शनिवार या शिवशी सुट्टी. |

## उद्योग कक्ष

महाराष्ट्र हे देशामध्ये औद्योगिक क्षेत्रात अग्रणी असलेले राज्य आहे. महाराष्ट्र शासनाच्या उद्योग, ऊर्जा व कामगार विभागांतर्गत उद्योग कक्षाचा समावेश होतो. महाराष्ट्र राज्याच्या विकासात उद्योगांची महत्वपूर्ण भुमीका राहीली आहे. महाराष्ट्राच्या सर्वांगीण विकासात उद्योग कक्षाच्या प्रगतीशील व पुरोगामी ध्येय धोरणांचा महत्वाचा वाटा आहे. उद्योग विभागाच्या अधिपत्याखाली उद्योग संचालनालय, शासकीय मुद्रण व लेखन सामग्री संचालनालय, भूविज्ञान व खानीकर्म संचालनालय, इत्यादी शासकीय कार्यालये तसेच इतर मंडळे व महामंडळे कार्यरत आहेत. त्यांचेकडून उद्योग कक्षामार्फत तयार केलेल्या धोरणांची अंमलबजावणी केली जाते. राज्यात उद्योग उभारणीसाठी पोषक वातावरण निर्माण करणे, गुंतवणूकीचा प्रवाह गतीमान ठेवून सातत्यपूर्ण विकास साधणे, खनिकर्म कार्यास चालना देणे, तसेच त्यासाठी लागणा-या पायाभूत सुविधा निर्माण करणे, रोजगाराच्या नवनवीन संधी उपलब्ध करणे, यासाठी उद्योग कक्ष सतत प्रयत्नशील राहिला आहे. देशाने सन १९९१ मध्ये स्विकारलेल्या आर्थिक धोरणाच्या अनुषंगाने महाराष्ट्र राज्याने २००१ चे औद्योगिक धोरण अंगिकारले

आहे. त्या अनुषंगाने उद्योग कक्षाची सर्वसाधारण कार्यपध्दती/ध्येय धोरणे (उद्दिष्ट) खालीलप्रमाणे विशद करता येतील.

१. कृषी आधारीत उद्योग, माहिती तंत्रज्ञान उद्योग.
२. ग्रामीण व लघुउद्योग विकास.
३. उद्योजकता विकास
४. सहकारी औद्योगिक वसाहती.
५. पायाभूत क्षेत्रामध्ये खाजगी क्षेत्रांचा सहभाग.
६. आजारी उद्योगांचे पूर्णवसन.
७. उद्योगांना वित्तीय सहाय्य.
८. निर्यात प्रचलनात वाढ.

उपरोक्त उद्दिष्टांची पूर्तता करण्यासाठी उद्योग कक्षामार्फत खालील योजना राबविल्या जातात.

१. पंतप्रधान रोजगार योजना.
२. सामुहिक प्रोत्साहन योजना.
३. बीज भांडवल योजना.
४. जिल्हा उद्योग केंद्र, कर्ज योजना.
५. इंडस्ट्रीयल इन्फ्रास्ट्रक्चर अपग्रेडेशन स्किम.
६. वस्त्रोद्योग समुह विकास योजना.

उपरोक्त योजना मंत्रालयीन उद्योग विभाग व त्यांच्या अधिपत्त्या खालील कार्यान्वीत असलेली कार्यालये, मंडळे/महामंडळे राबवितात.

# ऊर्जा कक्ष

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| **कार्यालयाचे नांव** | : | उद्योग, ऊर्जा व कामगार विभाग (खुद्द), (ऊर्जा कक्ष) |
| **पत्ता** | : | ए/०५, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१ |
| **कार्यालय प्रमुख** | : | अपर मुख्य सचिव (ऊर्जा)<br>(दूरध्वनी क्र.०२२-२६४७६७४३ विस्तार-३५०१) |
| **शासकीय विभागाचे नांव** | : | उद्योग, ऊर्जा व कामगार विभाग |
| **कार्यालयीन वेळ** | : | सकाळी ९.४५ ते संध्याकाळी ५.३० वा.पर्यन्त |
| **साप्ताहिक सुट्टी व विशिष्ट सेवेसाठी ठरविलेल्या वेळा** | : | सर्व रविवार या शिवाय प्रत्येक महिन्यातील दुसरा व चौथा शनिवार या शिवशी सुट्टी. |

उद्योग, ऊर्जा व कामगार विभागाच्या ऊर्जा कक्षामध्ये खालील अधिनियम व नियम यांना अनुसरुन कामकाज केले जाते:-

१) भारतीय विद्युत अधिनियम १९१० व त्या खालील तयार केलेले भारतीय विद्युत नियम,१९५६.
२) मुंबई विद्युत (विशेष अधिकार) अधिनियम,१९४६.
३) भारतीय विद्युत अधिनियम, १९५६ च्या नियम क्रमांक ४५ मधील अटी व नियमानुसार विद्युत पर्यवेक्षक व तारतंत्री यांना प्रमाणपत्र देणे.
४) मुंबई उदवाहन अधिनियम,१९३९ व त्याखालील तयार केलेले मुंबई उदवाहन नियम,१९५८.
५) विद्युत (पुरवठा) अधिनियम,१९४८ आणि महाराष्ट्र विद्युत पुरवठा नियम,१९६३.
६) मुंबई विद्युत कर अधिनियम,१९५८ आणि मुंबई विद्युत कर नियम,१९६२
७) महाराष्ट्र विद्युत विक्रीवरील कर अधिनियम,१९६२ आणि महाराष्ट्र विद्युत विक्रीवरील कर नियम,१९६४

उपरोक्त कायद्याच्या अनुषंगाने ऊर्जा कक्षाकडून ,खलील योजना राबविल्या जातात.

१) अपारंपारिक ऊर्जा स्त्रोत कार्यक्रम.
२) एकात्मिक ग्रामीण ऊर्जा नियोजन कार्यक्रम.
३) राज्य स्तरीय ऊर्जा संवर्धन कार्यक्रम.
४) जिल्हा परीषद, नित्यनुतनशिल ऊर्जा विकास विभागासाठी मुलभूत सुविधा.
५) पवन ऊर्जा प्रकल्पासाठी भांडवली सूट.
६) ग्रामीण विद्युतीकरण.

७) आदिवासी क्षेत्रात देण्यात येणारे विशेष प्रकल्प लघुजल प्रकल्प, सौर संकरित ऊर्जा संयंत्र.
८) जैविक (बायोमास) उर्जेपासून वीज निर्मिती.
९) बगॅस कोजनरेशन/सह वीज निर्मिती प्रकल्प.
१०) शहर घन कच-यापासून वीज निर्मिती.
११) सौर ऊर्जा कार्यक्रम.
१२) आदिवासी उपयोजना कार्यक्रम आणि पश्चिमघाट विकास कार्यक्रम या अंतर्गत राबविण्यात येणा-या प्रकल्पांना शासनाकडून निधी दिला जातो.

ऊर्जा कक्षाकडे सोपविण्यात आलेली कामे खालील कंपन्यांमार्फत केली जातात.

१. महाराष्ट्र राज्य विद्युत मंडळ धारक कंपनी लि.
२. महाराष्ट्र राज्य विद्युत वितरण कंपनी लि.
३. महाराष्ट्र राज्य विद्युत निर्मिती कंपनी लि.
४. महाराष्ट्र राज्य विद्युत पारेषण कंपनी लि.
५. मुख्य अभियंता (विद्युत)
६. महाराष्ट्र ऊर्जा विकास अभिकरण.
७. महाराष्ट्र राज्य विद्युत नियमक आयोग.

# कामगार कक्ष

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| **कार्यालयाचे नांव** | : | उद्योग, ऊर्जा व कामगार विभाग (खुद्द), (कामगार व प्रशासन कक्ष) |
| **पत्ता** | : | दालन क्र.६२० (विस्तार इमारत), सहावा मजला, मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई - ४०० ०३२. |
| **कार्यालय प्रमुख** | : | प्रधान सचिव (कामगार व प्रशासन) (दूरध्वनी क्र.०२२-२२०२७४३३) |
| **शासकीय विभागाचे नांव** | : | उद्योग, ऊर्जा व कामगार विभाग |
| **कार्यालयीन वेळ** | : | सकाळी ९.४५ ते संध्याकाळी ५.३० वा.पर्यन्त |
| **साप्ताहिक सुट्टी व विशिष्ट सेवेसाठी ठरविलेल्या वेळा** | : | सर्व रविवार या शिवाय प्रत्येक महिन्यातील दुसरा व चौथा शनिवार या शिवशी सुट्टी. |

महाराष्ट्र राज्याची गणना देशातील सर्वच क्षेत्रात अग्रणी राज्यात करण्यात येत असून कामगार क्षेत्र देखील त्यास अपवाद नाही. कामगार विषयक कायद्याची अंमलबजावणी असो वा कामगारांच्या सर्वांगीण उत्कर्षाच्या दृष्टीने नवनविन पुरोगामी योजनांचा प्रारंभ असो महाराष्ट्र राज्य देशात सर्वच राज्याकरीता एक मार्गदर्शक व पथ दर्शक राज्य ठरले आहे. महाराष्ट्राच्या या सर्वांगीण उत्कर्षात कामगार विभागाचा त्याच्या प्रगतीशी व पुरोगामी ध्येय धोरणामुळे महत्वाचा वाटा आहे.

कामगार क्षेत्रात/चळवळीत औद्योगिक संबंध हा सर्वात महत्वाचा मुलभूत घटक मानून मालक व कामगार संघटनांना पोषक वातावरण निर्माण करुन निकोप औद्योगिक संबंध वृधिंगत करणे व पर्यायाने कामगाराच्या न्याय हक्कांचे संरक्षण करणे हे या राज्याच्या कामगार विभागाने प्रमुख उद्दिष्ट ठरविले आहे. कामगारांच्या विशेषत: सर्वदूर पसरलेल्या असंघटीत क्षेत्रातील कामगांराच्या विविध समस्या विचारात घेवून या वर्गाच्या सामाजिक व आर्थिक उन्नतीकरीता कामगार विभाग सतत प्रयत्नशील आहे.

महाराष्ट्र शासनाच्या उद्योग, ऊर्जा व कामगार विभागांतर्गत कामगार कक्षाचा समावेश होतो. मा. मंत्री (कामगार) व मा. राज्यमंत्री (कामगार) यांच्य अधिपत्याखाली कामगार विभागात आजमितीस सचिव (कामगार) यांच्या अधिपत्त्याखाली एक सहसचिव, दोन उप सचिव, दोन अवर सचिव व अन्य अधिकारी व कर्मचारी वर्ग कार्यरत आहेत.

कामगार विभागाच्या अधिपत्त्याखाली कामगार आयुक्तालय, औद्योगिक न्यायालय व महाराष्ट्र श्रमविज्ञान संस्था, औद्योगिक सुरक्षा व आरोग्य संचालनालय, बाष्पके संचालनालय या प्रमुख विभागांचा समावेश होतो. राज्याच्या कामगार विभागाची सर्वसाधारण कार्यपध्दती पुढील सहा गटात विषद करता येईल.

१) औद्योगिक संबध व कामगार विषयक बाबी ज्यात कामगार व मालक यांच्यातील विवाद संप/टाळेबंदी यांची हाताळणी, विविध कामगार विषयक कायद्यांची अंमलबजावणी, सांख्यिकी माहितीचे संकलन, ग्राहक मुल्य निर्देशंक इत्यादी बाबींचा समावेश असुन या बाबी **कामगार आयुक्तालयामार्फत** हाताळल्या जातात.

२) राज्यातील विविध उद्योगात सुरक्षा व आरोग्य विषय तरतूदिंची प्रामुख्याने कारखाने अधिनियमाच्या तरतूदींची अमलबजावणी, **औद्योगिक सुरक्षा व आरोग्य संचालनालयामार्फत** पार पाडली जाते.
३) बाष्पके व धुम्र उपद्रव विषयक अधिनियमांची अंमलबजावणी **बाष्पके व धुम्र उपद्रव संचालनालयामार्फत** पार पाडली जाते.

४) मालक व कामगार यांमधील विवादांच्या लवादासाठी व त्यांच्या निरसणासाठी **औद्योगिक व कामगार न्यायालय** यंत्रणा कार्यान्वित आहे.

५) कामगार कल्याण विषयक मुंबई विद्यापिठाचा अभ्यासक्रम शिकविण्याच्या व संशोधन विषयक कार्यात महाराष्ट्र **श्रम विज्ञान संस्था** कार्यरत आहे.

६) **कामगार कल्याण मंडळ मुंबई** कामगार कल्याण निधी अधिनियम, १९५३ अंतर्गत कामगारांना व त्याच्या कुटुंबियांना विविध सोई-सुविधा पुरवल्या जातात.

उपरोक्त मंत्रालयीन कामगार व त्यांच्या अधिपत्याखालील कार्यान्वित असणा-या ६ शाखा राज्यातील कामगारांना विविध अधिनियमांतर्गत/योजनांतर्गत तरतुदींच्या सेवा/लाभ पुरविण्यात /राबविण्यात कार्यरत आहे.

## (दोन) अधिकारी व कर्मचारी यांचे अधिकार व कर्तव्ये

| अ.क्र. | पदनाम | अधिकार व कर्त्यव्ये |
|---|---|---|
| १. | प्रधान सचिव/सचिव | |
| २. | सहसचिव/उप सचिव | |
| ३. | विशेष कार्य अधिकारी | सामान्य प्रशासन विभागाने विहित केलेल्या नियमानुसार |
| ४. | अवर सचिव | |
| ५. | कक्ष अधिकारी | |

६. सहायक
७. लिपिक-टंकलेखक/गोपनिय
लिपिक.

**(तीन) निर्णय घेण्याच्या प्रक्रियेत अनुसरण्यात येणारी कार्यपध्दती, तसेच पर्यवेक्षण आणि उत्तरदायित्व प्रणाली व**

| **अ.क्र.** | **काम/कार्य** | **कामाची कालमर्यादा** | **जबाबदार अधिकारी/जबाबदारीची साखळी** | **तक्रार निवारण अधिकारी.** |
|---|---|---|---|---|
| | परिशिष्ट-४ मध्ये नमूद केलेल्या विभागाच्या विषयसूचीप्रमाणे. | प्रकरणाच्या गांभीर्यानुसार त्यावर असलेल्या अभिप्रायाप्रमाणे **तात्काळः-** त्याचदिवशी, **तातडीचेः-** एक दिवस अथवा दुसऱ्या दिवशी अंतिम निर्णयाप्रत कार्यवाही. **कालमर्यादाः-** न्यायालयीन प्रकरणे किंवा तत्सम प्रकरणावर विहित कालावधीत कार्यवाही, उपरोक्त कालमर्यादेचे काटेकोरपणे पालन केले जाते. | मंत्री<br>↓<br>प्रधाना सचिव/ सचिव<br>↓<br>सहसचिव/उप सचिव/विशेष कार्य अधिकारी.<br>↓<br>अवर सचिव<br>↓<br>कक्ष अधिकारी | परिशिष्ट-४ मध्ये नमुद केल्यानुसार संबंधित कार्यासनांचे अपिलीय अधिकारी हे तक्रार निवारण अधिकारी आहेत. |

**(चार) स्वतःची कार्ये पार पाडण्यासाठी त्याच्याकडून ठरविण्यात आलेली मानके.**
**नमुन्यामध्ये कामाचे प्रकटीकरण (नमुना-अ)**
**संघटनाचे लक्ष (वार्षिक)**

| अनु.क्र. | काम/कार्य | कामाचे प्रमाण | आर्थिक लक्ष | अभिप्राय |
|---|---|---|---|---|
| निरंक | | | | |

**कामाची कालमर्यादा — (नमुना — ब)**
**प्रत्येक कामाची कालमर्यादा-**

| अनु.क्र. | काम/कार्य | दिवस / तास पुर्ण करण्यासाठी | जबाबदार अधिकारी | तक्रार निवारण अधिकारी. |
|---|---|---|---|---|
| सामान्य प्रशासन विभाग (रचना व कार्यपध्दती) यांनी ठरवून दिलेल्या कामाच्या प्रमाणानुसार कार्यालयीन कामकाज पार पाडण्यासाठी प्रकाशित केलेल्या मंत्रालयीन कार्यपध्दती नियम पुस्तिकेतील प्रकरण क्र.३, १६ व १७ मध्ये नमूद केल्यानुसार तसेच वेळोवेळी दिलेल्या निदेशानुसार. | | | | |

**(पाच) त्याच्याकडे असलेले किंवा त्याच्या नियंत्रणात असलेले किंवा त्याची कार्ये पार पाडण्यासाठी त्याच्या कर्मचारीवर्गाकडून वापरण्यात येणारे नियम, विनियम, सूचना, नियमपुस्तिका आणि अभिलेख**

१) मुंबई वित्तीय नियम
२) अर्थसंकल्पीय नियम पुस्तिका
३) महाराष्ट्र आकस्मिकता नियम, १९६४
४) वित्तीय अधिकार अधिनियम, १९७८
५) महाराष्ट्र नागरी सेवा नियम (रजा, सेवेच्या सर्वसाधारण शर्ती, पदग्रहण अवधी, स्वियेत्तर सेवा, निलंबन इ. कालावधीतील प्रदाने, निवृत्ती वेतनाचे अंशराशीकरण)
६) महाराष्ट्र नागरी सेवा (शिस्त व अपील) नियम
७) महाराष्ट्र नागरी सेवा (वर्तणूक) नियम
८) विभागीय चौकशी नियम १९९१ सामान्य प्रशासन विभागाच्या कार्यनियमावलीनुसार तसेच विभागाला वाडून देण्यात आलेले विषय.
९) उद्योग साधना- उद्योग संचालनालयाचे प्रकाशन (विक्रीकरीता उपलब्ध)
१०) कामगार विभागाच्या कायद्यांची पुस्तिका. (परिशिष्ट-४ मधील **विषय** या स्तंभामध्ये नमुद केलेले सर्व अधिनियम)

**(सहा) त्याच्याकडे असलेल्या किंवा त्याच्या नियंत्रणाखाली असलेल्या दस्तऐवजांच्या प्रवर्गाचे विवरण**

उद्योग, ऊर्जा व कामगार विभागाशी संबंधित कार्यालयीन आदेश/धोरणात्मक परिपत्रके/शासन निर्णय/अधिसूचना विभागाच्या वेबसाईटवर उपलब्ध करण्यात आली आहेत. कार्यासनांमध्ये उपलब्ध असलेल्या नस्त्यांचे वर्गीकरण व जतन खालीलप्रमाणे केले जाते.

| **अ.क्र.** | **नस्तीचा वर्ग** | **सुरक्षित ठेवण्याचा कालावधी** |
|---|---|---|
| १. | ड | १ वर्ष |

| | | |
|---|---|---|
| २. | क | ५ वर्ष |
| ३. | ब | २५ ते ३० वर्ष |
| ४. | अ | कायमस्वरुपी |

**(सात) आपले धोरण तयार करण्याच्या किंवा त्याची अंमलबजावणी करण्याच्या संबंधात, लोकांशी विचारविनिमय करण्यासाठी किंवा लोकांकडून निवेदने केली जाण्यासाठी अस्तित्वात असलेल्या कोणत्याही व्यवस्थेचा तपशील.**

धोरणात्मक निर्णय हे प्रशासकीय व वित्तीय स्वरुपाचे असल्याने आम जनतेशी संबंध येत नाही मात्र जनहिताशी संबंधित एखाद्या कायद्याच्या मसुद्याचे कायद्यात रुपांतर करण्यापुर्वी विहित कार्यपध्दतीने जनतेची मते / आक्षेप जाणून घेतले जातात.

**(आठ) आपल्या एक भाग म्हणून किंवा सल्ला देण्याच्या प्रयोजनासाठी म्हणून घटित केलेल्या दोन किंवा अधिक व्यक्तींच्या मिळून बनलेल्या मंडळांचे, परिषदांचे, समित्यांचे आणि अन्य निकायांचे विवरण, आणि त्या मंडळांच्या, परिषदांच्या, समित्यांच्या आणि अन्य निकायांच्या बैठकी लोकांसाठी खुल्या आहेत किंवा कसे किंवा अशा बैठकीची कार्यवृत्ते जनतेला पहावयास मिळण्याजोगी आहेत किंवा कसे याबाबतचे विवरण.**

सदर माहिती परिशिष्ट-१ मध्ये नमूद केली आहे. सदर मंडळांच्या समित्यांच्या बैठका लोकांसाठी खुल्या नाहीत. अशा बैठकांची कार्यवृत्ते जनतेने मागणी केल्यास उपलब्ध करुन देण्यात येतात.

**(नऊ) आपल्या अधिकाऱ्यांची आणि कर्मचाऱ्यांची निर्देशिका**

सदर माहिती परिशिष्ट-२ मध्ये नमूद केली आहे.

**(दहा) आपल्या प्रत्येक अधिकाऱ्याला व कर्मचाऱ्याला मिळणारे मासिक वेतन, तसेच प्राधिकरणाच्या विनियमांमध्ये तरतूद केल्याप्रमाणे नुकसानभरपाई देण्याची पध्दती.**

सदर माहिती परिशिष्ट-२ मध्ये नमूद केली आहे.

**(अकरा) सर्व योजनांचा तपशील, प्रस्तावित खर्च दर्शविणारा, आपल्या प्रत्येक अभिकरणाला नेमून दिलेला अर्थसंकल्प आणि संवितरित केलेल्या रकमांचा अहवाल.**

सदर माहिती परिशिष्ट-३ मध्ये नमूद केली आहे.

**(बारा) अर्थसहाय्य कार्यक्रमाच्या अंमलबजावणीची रीत तसेच वाटप केलेल्या रकमा आणि अशा कार्यक्रमांच्या लाभाधिकाऱ्यांचा तपशिल**

सदर माहिती परिशिष्ट-३ मध्ये नमूद केली आहे.

**(तेरा) ज्या व्यक्तींना सवलती, परवाने किंवा प्राधिकारपत्रे दिलेली आहेत अशा व्यक्तींचा तपशील,**

या विभागाच्या अधिपत्याखालील सर्व विभाग प्रमुखांना नियमानुसार अनुज्ञेय असलेल्या सवलती, अनुज्ञाप्ती, अधिकारीता देण्यात आले आहेत. तसेच विभागाबाबतची माहिती कक्षनिहाय खालीलप्रमाणे आहे.

१) प्रशासन – उप सचिव (प्रशासन) यांना कार्यालयीन खर्चा अंतर्गत रु.४०,०००/- पर्यन्त खर्चाचे अधिकार देण्यात आलेले आहेत.

२) ऊर्जा- उप सचिव (ऊर्जा) यांना रु.५.००.०००/- पर्यन्तची विद्युत शुल्क परतावा मंजुरीचे अधिकार देण्यात आलेले आहेत. त्यापुढील अधिकार प्रधान सचिव (ऊर्जा) यांना आहेत.

**(चौदा) इलेक्ट्रॉनिक स्वरुपात त्यास उपलब्ध असलेल्या किंवा त्याच्याकडे असलेल्या माहितीच्या संबंधातील तपशील.**

वेळोवेळी निर्गमित करण्यात येणारे शासन निर्णय महाराष्ट्र शासनाच्या संकेतस्थळावर (www.maharashtra.gov.in) उपलब्ध करण्यात येतात. त्याशिवाय विभागाचे नियम / अधिनियम परिशिष्ट- ५ मध्ये प्रसिध्द करण्यात आले आहे.

**(पंधरा) माहिती मिळविण्यासाठी नागरिकांना उपलब्ध असणाऱ्या सुविधांचा तपशील, तसेच सार्वजनिक वापरासाठी चालविण्यात येत असलेल्या ग्रंथालयाच्या किंवा वाचनालयाच्या कामकाजाच्या वेळांचा तपशील.**

कार्यालयीन कामाजाच्या दिवशी अभ्यंगतासाठी पुर्वनिर्धारीत वेळेनुसार दुपारी २.०० ते संध्याकाळी ५.३० वा.भेटीची सुविधा उपलब्ध आहे.

महाराष्ट्र शासनाच्या संकेतस्थळावर (www.maharashtra.gov.in) माहिती उपलब्ध करण्यात आली आहे. त्या शिवाय परिशिष्ट-४ मधील विषयाशी संबंधीत जनमाहिती अधिकाऱ्यांकडून आवश्यक माहिती उपलब्ध होऊ शकेल.

**(सोळा) जन माहिती अधिकाऱ्यांची नांवे, पदनामे आणि इतर तपशील**

सदर माहिती परिशिष्ट-४ मध्ये नमूद केली आहे.

**(सतरा) विहित करण्यात येईल अशी इतर माहिती.**

निरंक

# परिशिष्ट-१

## विभागातील दोन किंवा अधिक व्यक्तींनी बनलेले सल्लादायी मंडळे, परिषदा, समित्या आणि इतर बॉडीज

Constitution of committe for review and development of special economic zones in Maharashtra- Government shall constitute a committee of Secretaries and other concerned officials including representatives of the SEZ authorities/promotors under the chairmanship of Chief Secretary **to resolve various issues pertaining to the promotion, development and functioning of SEZs in the State**. In pursuance of this, Government have decided to constitute a committee.- Resolution No.SEZ-2001/(156)/IND-2, dtd.20th May, 2002.

The Constitution of committee will be as under-

| | | |
|---|---|---|
| 1. | Chief Secretary | - Chairman |
| 2. | Principal Secretary, Energy | - Member |
| 3. | Principal Secretary, Environment | - Member |
| 4. | Principal Secretary, Labour | - Member |
| 5. | Principal Secretary, Finance | - Member |
| 6. | Principal Secretary, Revenue (Relief & Rehabilitation) | - Member |
| 7. | Principal Secretary, Unrban Development | - Member |
| 8. | Secretary, Industries | - Member |
| 9. | Development Commiissioner, SEEPZ | - Member |
| 10. | Managing Director, CIDCO | - Member |
| 11. | Chief Executive Officer, MIDC | - Member |
| 12. | Representiative(s) of Developers of SEZ(s) (to be nominated at the appropriate time) | - Member |
| 13. | Development Commissioner (Industries) | - Member Secretary |

**विशेष आर्थिक क्षेत्राच्या प्रगतीचा आढावा घेऊन मार्गदर्शन करण्याकरीता समिती-** राज्यात स्थापन होणाऱ्या विशेष आर्थिक श्रेत्राच्या प्रगतीचा आढावा घेणे कार्यान्वीत असलेल्या विशेष आर्थिक क्षेत्राच्या अडचणी दूर करणे या संबंधात मार्गदर्शन करुन निर्णय घेण्याकरिता मा.मंत्री (उद्योग) यांच्या अध्यक्षतेखाली समिती स्थापन करण्यात आली. (शासन निर्णय क्र.एसईझेड-२००३/(५७७/०३)/उद्योग-३, दिनांक १२ डिसेंबर, २००३.)

| | |
|---|---|
| १) मंत्री (उद्योग) | - अध्यक्ष |
| २) राज्यमंत्री (उद्योग) | - सदस्य |
| ३) | - सदस्य |
| ४) प्रधान सचिव (नगर विकास-१) | - सदस्य |

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| ५) प्रधान सचिव (उद्योग) | - सदस्य |
| ६) सचिव (ऊर्जा) | - सदस्य |
| ७) व्यवस्थापकीय संचालक, महाराष्ट्र राज्य रस्ते विकास महामंडळ | - सदस्य |
| ८) व्यवस्थापकीय संचालक, सिडको | - सदस्य |
| ९) मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक विकास महामंडळ. | - सदस्य |
| १०) सर्व विकास आयुक्त, विशेष आर्थिक क्षेत्रे | - सदस्य |
| ११) सर्व विकासक, विशेष आर्थिक क्षेत्रे | - सदस्य |
| १२) विकास आयुक्त, उद्योग | - सदस्य सचिव |

**परदेशी थेट गुंतवणूकदारांना सहाय्य करण्यासाठी तसेच त्यांच्या नियोजित प्रकल्पांच्या प्रस्तावांची छाननी करण्यासाठी समिती-** विदेशी गुंतवणूकदारांकडून व अनिवासी भारतीयांकडून महाराष्ट्रातील विविध क्षेत्रातील प्रकल्पांमध्ये गुंतवणूक करण्यासाठी सादर करण्यात येणाऱ्या प्रस्तावांची छाननी करुन निर्णय घेण्यासाठी मुख्य सचिवांच्या अध्यक्षतेखाली विशेष समिती स्थापन करण्यात आली. (शासन निर्णय क्र.विकस-२००५/(९२०)/ उद्योग-२, दिनांक २५ जुलै, २००५)

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| १. मुख्य सचिव | - अध्यक्ष |
| २. अपर मुख्य सचिव (वित्त) | - सदस्य |
| ३. मा.मुख्यमंत्र्यांचे प्रधान सचिव | - सदस्य |
| ४. प्रधान सचिव (नगर विकास-१) | - सदस्य |
| ५. प्रधान सचिव (ऊर्जा) | - सदस्य |
| ६. प्रधान सचिव सार्वजनिकआरोग्य विभाग (जैव तंत्रज्ञानाशी संबंधित) | - सदस्य |
| ७. सचिव (उद्योग) | - सदस्य |
| ८. मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक विकास महामंडळ | - सदस्य |
| ९. विशेष कार्य अधिकारी, विशेष कक्ष, उद्योग विभाग. | - सदस्य सचिव |

**विशेष आर्थिक क्षेत्र प्रस्तावांची छाननी करण्याकरिता उच्चाधिकार समिती-** विशेष आर्थिक क्षेत्र स्थापित करण्यासंदर्भातील प्रस्तावांची छाननी करण्याच्या कामकाजामध्ये पारदर्शकता असावी व अशी प्रकरणे जलद गतीने निकाली काढण्यासाठी मा.मंत्री (उद्योग) यांच्या अध्यक्षतेखाली विभागीय छाननी समितीचे गठन करण्यात आले. (शासन निर्णय क्र.विआक्षे-२००६/(११६०)/ उद्योग-२, दिनांक १० ऑगस्ट, २००६)

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| १. मा. मंत्री (उद्योग) | - अध्यक्ष |
| २. प्रधान सचिव (नगर विकास-१) | - सदस्य |
| ३. प्रधान सचिव (महसूल) | - सदस्य |
| ४. सचिव (उद्योग) | - सदस्य |
| ५. मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक | - सदस्य |

विकास महामंडळ

६. विकास आयुक्त (उद्योग) - सदस्य सचिव

**महाराष्ट्रातील प्लास्टिक उद्योगाला चालना देण्यासाठी व या क्षेत्रातील उद्योजकाना आणि सिपेटला मार्गदर्शन करण्यासाठी प्रादेशिक सल्लागार समिती** - महाराष्ट्र राज्यातील प्लास्टिक उद्योगाला चालना देण्यासाठी व या क्षेत्रातील उद्योजकांना उद्‌भवणाऱ्या समस्यांबाबत उपाययोजना सूचनविण्यासाठी आणि सेंट्रल इन्स्टिट्यूट ऑफ प्लास्टिक इंजिनिअरिंग अँड टेक्नॉलॉजी (CIPET) यांना मार्गदर्शन करण्यासाठी सचिव (उद्योग) यांच्या अध्यक्षतेखाली प्रादेशिक सल्लागार समिती गठीत करण्यात आली. (शासन निर्णय क्र.सीपेट-२००६/प्र.क्र.१६९१/ उद्योग-२, दिनांक ३ मार्च, २००७)

१. सचिव (उद्योग) - अध्यक्ष
२. व्यवस्थापकीय संचालक, सिपेट - विशेष निमंत्रित
३. विकास आयुक्त (उद्योग) - सदस्य
४. मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक विकास महामंडळ - सदस्य
५. आयुक्त (कृषी) - सदस्य
६. प्राचार्य, शासकीय अभियांत्रिकी महाविद्यालय, औरंगाबाद - सदस्य
७. संचालक, तंत्रशिक्षण संचालनालय, मुंबई. - सदस्य
८. महाव्यवस्थापक, स्मॉल इंडस्ट्रीज डेव्हलपमेंट बँक ऑफ इंडिया, बांद्रा, मुंबई. - सदस्य
९. उप महासंचालक, ब्युरो ऑफ इंडियन स्टॅन्डर्स, मानकालय ई-९, मरोळ, अंधेरी, मुंबई. - सदस्य
१०. अध्यश्र, मराठवाडा असोसिएशन ऑफ स्मॉल स्केल इंडस्ट्रीज अँड अग्रिकल्चर, औरंगाबाद. - सदस्य
११. अध्यक्ष, नाशिक इंडस्ट्रीज मॅन्यफॅक्चलर्स असोसिएशन, नाशिक. - सदस्य
१२. श्री.तरंग जैन, मे.वारोक इंजिनिअरिंग, औरंगाबाद. - सदस्य
१३. श्री.अरुण कुंभोजकर, असोसिएशन फार द प्रमोशन ऑफ प्लास्टिक्स, पुणे. - सदस्य
१४. अध्यक्ष, विदर्भ प्लॅस्टिक इंडस्ट्रीज असोसिएशन, नागपूर. - सदस्य
१५. उपाध्यक्ष, जैन इरिगेशन जैन प्लास्टिक पार्क, जळगांव. - सदस्य
१६. अध्यक्ष, मे.व्हिडिओकॉन इंडिस्ट्रीज लिमिटेज, औरंगाबाद. - सदस्य
१७. मुख्य व्यवस्थापक (प्रकल्प), सेंट्रल इंस्टिट्युट ऑफ प्लास्टिक इंजिनिअरिंग अँड टेक्नॉलॉजी (सिपेट), औरंगाबाद - सदस्य सचिव.

**Constitution of Apex Monitoring Authority for Delhi-Mumbai Industrial Corridor (DMIC) project-** The Government of Maharashtra is pleased to set u Apex Monitoring Authority under the chairmanship of the Chief Minister for development of the investment regions / investment areas in state of Maharashtra under DMIC project. (G.R.No.DMIC-2007/CR-1724/IND-2, Dtd. 8th December, 2007.)

1. Chief Minister - Chairperson
2. Deputy Chief Minister - Member
3. Minister (Revenue) - Member
4. Minister (Finance) - Member
5. Minister (Industries) - Member
6. Minister (Public Works) - Member
7. Minister (Transport) - Member
8. Minister (Energy) - Member

**Constitution of Steering Committee – Mutual cooperation between the State of Qubec and the State of Maharashtra** - The Government of Maharashtra is pleased to appoint a steering committee to explopre ways of increasing bilateral economic flows and agree to explore the scope of investment opportunities in the areas of Information Technology, biotechnology, Areonautics, Engineering, Energy, Animation and Multimedia, Tourism and Culture. (G.R.No.DEL-2005/CR-1116/IND-2, dtd.29th January, 2008)

1. Principal Secretary (Industries) - Chairman
2. Asia-Pacific Director, Ministry of International Relations, Govt of Qubec - Member
3. Asia-Pacific, africa and Middle East Director, Ministry of Economic Development, Innovation and Exportation, Govt of Qubec - Member
4. Development Commissioner (Industries) - Member Secretary

**विशेष आर्थिक क्षेत्राचा विकास आणि कार्यान्वयन या संदर्भातील विविध अडीअडचणी जलद गतीने सोडविण्यासाठी मुख्य सचिवांच्या अध्यक्षतेखाली शक्तीप्रदान समिती-** विशेष आर्थिक क्षेत्रांना प्रोत्साहन देणे, विकास करणे व कार्यान्वित करणे या संदर्भात उद्‌भवणाऱ्या अडीअडचणी दूर करण्यासाठी आणि केंद्र शासनाने मान्यता दिलेले विशेष आर्थिक क्षेत्राची अंमलबजावणी तातडीने सुरु होण्यासाठी मुख्य सचिवांच्या अध्यक्षतेखाली शक्तीप्रदान समितीची स्थापना करण्यात आली. (शासन निर्णय क्र.विआक्षे-२००६/प्र.क्र.१८४९/उद्योग-२, दिनांक २४ फेब्रुवारी, २००९)

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| १. मुख्य सचिव | - अध्यक्ष |
| २. अप्पर मुख्य सचिव (गृह) | - सदस्य |
| ३. प्रधान सचिव (उद्योग) | - सदस्य |
| ४. प्रधान सचिव (नगर विकास-१) | - सदस्य |
| ५. सचिव (ऊर्जा) | - सदस्य |
| ६. सचिव (कामगार) | - सदस्य |
| ७. महाराष्ट्रातील केंद्र शासनाच्या कोणत्याही दोन विशेष आर्थिक क्षेत्राचे विकास आयुक्त | - सदस्य |
| ८. प्रधान सचिव (वित्त) | - विशेष निमंत्रीत |
| ९. विकास आयुक्त (उद्योग) | - सदस्य सचिव |

**दिल्ली-मुंबई इंडस्ट्रीयल कॉरीडोर प्रकल्पांतर्गत कामाचे नियोजन व अंमलबजावणीसंबंधी संनियंत्रणासाठी उच्चाधिकार समिती -** डी.एम.आय.सी. प्रकल्पांतर्गत अर्ली बर्ड प्रकल्प तसेच यापुढे द्यावयाच्या प्रकल्पाच्या व अनुषंगिक कामाचे कालबध्द नियोजन व अंमलबजावणीबाबत वेळोवेळी आढावा घेणे, सर्व संबंधित विभागांमध्ये समन्वय घडवून आणणे तसेच या प्रकल्पांशी संबंधीत बाबींवर निर्णय घेणे यासाठी मा.मुख्य सचिवांच्या अध्यक्षतेखाली उच्चाधिकार समिती गठीत करण्यात आली. (शासन निर्णय क्र.डिएमआयसी-२०१०/प्र.क्र.५३०/उद्योग-२, दिनांक २ जून, २०१०)

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| १. मा.मुख्य सचिव | - अध्यक्ष |
| २. अप्पर मुख्य सचिव (महसूल) | - सदस्य |
| ३. अप्पर मुख्य सचिव (वने) | - सदस्य |
| ४. प्रधान सचिव (उद्योग) | - सदस्य |
| ५. प्रधान सचिव (नगर विकास-१) | - सदस्य |
| ६. सचिव (परिवहन) | - सदस्य |
| ७. सचिव (सार्वजनिक बांधकाम) | - सदस्य |
| ८. सचिव (जलसंपदा) | - सदस्य |
| ९. महानगर आयुक्त, मुंबई महानगर प्रदेश विकास प्राधिकरण, मुंबई | - सदस्य |
| १०. व्यवस्थापकिय संचालक, सिडको | - सदस्य |
| ११. जिल्हाधिकारी, रायगड / ठाणे / नाशिक / धुळे / औरंगाबाद / अहमदनगर. | - सदस्य |
| १२. महाव्यवस्थापक, मध्य रेल्वे / पश्चिम रेल्वे / | - सदस्य |

कोंकण रेल्वे.

१३. मुख्य कार्यकारी अधिकारी, महाराष्ट्र मेरिटाईम बोर्ड - सदस्य

१४. मुख्य कार्यकारी अधिकारी तथा व्यवस्थापकीय संचालक, दिल्ली-मुंबई इंडस्ट्रीयल कॉरीडोअर डेव्हेलपमेंट कॉर्पोरेशन - सदस्य

१५. मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक विकास महामंडळ - सदस्य सचिव व निमंत्रक

**महाराष्ट्राचे माहिती तंत्रज्ञान व माहिती तंत्रज्ञान सहाय्यभूत सेवा धोरण, २००९ -कार्यबल समितीची स्थापना -** मन्यष्य बळ विकास, विशिष्ठ क्षेत्रांचा विकास, नाशिक, औरंगाबाद व नागपूर आणि कमी मानव निर्देशांक असलेल्या जिल्ह्यांचा विकास, हरित माहिती तंत्रज्ञानाचा विकास, उद्योजकता आणि नावि ्यता तसेच महाराष्ट्र ब्रॅण्डचा विकास या बाबींची अंमलबजावणी व समन्वय करण्याकरीता प्रधान सचिव (उद्योग) यांच्या अध्यक्षतेखाली कार्यबल समितीची स्थापना करण्यात आली (शासन निर्णय क्र.एसईझेड-२०११/प्र.क्र.७१/२०११/उद्योग-२, दिनांक १ ऑगस्ट, २०११)

१. प्रधान सचिव (उद्योग) - अध्यक्ष
२. प्रधान सचिव (उच्च व तंत्रशिक्षण) - सदस्य
३. प्रधान सचिव (नगर विकास-१) - सदस्य
४. सचिव (पर्यावरण) - सदस्य
५. सचिव (माहिती तंत्रज्ञान) - सदस्य
६. सचिव (नगर विकास-२) - सदस्य
७. मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक विकास महामंडळ - सदस्य
८. विकास आयुक्त (उद्योग) - सदस्य सचिव

**महाराष्ट्रात निर्यात व थेट परकीय गुंतवणूक वाढविण्यासाठी निर्यातदारांना / उद्योजकांना येणाऱ्या विविध अडचणी सोडविण्यासाठी समिती -** महाराष्ट्रात निर्यात व थेट परकीय गुंतवणूक वाढविण्यासाठी निर्यातदारांना / उद्योजकांना येणाऱ्या विविध अडचणी सोडविण्यासाठी मुख्य सचिवांच्या अध्यक्षतेखाली समिती स्थापन करण्यात आली. (शासन निर्णय क्र.डीएफटी-२०१२/प्र.क्र.२७/उद्योग-२, दिनांक १७ फेब्रुवारी, २०१२.)

१. मुख्य सचिव - अध्यक्ष
२. प्रधान सचिव (उद्योग) - सदस्य सचिव
३. प्रधान सचिव (वित्त) - सदस्य
४. प्रधान सचिव (नियोजन) - सदस्य
५. प्रधान सचिव (नगर विकास-२) - सदस्य
६. प्रधान सचिव (ऊर्जा) - सदस्य
७. प्रधान सचिव (कृषी व पणन) - सदस्य
८. प्रधान सचिव (सार्वजनिक बांधकाम विभाग) - सदस्य

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| ९. | प्रधान सचिव (सामान्य प्रशासन विभाग / राजशिष्टाचार) | - सदस्य |
| १०. | विकास आयुक्त (वि.आ.क्षे-सिप्झ), मुंबई | - सदस्य |
| ११. | अप्पर महासंचालक, विदेश व्यापार, मुंबई | - सदस्य |
| १२. | सचिव (पर्यावरण) | - सदस्य |
| १३. | विकास आयुक्त (उद्योग) | - सदस्य |
| १४. | मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक विकास महामंडळ | - सदस्य |
| १५. | विक्रीकर आयुक्त, मुंबई | - सदस्य |

**Constitution of Steering Committee – Mutual cooperation between Singapore and the State of Maharashtra** - Government of Maharashtra is pleased to set up a steering committee to explopre ways of increasing bilateral economic flows and agree to explore the scope of investment opportunities in the areas of Infrastructure, Industrial Parks, Logistic Parks, Investment in township, Investment opportunity in DMIC projects, Participation in transportation systems being planned in Navi Mumbai and Pune, Possible Co-operation in the area of Dighi Port, Water recycling, Desalination, Environment, Sanitation and other such similar projects coming under these sectors in the state, IT Sectors, Tourism, Centre for land used planning, Mass transit System and Urban infrastructure areas, Any other matter to be mutually identified. (G.R.No.SJC-2012/CR-41/2012/IND-2, Dtd.7th March, 2012)

| | | |
|---|---|---|
| 1. | Chief Secretary | - Chairman |
| 2. | Principal Secretary (Industries) | - Convener |
| 3. | Principal Secretary (Urban Development-1) | - Member |
| 4. | Principal Secretary (Urban Development-2) | - Member |
| 5. | Principal Secretary (Water Supply) | - Member |
| 6. | Principal Secretary (Tourism) | - Member |
| 7. | Principal Secretary (Ports) | - Member |
| 8. | Metropolitan Commissioner (MMRDA) | - Member |
| 9. | Commissioner, BMC | - Member |
| 10. | Vice President and Managing Director, CIDCO | - Member |
| 11. | Project Director, Mumbai Transformation Support uner Secretary (Environment) | - Member |
| 12. | Representtive of the Ministry of Trade and Industries, Singapore | - Member |

**सामुहिक प्रोत्साहा योजाा राज्यस्तरीय समिती-** सामुहिक प्रोत्साहन योजनेंतर्गत विविध अटी/शर्तीच्या अर्थ विवरणाकरीता शासन निर्णय, क्रमांक- आयडीएल-१०८७/६०९०/उद्योग-८, दिनांक १८ जाोवारी, १९८८ अन्वये प्रधान सचिव (उद्योग) यांच्या अध्यक्षतेखाली समिती स्थापन करण्यात आली होती. सामुहिक

प्रोत्साहन योजना, २००७ मध्ये सदर समिती कायम ठेवण्यात आली आहे. सदर समितीची रचना शासन निर्णय क्रमांक- पीएसआय-१७०७/प्र.क्र. ५०/उद्योग-८, दिनांक ३०/३/२००७ अन्वये खालीलप्रमाणे आहे :-

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| १) प्रधान सचिव (उद्योग) | - | अध्यक्ष |
| २) प्रधान सचिव (व्यय) वित्त विभाग | - | सदस्य |
| ३) विक्रीकर आयुक्त, मुंबई | - | सदस्य |
| ४) विकास आयुक्त (उद्योग) | - | सदस्य |
| ५) उद्योग सह संचालक (साप्रोयो) | - | सदस्य सचिव |

**राज्याचे औद्योगिकरण अधिक गतीमान करण्यासाठी मंत्रिमंडळ उपसमिती :-** राज्याचे औद्योगिकरण अधिक गतीमान करण्यासाठी दिनांक १८/१/१९९८ च्या शासन निर्णयान्वये मा. मुख्यमंत्री यांच्या अध्यक्षतेखाली मंत्रीमंडळ उप समिती स्थापना करण्यात आली आहे. सदर समितीची शासन निर्णय क्रमांक- आयडीएल-१००४/प्र.क्र. ३१८/उद्योग-८, दिांक २४ डिसेंबर, २००४ अवये पुनर्रचना करण्यात आली असून सदर समिती खालीलप्रमाणे आहे.

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| १) मा. मुख्यमंत्री | - | अध्यक्ष |
| २) मा. उपमुख्यमंत्री | - | सभासद |
| ३) मा. मंत्री (वित्त व नियोजन) | - | सभासद |
| ४) मा. मंत्री (उद्योग) | - | सभासद |
| ५) मा. मुख्य सचिव | - | कायम निमंत्रित |
| ६) अ. मु. स./प्रधान सचिव (वित्त) | - | कायम निमंत्रित |
| ७) प्रधान सचिव (उद्योग) | - | समितीचे निमंत्रक |

**राज्यात अस्तित्वात असलेल्या व नव्याने येणाऱ्या विशाल प्रकल्पांना प्रोत्साहने/सवलती देण्यासाठी उच्चाधिकार समिती -** राज्यात अस्तित्वात असलेल्या व नव्याने येणाऱ्या विशाल प्रकल्पाना प्रोत्साहने/सवलती देण्यासाठी शासन निर्णय क्रमांक- आयडीएल-१००५/प्र.क्र. ११९/उद्योग-८, दिांक २ जून, २००५ अन्वये मा. मुख्य सचिव यांच्या अध्यक्षतेखाली उच्चाधिकार समितीची स्थापना करण्यात आली असन सदर समिती खालीलप्रमाणे आहे :-

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| १) मा. मुख्य सचिव | - | अध्यक्ष |
| २) अपर मुख्य सचिव किंवा प्रधान सचिव (नियोजन) | - | सदस्य |
| ३) अपर मुख्य सचिव किंवा प्रधान सचिव (वित्त) | - | सदस्य |
| ४) प्रधान सचिव (उद्योग) | - | सदस्य व निमंत्रक |
| ५) सचिव (कामगार) | - | सदस्य |
| ६) प्रधान सचिव (नगर विकास-२) | - | आमंत्रित सदस्य |
| ७) प्रधान सचिव (ऊर्जा) | - | आमंत्रित सदस्य |
| ८) विकास आयुक्त (उद्योग) | - | आमंत्रित सदस्य |
| ९) विक्रीकर आयुक्त, म. रा. मुंबई | - | आमंत्रित सदस्य |

**राज्याच्या औद्योगिकीकरणात विविध खात्यांतर्गत असलेल्या बाबींवर निर्णय घेण्यासाठी छाननी समिती :-** सामुहिक प्रोत्साहन योजनेशी संबंधित प्रकरणे मंत्रीमंडळ उपसमितीच्या विचारार्थ सादर करण्यापूर्वी त्या प्रस्तावांची प्रथम मा. मुख्य सचिव यांच्या अध्यक्षतेखालील छाननी समितीव्दारे तपासणी करण्यात येते. अशा प्रस्तावांची तपासणी करण्यासाठी शासन निर्णय क्रमांक- आयडीएल-१००५/प्र.क्र. ८६/उद्योग-८, दिनांक २ नोव्हेंबर, २००५ अन्वये खालीलप्रमाणे छाननी समिती स्थापन करण्यात आली आहे.

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| १) मा. मुख्य सचिव | - | अध्यक्ष |
| २) अपर मुख्य सचिव (वित्त) | - | सदस्य |
| ३) प्रधान सचिव (नियोजन) | - | सदस्य |
| ४) प्रधान सचिव (उद्योग) | - | सदस्य सचिव |
| ५) विकास आयुक्त (उद्योग) | - | विशेष आमंत्रित |
| ६) विक्रीकर आयुक्त म. रा. मुंबई | - | विशेष आमंत्रित |

**निर्यातीकरीता पायाभूत सुविधांचा विकास करण्यासाठी राज्य शासनास सहाय्य (ASIDE) या केंद्र शासनाच्या नवीन योजनेअंतर्गत राज्यस्तरीय निर्यात प्रचालन समिती** (State Level Export Promotion Committee) स्थापन करण्याबाबत- केंद्र शासनाच्या "निर्यातीकरीता पायाभूत सुविधांचा विकास करण्यासाठी राज्य शासनास सहाय्य" या योजने अंतर्गत मा.मुख्य सचिवांच्या अध्यक्षतेखाली राज्यस्तरीय निर्यात प्रचालन समितीची स्थापना करण्यात आली. (शासन निर्णय क्र.असाईड-१००२/प्र.क्र.१३३/उद्योग-१२ (उद्योग-७), दिनांक २९ जून, २००२)

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| १. | मा.मुख्य सचिव | - अध्यक्ष |
| २. | वाणिज्य मंत्रालय, (राज्य कक्ष) भारत सरकार यांचे प्रतिनिधी. | - सदस्य |
| ३. | प्रधान सचिव (नियोजन) | - सदस्य |
| ४. | सचिव (उद्योग) | - सदस्य |
| ५. | संयुक्त महानिदेशक विदेश व्यापार , मुंबई | - सदस्य |
| ६. | विकास आयुक्त (उद्योग) | - सदस्य |
| ७. | मुख्य कार्यकारी अधिकारी, महाराष्ट्र औद्योगिक विकास महामंडळ | - सदस्य |
| ८. | व्यवस्थापकीय संचालक, सिडको लि. | - सदस्य |
| ९. | मुख्य कार्यकारी अधिकारी, महाराष्ट्र मेरीटाईम बोर्ड | - सदस्य |
| १०. | व्यवस्थापकीय संचालक, महाराष्ट्र राज्य रस्ते विकास महामंडळ | - सदस्य |
| ११. | व्यवस्थापकीय संचालक मिटकॉन कन्सल्टन्सी सर्व्हिसेस लि. | - सदस्य |
| १२. | अध्यक्ष (पश्चिम विभाग), फेडरेशन ऑफ इंडियन एक्सपोर्ट ऑर्गनायझेशन | - सदस्य |
| १३. | अतिरिक्त उद्योग संचालक | - सदस्य सचिव |

**महाराष्ट्र राज्य वित्तीय महामंडळाचे पुनरुज्जीवन व पुनर्बांधणीचे कार्यासाठी समिती-** राज्यातील लघु उद्योगांना कर्ज पुरवठा करण्याच्या दृष्टीने महाराष्ट्र राज्य वित्तीय महामंडळाचे पुनरुज्जीवन व पुनर्बांधणी करण्याकरिता मा.मुख्य सचिव यांच्या अध्यक्षतेखाली शासन निर्णय क्र.एसएफसी-२००४/प्र.क्र.३६५३/उद्योग-७, दिनांक ९ जून, २००४ अन्वये समिती गठीत करण्यात आली.

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| मुख्य सचिव | - अध्यक्ष |
| उप व्यवस्थापकीय संचालक, सिडीबी, मुंबई | - सदस्य |
| मुख्य महाव्यवस्थापक किंवा संबंधीत महाव्यवस्थापक, सिडबी, मुंबई | - सदस्य |
| कार्यकारी संचालक, आयडीबीआय, मुंबई | - सदस्य |

# परिशिष्ट–२

# परिशिष्ट-२
## उद्योग, ऊर्जा व कामगार विभाग (उद्योग प्रभाग), मंत्रालय, मुंबई.
## फॅक्स क्रमांक- ०२२ - २२८२४४४६, २२८१०३८९

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
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| १ | श्री.अपूर्व चंद्रा (भाप्रसे), प्रधान सचिव (उद्योग) | ११४- विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२५३९३, २२०२७२८१ | १४३९५६.०० |
| २ | श्री.वं.शं.कुलकर्णी, उप सचिव | ११८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२६६९४, २२७९३५४६ | ७८००६.०० |
| ३ | श्री.वै.भु.लटके, उप सचिव | १२६ विस्तार इमारत,१ला मजला, मंत्रालय, मुंबई | २२८१०३८६ | ७६२२४.०० |
| ४ | श्री.व्यं.ह.कुलकर्णी, अवर सचिव | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२७०३१ | ५९८१२.०० |
| ५ | श्री.दा.अं.कुलकर्णी, अवर सचिव | ११२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२५०३२ | ७३७५२.०० |
| ६ | श्रीमती रे.वि.काटम, कक्ष अधिकारी | १०२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२८२०३८० | ५२६२४.०० |
| ७ | श्री.व्ही.ए.गायकवाड, कक्ष अधिकारी | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ५९४७४.०० |
| ८ | श्री. प्र.पु.राठोड, कक्ष अधिकारी | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२८१०३९३, २२७९३०१७ | ३२३२५.०० |
| ९ | श्री. अ.नि.साखरकर, कक्ष अधिकारी. | १८अ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८७२४७६ | ५६६०६.०० |
| १० | श्री. र.कृ.निखारगे, कक्ष अधिकारी | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ५४४९४.०० |
| ११ | श्री. र.तु.जाधव, कक्ष अधिकारी | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ६०८८२.०० |
| १२ | श्री.नं.र.मिस्तरी, कक्ष अधिकारी | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ५३५२६.०० |
| १३ | श्री.सं.क.केजकर, निवडश्रेणी लघुलेखक | ११४- विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२५३९३, २२०२७२८१ | ८३०८०.०० |
| १४ | श्री.प्रविण साठे, सहायक | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२७०३१ | ३४१३८.०० |
| १५ | श्रीमती नि.शं.कदम, सहायक | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२७०३१ | ५४४९४.०० |
| १६ | श्री.सं.ज.काळे, सहायक | १०२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२८२०३८० | ३०४८२.०० |
| १७ | श्री.दि.व.सावंत, सहायक | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ४१९९२.०० |
| १८ | श्रीमती वि.ग.पंडीत, सहायक | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४९०८९, २२७९३०१५ | ५५४४०.०० |
| १९ | श्री.सं.ब.नवले, सहायक | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४९०८९, २२७९३०१५ | ३४९३०.०० |
| २० | श्री.श्री.भि.काष्टे, सहायक | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२८१०३९३, २२७९३०१७ | ४९६९८.०० |
| २१ | श्री.सु.बा.लांडे, सहायक | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२८१०३९३, २२७९३०१७ | २६३४०.०० |
| २२ | श्री.सुनिल जाधव, सहायक | ११२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२५०३२ | ३५१५०.०० |
| २३ | श्री.विलास ना. धाईजे, सहायक | ११२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२५०३२ | ३५५५५.०० |
| २४ | श्री.म.ना.वैष्णव, सहायक | १८अ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८७२४७६ | ५१६१२.०० |
| २५ | श्री. निलेश ना.ठाकूर, सहायक | १८अ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८७२४७६ | ३५१५०.०० |

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
|---|---|---|---|---|
| २६ | श्रीमती गी.अ.पिंपळे, सहायक | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ३५२१६.०० |
| २७ | श्री.प्र.म.गायकवाड, सहायक | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ४६३७७.०० |
| २८ | कु.शि.रा.सावर्डेकर, उच्चश्रेणी लघुलेखक (इंग्रजी) | ११४- विस्तार इमारत,१ला मजला, मंत्रालय, मुंबई | २२०२५३९३, २२०२७२८१ | ३८१०४.०० |
| २९ | श्रीमती स्ने.सं.गवळी, लिपिक टंकलेखक | ११४- विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२५३९३, २२०२७२८१ | १८७१६.०० |
| ३० | श्रीमती के.एस.साळसकर, लिपिक टंकलेखक | १०२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२८२०३८० | २०१७८.०० |
| ३१ | श्रीमती प्र.बा.गवस, लिपिक टंकलेखक | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ५२५१४.०० |
| ३२ | श्री.प्र.का.डिगोळे, लिपिक टंकलेखक | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४९०८९, २२७९३०१५ | १७४०६.०० |
| ३३ | श्री.गो.तु.बांदकर, लिपिक टंकलेखक | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२८१०३९३, २२७९३०१७ | २२४४४.०० |
| ३४ | श्रीमती भ.च.पवार, लिपिक टंकलेखक | ११२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२५०३२ | ४८६८६.०० |
| ३५ | श्रीमती आ.ज.मेहेर, लिपिक टंकलेखक | १८अ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८७२४७६ | २०१७८.०० |
| ३६ | कु.एन.एस.राठोड, लिपिक टंकलेखक (इंग्रजी) | १८अ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८७२४७६ | १८७३४.०० |
| ३७ | श्रीमती वै.व.पवार, लिपिक टंकलेखक | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ४२९१६.०० |
| ३८ | श्री.ए.एस.शिरसाट, लिपिक टंकलेखक | १२७ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४४२१२, २२७९४०२७ | ३२३२५.०० |
| ३९ | श्रीमती वै.अ.दाबके, लिपिक टंकलेखक | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०२७०३१ | ३५५५५.०० |

# उद्योग, ऊर्जा व कामगार विभाग (ऊर्जा प्रभाग), प्रकाशगड, बांद्रा (पूर्व), मुंबई

## फॅक्स क्रमांक- ०२२ - २६४७५२१२

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
|---|---|---|---|---|
| १ | श्री.विद्याधर कानडे (भाप्रसे), अपर मुख्य सचिव (ऊर्जा) | ए/०५, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | २६४७६७४३ विस्तार-३५०१ | १४४५३३.०० |
| २ | श्रीमती स्मि. श. रानडे, सहसचिव | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८२४३८१ २२७९४०२९ | १०३०२०.०० |
| ३ | श्री. आ.भ.रामटेके, उप सचिव | १ला मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७५७९४ विस्तार-३७४२ | ७६२२४.०० |
| ४ | श्री.एस.एम.इनामदार, उप सचिव | ए/२२, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई५१ | २६४७६८०४ विस्तार-३७४९ | ८७००४.०० |
| ५ | श्री.वि.म.राजुरकर, अवर सचिव | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | ६७४३८.०० |
| ६ | श्री.ब.शे.मांडवे, अवर सचिव | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८७६००८ | ६७६८०.०० |
| ७ | श्री. एस.एस. सिरसीकर, अवर सचिव | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | ५७२०९.०० |
| ८ | श्री.ल.ना.सदाफूले,कक्ष अधिकारी | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | ५४४९४.०० |
| ९ | कु र.उ. बागडे , कक्ष अधिकारी | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | ५४४९४.०० |
| १० | श्री.जी.के.गोरडे, कक्ष अधिकारी | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | ५७५९६.०० |
| ११ | श्रीमती मि.भा.निकम, कक्ष अधिकारी | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८७६००८ | ५४४९४.०० |
| १२ | श्री. सु. व. पारकर, कक्ष अधिकारी | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८७६००८ | ५३७८४.०० |
| १३ | श्रीमती शो. र. यटम, वरिष्ठ स्वीय सहायक | ए/०५, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | २६४७६७४३ विस्तार-३५०१ | ७०४३०.०० |
| १४ | श्रीमती मानसी पतंगे, निवडश्रेणी लघुलेखक | १ला मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७५७९४ विस्तार-३७४९ | ७२७६२.०० |
| १५ | श्री.सु.वि.बेंढारी, सहायक | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | ३४२०४.०० |
| १६ | श्री.प्र.सा.शिवतरे, सहायक | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५८ | ३४१३८.०० |
| १७ | श्री.वि.गो.कडू, सहायक | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | ५४५३८.०० |
| १८ | श्री.रा.गि.कोळेकर, सहायक | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | ३७२८४.०० |
| १९ | श्री..न.प्र.गणवीर, सहायक | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | ३७३५०.०० |
| २० | श्रीमती सु.सु.देसाई, सहायक | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | ५३५७०.०० |
| २१ | श्री.श्री.ज.वारखंडकर, सहायक | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | ४५६००.०० |
| २२ | श्री.स.बा.शिंदे, सहायक | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | ४९२३०.०० |
| २३ | श्री.सचिन श्री. खांडेकर, सहायक | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८७६००८ | ३४१३८.०० |
| २४ | श्री. एन.यु.भरोसे, सहायक | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८७६००८ | ३७३५०.०० |
| २५ | श्री.कि.प्र.जाधव, सहायक लेखा अधिकारी | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | ४०१७२.०० |
| २६ | श्रीमती स्मि.रा.वेर्णेकर, लघुटंकलेखक (इंग्रजी) | ए/२२, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | २६४७६८०४ विस्तार-३७४९ | ३८३८४.०० |
| २७ | श्री.प्र.द.मळेकर, लिपिक टंकलेखक | ए/०५, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | २६४७६७४३ विस्तार-३५०१ | १९७०४.०० |
| २८ | श्री.शेषराव कांबळे, लिपिक टंकलेखक | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | २२०७०.०० |
| २९ | श्री.अ.रा.मयेकर, लिपिक टंकलेखक | तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५८२ | १८७१६.०० |

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
|---|---|---|---|---|
| ३० | श्रीमती स.सं.तांबे, लिपिक टंकलेखक | दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | २६४७४२११ विस्तार-३५५७ | २११६८.०० |
| ३१ | श्रीमती रचना रमेश जाधव, लिपिक टंकलेखक | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८७६००८ | ३३२१४.०० |

# उद्योग, ऊर्जा व कामगार विभाग (कामगार प्रभाग), मंत्रालय, मुंबई.

## फॅक्स क्रमांक- ०२२ - २२०२५८८१

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
|---|---|---|---|---|
| १ | श्री.अरविंदकुमार (भाप्रसे), प्रधान सचिव (कामगार व प्रशासन) | ६२० विस्तार इमारत, ६वा मजला,मंत्रालय, मुंबई. | २२०२७४३३, २२८२२१०५ | १२७३००.०० |
| २ | श्री.बाळासाहेब कोळसे (भाप्रसे), सहसचिव (कामगार) | ११८-ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८८३१७५ | १०१५९३.०० |
| ३ | श्री.संजय शा. देगांवकर, उपसचिव (कामगार) | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३६५, २२७९३६२४ | ६७९४४.०० |
| ४ | श्रीमती ज.आ.खवणेकर, अवर सचिव | १२३ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२७९३५५० | ६७४३८.०० |
| ५ | श्री.सं.धों.डगळे, कक्ष अधिकारी | १८ विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | २२८५००१९, २२७९३०१९ | ४८२१०.०० |
| ६ | श्री.सु.सा.चौधरी, कक्ष अधिकारी | १५८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३३०, २२७९३०१४ | ६१३४४.०० |
| ७ | श्री.र.धों.पाटणकर, कक्ष अधिकारी | १५८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३३०, २२७९३०१४ | ४८२१०.०० |
| ८ | श्री.ना.द.थोरवे, कक्ष अधिकारी | एम-६ विस्तार इमारत, पोटमाळा,मंत्रालय, मुंबई. | २२८७१९७८, २२७९३८७३ | ५६४०८.०० |
| ९ | श्रीमती शै.स.शिरोडकर, कक्ष अधिकारी | १८ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८५००१९, २२७९३०१९ | ५३४६०.०० |
| १० | श्री. सु. स. सामंत, कक्ष अधिकारी | १८ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८५००१९, २२७९३०१९ | ५२५१४.०० |
| ११ | श्री.सु.द.सहस्त्रबुद्धे, कक्ष अधिकारी | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९३, २२७९३०१७ | ६०८६०.०० |
| १२ | श्री.संजू क. गुप्ते, कक्ष अधिकारी | १२३, विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२३१८१, २२७९३८७५ | ५८८५८.०० |
| १३ | श्री.अ.म.बाविस्कर, कक्ष अधिकारी | १२३, विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२७९३०९३ | ५७८०२.०० |
| १४ | श्रीमती भा.चं.शिंदे, सहायक | १८ विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | २२८५००१९, २२७९३०१९ | ५४३७०.०० |
| १५ | श्री.म.ना.माणगांवकर, सहायक | १५८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३३०, २२७९३०१४ | ५२६२४.०० |
| १६ | श्रीमती स्मि.ज्ञा.पाटमासे, सहायक | १५८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३३०, २२७९३०१४ | २७११९.०० |
| १७ | श्रीमती सी.तु.सावंत, सहायक | एम-६ विस्तार इमारत, पोटमाळा,मंत्रालय, मुंबई. | २२८७१९७८, २२७९३८७३ | ३५२१६.०० |
| १८ | श्रीमती प.प्र.सावंत, सहायक | एम-६ विस्तार इमारत, पोटमाळा,मंत्रालय, मुंबई. | २२८७१९७८, २२७९३८७३ | ४८३५०.०० |
| १९ | श्री.कि.म.शार्दुल, सहायक | एम-६ विस्तार इमारत, पोटमाळा,मंत्रालय, मुंबई. | २२८७१९७८, २२७९३८७३ | ३२३४४.०० |
| २० | श्री.प्रमोद तवटे, सहायक | १८ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८५००१९, २२७९३०१९ | ३०४२५.०० |
| २१ | श्रीमती.सोफिया सय्यद, सहायक | १८ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८५००१९, २२७९३०१९ | ३२२६८.०० |
| २२ | श्री.खे.तु.सलाम, सहायक | १२१ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई | २२०४९०८९, २२७९३८५५ | ३२३२५.०० |
| २३ | श्रीमती परवीन जा.जुगारी, सहायक | १८ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८५००१९, २२७९३०१९ | ४१९९२.०० |
| २४ | श्रीमती वि.दि.निमकर, सहायक | १२२ विस्तार इमारत,१ला मजला, मंत्रालय, मुंबई. | २२८१०३९३, २२७९३०१७ | ५४४५०.०० |
| २५ | श्रीमती अं.प्र.महाजन, सहायक | १२३, विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२३१८१, २२७९३८७५ | ५६१७४.०० |
| २६ | श्री.तु.शं.पैठणकर, सहायक | १२३, विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२३१८१, २२७९३८७५ | २८७५३.०० |
| २७ | श्रीमती शि.वि.पटवर्धन, सहायक | एम-६ विस्तार इमारत, पोटमाळा,मंत्रालय, मुंबई. | २२७९३५५०, २२७९३८७३ | ३३२१४.०० |
| २८ | श्री.भा.भा.परदेशी, सहायक | १२३, विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२७९३०९३ | ३४१३८.०० |
| २९ | श्रीमती सु.प्र.राजपूरकर, निम्नश्रेणी लघुलेखक_(मराठी) | ६२० विस्तार इमारत, ६वा मजला,मंत्रालय, मुंबई. | २२०२७४३३, २२८२२१०५ | ५४३८४.०० |

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
|---|---|---|---|---|
| ३० | श्री.अं.सं.बेंडके, लघुटंकलेखक (इंग्रजी) | ६२० विस्तार इमारत, ६वा मजला,मंत्रालय, मुंबई. | २२०२७४३३, २२८२२१०५ | २२३०२.०० |
| ३१ | श्री.यो.चं.जाधव, लिपिक टंकलेखक | ६२० विस्तार इमारत, ६वा मजला,मंत्रालय, मुंबई. | २२०२७४३३, २२८२२१०५ | २३५४४.०० |
| ३२ | श्रीमती सा.सु.कलांगण, लिपिक टंकलेखक | १८ विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | २२८५००१९, २२७९३०१९ | ३५२१६.०० |
| ३३ | श्री.नि.मु.जाधव, लिपिक टंकलेखक | १८ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८५००१९, २२७९३०१९ | २७९१७.०० |
| ३४ | श्रीमती आ.नं.निमकर, लिपिक टंकलेखक | १८ विस्तार इमारत, तळमजला, मंत्रालय, मुंबई | २२८५००१९, २२७९३०१९ | २७९१७.०० |
| ३५ | श्री.उ.रा.गावडे, लिपिक टंकलेखक | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९३, २२७९३०१७ | २२८६२.०० |
| ३६ | श्री.र.बा.चव्हाण, लिपिक टंकलेखक | १२३, विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२३१८१, २२७९३८७५ | ४१०९०.०० |
| ३७ | श्री.सु.सु.केरकर, लिपिक टंकलेखक | एम-६ विस्तार इमारत, पोटमाळा,मंत्रालय, मुंबई. | २२७९३५५०, २२७९३८७३ | १९०५८.०० |
| ३८ | श्रीमती अ.र.मोरे, लिपिक टंकलेखक | १२३, विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२७९३०९३ | ३३२१४.०० |

# उद्योग, ऊर्जा व कामगार विभाग (प्रशासन प्रभाग), मंत्रालय, मुंबई.

## फॅक्स क्रमांक- ०२२ - २२०२५८८१

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
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| १ | श्री.आ.गु.अस्वले, सह सचिव (कामगार व प्रशासन) | १५८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३३०, २२७९३५०९ | १०३०२०.०० |
| २ | श्री.दि.सो.राजपूत, अवर सचिव (र. व का.) | १५८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९०, २२७९३८७४ | ७०८०४.०० |
| ३ | श्रीमती श्र.वि.मोकल, अवर सचिव | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ६७२६२.०० |
| ४ | श्रीमती रो.प्र.जाधव, अवर सचिव | १४ए विस्तार इमारत, तळ मजला,मंत्रालय, मुंबई. | '२२७९३९३७ | ५९२६०.०० |
| ५ | श्री.अ. स.परब, कक्ष अधिकारी | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९३, २२७९३०१७ | ५५५०६.०० |
| ६ | श्री.कृ.जो.मेंगाणे, कक्ष अधिकारी | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ५४४९४.०० |
| ७ | श्री.पो.द.देशमुख, कक्ष अधिकारी | ७२७ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८२०३८०, २२७९३०९० | ५७८०२.०० |
| ८ | श्री. के.एस.जाधव, कक्ष अधिकारी | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ५७०१०.०० |
| ९ | श्रीमती सं.सु.मोहरे, सहायक | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९३, २२७९३०१७ | ५३५२६.०० |
| १० | श्रीमती व.सं.परब,सहायक | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९३, २२७९३०१७ | ३७३५०.०० |
| ११ | श्री.द.छ.शिंदे, सहायक | १२२ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९३, २२७९३०१७ | ५०१५४.०० |
| १२ | श्री.ज.रा.जोहरी, सहायक | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ५२४९२.०० |
| १३ | श्रीमती स्मि.का.खताते, सहायक | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ४९६९८.०० |
| १४ | कु.स्नेहल सं. रोहोकले, सहायक | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ३४१३८.०० |
| १५ | श्रीमती वृ.स.चवाथे, सहायक | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ४३७९६.०० |
| १६ | श्रीमती सं.स.परब,सहायक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३०२३ | ५२६२४.०० |
| १७ | कु.जयश्री मोरे, सहायक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३०२३ | ३३१४८.०० |
| १८ | श्री.वि.म.डिसोझा, सहायक | ७२७ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८२०३८०, २२७९३०९० | ३७२८४.०० |
| १९ | श्री.सु.शि बोडरे, सहायक | ७२७ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८२०३८०, २२७९३०९० | ३३२१४.०० |
| २० | श्री. भि. धा. नेवगी, सहायक | १४ए विस्तार इमारत, तळ मजला,मंत्रालय, मुंबई. | '२२७९३९३७ | ४८६८६.०० |
| २१ | श्रीमती उ.न.परब, सहायक (रोखलेखापाल) | १२५ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | '२२७९३०२२ | ४१९९२.०० |
| २२ | श्रीमती ललिता सुराडकर, उच्चश्रेणी लघुलेखक (मराठी), | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ४१४५६.०० |
| २३ | श्रीमती वि.प्र.पंडीत, उच्चश्रेणी लघुलेखक (मराठी) | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८२४३८१ | ६३९५४.०० |
| २४ | श्री.सतिश भा. बोर्डे, उच्चश्रेणी लघुलेखक (मराठी) | १२६ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३८६ | ३८७०६.०० |
| २५ | श्रीमती अ.र.घोसाळकर, उच्चश्रेणी लघुलेखक (मराठी) | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ५७८६०.०० |
| २६ | श्रीमती शि.वि.कदम, निम्नश्रेणी लघुलेखक_(मराठी) | ११८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८२४५१९ | ५५४१८.०० |
| २७ | श्रीमती वि.वि.कासार, निम्नश्रेणी लघुलेखक_(मराठी) | ७२९ विस्तार इमारत, ७वा मजला,मंत्रालय, मुंबई. | २२८७६००८ | ५६४९६.०० |
| २८ | श्रीमती क.कि.राऊत, निम्नश्रेणी लघुलेखक_(मराठी) | ११८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८२४५१९ | ५१०५६.०० |
| २९ | श्री. दिपक य. साळी, निम्नश्रेणी लघुलेखक_ (इंग्रजी) | १५८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३३० | ३२१८०.०० |

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| ३० | श्री. संदिप रा. राठोड, निम्नश्रेणी लघुलेखक_(मराठी) | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६३६५ | ३२१८०.०० |
| ३१ | श्रीम.व.पां.बनसोडे, निम्नश्रेणी लघुलेखक_(इं./म.) | ११८ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२६६९४ | ४५६००.०० |
| ३२ | श्रीमती श.रा.बागायतकर, निम्नश्रेणी लघुलेखक_(मराठी) | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ३८९१२.०० |
| ३३ | श्रीमती व्ही.यु.मेनन, निम्नश्रेणी लघुलेखक | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | ४६५२४.०० |
| ३४ | श्रीमती चेतना सु. वळवी, लघुटंकलेखक (मराठी) | ११८-ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८८३१७५ | २३६४४.०० |
| ३५ | कु.भक्ती मा. टाक, लघुटंकलेखक (इंग्रजी) | ११८-ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८८३१७५ | २२३०२.०० |
| ३६ | श्रीमती पु.पां.सरगर, लघुटंकलेखक (इंग्रजी) | ११८-ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८८३१७५ | २२३०२.०० |
| ३७ | श्री.अश्विन उ. राठोड, लघुटंकलेखक (मराठी) | ११८-ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८८३१७५ | २२३०२.०० |
| ३८ | श्री.अ.गं.मोरजकर, लिपिक टंकलेखक | १२० विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२८१०३९४, २२७९३७२१ | २३८०८.०० |
| ३९ | श्रीमती वै.वि.कडू, लिपिक टंकलेखक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३०२३ | ४७४४८.०० |
| ४० | श्री.सु.रा.कांबळे, लिपिक-टंकलेखक | १४ए विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | '२२७९३९३७ | २२०७०.०० |
| ४१ | श्री.वि.ज्ञा.लोखंडे, लिपिक-टंकलेखक | १४ए विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | '२२७९३९३७ | ४६५२४.०० |
| ४२ | श्री.वि.म.वालंत्रा, लिपिक-टंकलेखक | १४ए विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | '२२७९३९३७ | १९१७२.०० |
| ४३ | श्री.वि.ना.गावडे, लिपिक-टंकलेखक | १४ए विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | '२२७९३९३७ | ४९९१८.०० |
| ४४ | श्री.ध.म.कदम, लिपिक-टंकलेखक | १४ए विस्तार इमारत, तळमजला,मंत्रालय, मुंबई. | '२२७९३९३७ | १८७३०.०० |
| ४५ | श्रीमती नंदिनी उ. देसाई, लिपिक-टंकलेखक | १२५ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | '२२७९३०२२ | ४२९१६.०० |
| ४६ | श्रीमती प्रे.प्र.उपाध्ये, देयक लिपिक | १२५ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | '२२७९३०२२ | ४१९९२.०० |
| ४७ | श्री.कि.पां.देशपांडे, लिपिक-टंकलेखक (रोखपाल) | १२५ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | '२२७९३०२२ | २८७५३.०० |
| ४८ | श्रीमती भा.भ.बांदेकर, लिपिक-टंकलेखक | १२५ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | '२२७९३०२२ | २१८७२.०० |
| ४९ | श्रीमती द.द.विचारे, लिपिक-टंकलेखक | १२५ए विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | '२२७९३०२२ | ३७३५०.०० |
| ५० | श्री.वि.गो.सुतार, वाहन चालक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २६५९९.०० |
| ५१ | श्री.सं.ना.दळवी, वाहन चालक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २३२७४.०० |
| ५२ | श्री.रा.सि.चव्हाण, वाहन चालक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २२९७०.०० |
| ५३ | श्री.दि.ल.पवार, वाहन चालक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २७४७८.०० |
| ५४ | श्री.रविंद्र का.मोहिते, नाईक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २५८९४.०० |
| ५५ | श्री. दत्तात्रय ज्यो. बिरंजे, नाईक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २५८९४.०० |
| ५६ | श्री.अंबाजी स. राणे, हवालदार | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २५८९४.०० |
| ५७ | श्री. दुखन धा. सिंग, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २५१०२.०० |
| ५८ | श्री.राधेशाम एम.पाल, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २४७२८.०० |
| ५९ | श्री.काका लिं.गेजगे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २५१०२.०० |
| ६० | श्री.रामन वैजापुरे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २१७५४.०० |

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|---|---|---|---|---|
| ६१ | श्रीमती सिंधू पां. वायल, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २२०९८.०० |
| ६२ | श्री.विलास ए.कांबळे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | १८६४४.०० |
| ६३ | श्रीमती सुमन अ.मुत्रक, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २२०९८.०० |
| ६४ | श्री.निवृत्ती म.काळे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २११३०.०० |
| ६५ | श्री.दशरथ भि.परब, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | १९१४६.०० |
| ६६ | श्रीमती मंदा गं.गुरुनुले, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | १७४३६.०० |
| ६७ | श्री.विक्रम म. मोरे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २२४७२.०० |
| ६८ | श्री.आत्माराम अ.परब, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २१४६०.०० |
| ६९ | श्री.नामदेव वि.सारुकते, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २२०९८.०० |
| ७० | श्री.सुभाष तु.घारे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २१४६०.०० |
| ७१ | श्री.प्रशांत सु. राजगुरु, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | १७४३६.०० |
| ७२ | श्री.दिलीप जे.सोनावने, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | १८५९५.०० |
| ७३ | श्री.सुर्यकांत ता.चव्हाण, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २०२३४.०० |
| ७४ | श्री.रामाशंकर सि.यादव, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २३७३८.०० |
| ७५ | श्री.द्वारकाप्रसाद बे.यादव, शिपाई | १२५ विस्तार इमारत,१ला मजला, मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २०५००.०० |
| ७६ | श्री. मिलिंद ज. साबळे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | १९१४६.०० |
| ७७ | श्री.उदय भि.धावडे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २०८००.०० |
| ७८ | श्री.वसंत भि.शिंदे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २४७२८.०० |
| ७९ | श्री.शोभनाथ भ. यादव, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २३७३८.०० |
| ८० | श्री.पंडीयान सुब्रमणी, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २५८९४.०० |
| ८१ | श्री.प्रकाश ना.शिंदे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २२४७२.०० |
| ८२ | श्री.आर.डी.कांबळे, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २१८१२.०० |
| ८३ | श्री. देवेंद्र वि. परब, शिपाई | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २०४७०.०० |
| ८४ | श्री.नरोत्तम जिवन नाईक, आवेष्टक | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २५८९४.०० |
| ८५ | श्री.अजय कि. खुशाले, झेरॉक्स ऑपरेटर | १२५ विस्तार इमारत, १ला मजला,मंत्रालय, मुंबई. | २२०२५४४३, २२७९३९३६ | २१७८६.०० |
| ८६ | श्री.ध.मा.कानेड, अवर सचिव, | राज्यनिवडणूक आयोग प्रतिनियुक्ती | --- | --- |
| ८७ | श्री.सु.य.मोरे, कक्ष अधिकारी, | प्रतिनियुक्ती (सा.प्र.वि) | --- | --- |
| ८८ | श्री. उ.द.कोठावदे, सहायक, | (मंत्री आस्थापना) | --- | --- |
| ८९ | श्री.सोमानंद मारुती ढमढेरे, सहायक, | (मंत्री कार्यालयात प्रतिनियुक्तीवर) | --- | --- |
| ९० | श्रीमती दि.स.तिडके, सहायक, | (प्रतिनियुक्ती, कोकणभवन) | --- | --- |
| ९१ | श्री. स.म.हेंद्रे, सहायक, | (प्रतिनियुक्ती, राज्य निवड.आयोग) | --- | --- |

| अ.क्र. | अधिकारी / कर्मचाऱ्यांचे नांव व पदनाम | दालन क्रमांक | दूरध्वनी क्रमांक | मासिक वेतन |
|---|---|---|---|---|
| ९२ | श्री.मो.बा.चव्हाण, सहायक, | प्रतिनियुक्ती, जिल्हा उद्योग केंद्र, सोलापूर | --- | --- |
| ९३ | श्री. बा.य.खामकर, निम्नश्रेणी लघुलेखक, | मा.मुख्यमंत्री कार्यालयात प्रतिनियुक्तीवर | --- | --- |

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# परिशिष्ठ-३

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| माहितीचा अधिकार अधिनियम २००५ च्या कलम ४(१)(ख) मधील उप कलम (अकरा) बाबतची माहिती | | | | | |
|---|---|---|---|---|---|
| उद्योग विभाग | | | | | |
| सर्व योजनांचा तपशील व प्रस्तावित खर्च आणि संवितरित केलेल्या रकमा (योजनांतर्गत) | | | | | |
| | | | | | (रुपये लाखात) |
| अ.क्र. | योजनेचे नांव | नियतव्यय /प्रस्तावित खर्च | अर्थसंकल्पित तरतूद | वितरित निधी | नियंत्रक अधिकारी / विभाग प्रमुख |
| १ | २ | ३ | ४ | ५ | ६ |
| १ | सहकारी औद्योगिक वसाहती | २००.०० | २००.०० | १८०.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| २ | लघुउद्योग घटकांना उद्योगधंद्यासाठी व निर्यात वाढ प्रोत्साहन | २०.०० | २०.०० | १८.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ३ | हस्तकला विकास | ११५.०० | ११५.०० | ११३.२० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ४ | ग्रामिण कारागिर विकास योजना | ५०.०० | ५०.०० | ४५.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ५ | औद्योगिक प्रदर्शनामध्ये व व्यापार जत्रांमध्ये भाग घेणे. | २००.०० | २००.०० | १८०.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ६ | ग्रामोद्योग वसाहती | ५०.०० | ५०.०० | ४५.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ७ | किरकोळ विक्रेत्यांसाठी औरंगाबाद येथे मराठवाडा प्रशिक्षण केंद्राची स्थापना | १३०.०० | १३०.०० | ११७.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ८ | मराठवाडा विकास कार्यक्रम २००७ - मध केंद्र | १७५.०० | १७५.०० | १५७.५० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ९ | उद्योग भवनाचे बांधकाम | १००.०० | ०.०० | ०.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| १० | जिल्हा उद्योग केंद्र व प्रादेशिक कार्यालयाची दुरुस्ती व पुनर्बांधणी | २००.०० | २००.०० | १८०.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| ११ | उद्योग संचालनालयाचे संगणकीकरण | ७५.०० | ७५.०० | ७४.०५ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |

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| १२ | शासकीय मुद्रणालयाच्या इमारतीचे बांधकाम (सा.बां.वि.) | ५०.०० | ५०.०० | | संचालक, शासकीय मुद्रण व लेखनसामग्री संचालनालय, मुंबई |
| १३ | शासकीय मुद्रणालयासाठी यंत्रसामग्रीची खरेदी | ४००.०० | ४००.०० | ३६०.०० | संचालक, शासकीय मुद्रण व लेखनसामग्री संचालनालय, मुंबई |
| १४ | राज्याची सामायिक सुविधा निर्माण करण्याकरीता उद्योग समूह प्रकल्पांना अनुदान योजना | १०३५.०० | १०३५.०० | ७३०.५० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| | **एकूण राज्य योजना** | **२८००.००** | **२७००.००** | **२२००.२५** | |
| | **केंद्रपुरस्कृत योजना** | | | | |
| १५ | लघुउद्योगाची गणना व नमुना पाहणी (२८५१ ०५११) | १५०.०० | १५०.०० | १५०.०० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| | **एकूण केंद्रपुरस्कृत योजना** | **१५०.००** | **१५०.००** | **१५०.००** | |
| | **जिल्हा योजना** | | | | |
| १६ | सुशिक्षित बेरोजगार कार्यक्रमाखाली उपक्रम सुरु करण्यासाठी परिचालकांना विद्यावेतन देण्याची योजना | | | | |
| | (एससीपी) | ४४१.९५ | ४५६.९५ | ४११.२५ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| | **एकूण** | **४४१.९५** | **४५६.९५** | **४११.२५** | |
| १७ | सुशिक्षित बेरोजगारांना बीज भांडवलाच्या रुपाने कर्ज देणे | | | | |
| | (एससीपी) | २६०.४० | २५८.४० | २३२.५६ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| | **एकूण** | **२६०.४०** | **२५८.४०** | **२३२.५६** | |
| १८ | जिल्हा उद्योग केंद्रामधील ग्रामीण उद्योग प्रकल्प कार्यक्रमांकरीता कर्जे | | | | |
| | (एससीपी) | ६४.६५ | ५१.६५ | ४६.४९ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| | **एकूण** | **६४.६५** | **५१.६५** | **४६.४९** | |
| | **एकूण उद्योग विभाग (जिल्हा)** | **७६७.००** | **७६७.००** | **६९०.३०** | |
| | **एकूण उद्योग विभाग** | **३७१७.००** | **३६१७.००** | **३०४०.५५** | |

**प्रत्येक अभिकरणाला नेमून दिलेला अर्थसंकल्प आणि संवितरित केलेल्या रकमांचा तपशील (योजनेतर) (उद्योग विभाग)**

(रुपये लाखात)

| मुख्यलेखाशिर्ष | अर्थसंकल्पित / मंजूर तरतूद | वितरित निधी | नियंत्रक अधिकारी |
|---|---|---|---|
| १ | २ | ३ | ४ |
| २०५७ पुरवठा व विनियोग | १४६.१६ | १४५.८० | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| २०५८ लेखनसामग्री व मुद्रण | १३०२५.४२ | १२०६०.१६ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| २८५१ ग्रामोद्योग व लघुउद्योग | ४७३७.६० | ४७२०.०७ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| २८५२ उद्योग | ८१९३.२४ | ७६४०.२७ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |
| सामुहिक प्रोत्साहन योजने अंतर्गत प्रोत्साहने (२८५२०४३४ ) | २२७६१३.०० | २३६६००.०० | उ.स., (प्रशासन), उद्योग, उर्जा व कामगार विभाग |
| २८५३ अलोह खनिकर्म व धातुविषयक उद्योग | २०१३५.२२ | २२३३.९० | संचालक, भूविज्ञान व खनिकर्म संचालनालय, नागपूर |
| ६८८५ उद्योग आणि खनिजे यांसाठी इतर कर्ज | ३६९७.०० | ३५६३.६८ | विकास आयुक्त (उद्योग), उद्योग संचालनालय, मुंबई |

माहितीचा अधिकार अधिनियम २००५ कलम ४ (१) (ख) मधील उप कलम अकरा बाबतची माहिती

ऊर्जा विभाग

योजनेत्तर खर्च २०११-१२

(रु. हजारात)

| अ. क्र. | लेखाशिर्ष | योजनेचे नाव | नियतव्यय | अर्थसंकल्पीत तरतूद | वितरीत निधी | नियंत्रण अधिकारी |
|---|---|---|---|---|---|---|
| १ | २८०१२६१५ | कृषी व यंत्रमाग ग्राहकांना अर्थ सहाय्य | - | ५१८२३२०० | ५१६२९७८४.८६३ | उप सचिव, ऊर्जा विभाग |
| २ | २८०१२६५१ | म.रा.वि. होल्डींग कंपनीस अर्थसहाय्य | - | ६१२१०० | ६१२०५८ | उप सचिव, ऊर्जा विभाग |
| ३ | २८०१२४६४ | महाराष्ट्र विद्युत नियामक आयोगास अनुदान | - | १०० | ० | उप सचिव, ऊर्जा विभाग |
| ४ | २८१०००७२ | महाराष्ट्र ऊर्जा विकास अभिकरण यांना सहाय्यक अनुदान | - | १७५७० | १५८१३ | उप सचिव, ऊर्जा विभाग |

योजनांतर्गत खर्च २०११-१२

(रु. हजारात)

| अ. क्र. | लेखाशिर्ष | योजनेचे नाव | नियतव्यय | अर्थसंकल्पीत तरतूद | वितरीत निधी | नियंत्रण अधिकारी |
|---|---|---|---|---|---|---|
| १ | २८०१ २६८९ | कृषी पंपसंचाचा अनुशेष दुर करण्यासाठी म.रा.वि.वितरण कंपनीस सहाय्यक अनुदान | ८००००० | ८००००० | ६८०००० | उप सचिव, ऊर्जा विभाग |
| २ | २८०१ २७१३ | ग्रामीण विद्युतीकरणासाठी म.रा.वि.वितरण कंपनीस सहाय्यक अनुदान | ८०००० | ८०००० | ६८००० | उप सचिव, ऊर्जा विभाग |
| ३ | २८०१ २७२२ | सिंगलफेज प्रणाली अंतर्गत म.रा.वि.वितरण कंपनीस सहाय्यक अनुदान | १६०००० | १६०००० | ७७६०० | उप सचिव, ऊर्जा विभाग |
| ४ | ४८०१ ३५०८ | खापरखेडा विस्तार युनिट मध्ये भांडवली गुंतवणूक | ६२०००० | १०६१७०० | ९६८७०० | उप सचिव, ऊर्जा विभाग |
| ५ | ४८०१ ३५२६ | पारस औष्णिक वीज केंद्र विस्तारीकरण योजनेमध्ये भांडवली गुंतवणूक | ५००००० | ५००००० | १९१७०० | उप सचिव, ऊर्जा विभाग |
| ६ | ४८०१ ३५३५ | भुसावळ औष्णिक वीज केंद्र विस्तारीकरण योजनेमध्ये भांडवली गुंतवणूक | २५००००० | २५००००० | १९३४५०० | उप सचिव, ऊर्जा विभाग |
| ७ | ४८०१ ३५४४ | परळी औष्णिक वीज केंद्र विस्तारीकरण योजनेमध्ये भांडवली गुंतवणूक | २००००० | २००००० | १४२९०० | उप सचिव, ऊर्जा विभाग |
| ८ | ४८०१३६१५ | कोराडी औष्णिक वीज केंद्र विस्तारीकरण योजनेमध्ये भांडवली गुंतवणूक | ३४००००० | ३४००००० | १८३१३०० | उप सचिव, ऊर्जा विभाग |
| ९ | ४८०१३६२४ | चंद्रपूर औष्णिक वीज केंद्र विस्तारीकरण योजनेमध्ये भांडवली गुंतवणूक | ३६००००० | ३६००००० | २१८६८०० | उप सचिव, ऊर्जा विभाग |

| अ.क्र. | लेखाशिर्ष | योजनेचे नाव | नियतव्यय | अर्थसंकल्पीत तरतूद | पितरीत निधी | नियंत्रण अधिकारी |
|---|---|---|---|---|---|---|
| १० | ४८०१३७१३ | परळी औष्णीक विद्युत प्रकल्पाच्या बदली प्रकल्पामध्ये भांडवली गुंतवणूक | १०००००० | १०००००० | ७३८२०० | उप सचिव, ऊर्जा विभाग |
| ११ | ४८०१३७२२ | पारस औष्णीक विद्युत प्रकल्पाच्या बदली प्रकल्पामध्ये भांडवली गुंतवणूक | ५०००० | ५०००० | ० | उप सचिव, ऊर्जा विभाग |
| १२ | ४८०१३७३१ | भुसावळ औष्णीक विद्युत प्रकल्पाच्या बदली प्रकल्पामध्ये भांडवली गुंतवणूक | २१०००० | २१०००० | २९८० | उप सचिव, ऊर्जा विभाग |
| १३ | ४८०१३६०६ | स्वतंत्र मायक्राग्रीड फिडर योजना व पायाभूत सुविधा विकास | ६९६०००० | ६९६०००० | ५९१६००० | उप सचिव, ऊर्जा विभाग |
| १४ | ४८०१३८११ | उरण गॅस बीज प्रकल्पामध्ये भांडवली गुंतवणूक | ६००००० | ६००००० | ७४० | उप सचिव, ऊर्जा विभाग |
| १५ | ४८०१३५९१ | रत्नागिरी गॅस बीज प्रकल्पामध्ये भांडवली गुंतवणूक | ५०००० | ५६०३९६ | ५५८३९६ | उप सचिव, ऊर्जा विभाग |
| १६ | ४८०१४०१२ | सौर बीज प्रकल्पामध्ये भांडवली गुंतवणूक | २०००००० | २०००००० | ५२७८० | उप सचिव, ऊर्जा विभाग |
| १७ | ४८०१४००३ | कोराडी युनिट-६ चे नुतनीकरण व आधुनिकीकरण करण्याकरीता भांडवली गुंतवणूक | १००००० | १००००० | ० | उप सचिव, ऊर्जा विभाग |
| १८ | ६८०१ ०२३५ | दलित वस्तीत दिवे लावण्यासाठी म.रा.वि.वितरण कंपनीस कर्जे | २९७३२३ | २९७३२४ | २५२६२५ | उप सचिव, ऊर्जा विभाग |
| | ६८०१०२१७ | म.रा.वि.वितरण कंपनीस कर्जे | २.०० | १०००००६.०० | १०००००४.२२ | उप सचिव, ऊर्जा विभाग |
| अपारंपरिक ऊर्जा | | | | | | |
| १९ | २८१०००३४ | महाराष्ट्र ऊर्जा विकास अभिकरणास सहाय्यक अनुदान | २१०००० | २१०००० | १७८५०० | उप सचिव, ऊर्जा विभाग |
| २० | २८१००१२३ | महाराष्ट्र ऊर्जा निधी मधून भागविलेला खर्च | ५४०००० | ५४०००० | ४५९००० | उप सचिव, ऊर्जा विभाग |

टिप - सुधारीत अंदाजात वित्त विभागाने मुख्य लेखाशिर्ष "४८०१" खाली रु.१५५२,४९,००,०००/- च मुख्यलेखाशिर्ष ६८०१ खाली रु.१२५,२६,२९,०००/-रक्कम उपलब्ध करुन दिलेली आहे. सदर संपूर्ण रक्कम पुनर्विनियोजनाच्या आधिन राहून वितरीत करण्यात आलेली आहे. लेखाशिर्ष २८१० खाली मंजूर करण्यात आलेली सुधारीत तरतूद रु.६५,१०,७०,०००/- वितरीत करण्यात आलेली आहे.



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माहितीचा अधिकार अधिनियम २००५ च्या कलम ४(१)(ख) मधील उप कलम (अकरा) बाबतची माहिती

## कामगार विभाग

### सर्व योजनांचा तपशील व प्रस्तावित खर्च आणि संवितरित केलेल्या रकमा (योजनांतर्गत) २०११-१२

(रुपये लाखात)

| योजनेचे नाव | नियतव्यय / प्रस्तावित खर्च | अर्थसंकल्पित तरतूद | वितरित निधी | नियंत्रक अधिकारी / विभागप्रमुख |
|---|---|---|---|---|
| बांद्रा-कुर्ला संकुल येथे कामगार विभागाच्या प्रशासकीय इमारतीचे बांधकाम | ११८.०० | ११८.०० | ११५.१० | कामगार आयुक्त, महाराष्ट्र राज्य, मुंबई |
| नागपूर येथे श्रम विज्ञान संस्थेकरिता नवीन इमारतीचे बांधकाम | २५.०० | २५.०० | २१.२५ | प्रबंधक, महाराष्ट्र श्रम विज्ञान संस्था, मुंबई |
| असंघटित कामगारांसाठी जनश्री विमा योजनेचे हप्ते प्रदान करणे (केंद्रपुरस्कृत योजना) (राज्य हिस्सा) | २५०.०० | २५०.०० | २५०.०० | विकास आयुक्त (असंघटित कामगार), महाराष्ट्र राज्य, मुंबई |
| असंघटित कामगारांसाठी प्राधिकरण आणि असंघटित कामगारांची सामाजिक सुरक्षितता कायदा २००८ ची प्रभावी अंमलबजावणी | १००.०० | १००.०० | १००.०० | विकास आयुक्त (असंघटित कामगार), महाराष्ट्र राज्य, मुंबई |
| राष्ट्रीय स्वास्थ्य विमा योजना (केंद्रपुरस्कृत योजना) (राज्य हिस्सा) | ११००.०० | ११००.०० | ११००.०० | विकास आयुक्त (असंघटित कामगार), महाराष्ट्र राज्य, मुंबई |
| औद्योगिक न्यायालयांचे बळकटीकरण | ५०.०० | ५०.०० | ५०.०० | प्रबंधक, औद्योगिक न्यायालये, मुंबई |
| रोजगारासाठी परदेशात जाणाऱ्या कामगारांकरिता प्रस्थानपूर्व प्रशिक्षण | १.०० | १.०० | १.०० | प्रबंधक, महाराष्ट्र श्रम विज्ञान संस्था, मुंबई |
| इमारत व इतर बांधकाम कामगार कायदा १९९६ ची अंमलबजावणी | ३.०० | ३.०० | ३.०० | कामगार आयुक्त, महाराष्ट्र राज्य, मुंबई |
| औद्योगिक सुरक्षा व आरोग्य संचालनालयाचे बळकटीकरण आणि सुरक्षा व आरोग्यासंबंधी प्रभावी अंमलबजावणी | ८०.०० | ८०.०० | ८०.०० | संचालक, औद्योगिक सुरक्षा व आरोग्य संचालनालय, महाराष्ट्र राज्य, मुंबई |
| कामगार आयुक्त कार्यालयाचे बळकटीकरण आणि कामगार कायद्यांची प्रभावी अंलबजावणी | २५.०० | २५.०० | २५.०० | कामगार आयुक्त, महाराष्ट्र राज्य, मुंबई |

(कु.मा.प.)

# परिशिष्ट-४

**जनमाहिती अधिकाऱ्यांची नांवे, पदनामे**
**व इतर तपशिल (कार्यासननिहाय विषय)**

## उद्योग प्रभाग

प्रभाग प्रमुख- **श्री.अपूर्व चंद्रा (भाप्रसे),** प्रधान सचिव (उद्योग), दालन क्रमांक-११४ (विस्तार) पहिला मजला, दरध्वनी क्र. २२०२५३९३, विस्तार-३५००

| उद्योग प्रभाग | | | |
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| **कार्यासनाचे नांव** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| १ | २ | ३ | ४ |
| उद्योग-२ | श्री.व्यं.ह.कुलकर्णी, अवर सचिव, (१२२०२७०३१) (दालन क्र. १२१ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. व.शं.कुलकर्णी, उप सचिव (उद्योग), (१२२०२६६९४, २२७९३५४८) (दालन क्र. ११८ विस्तार इमारत, मंत्रालय, मुंबई) | १.उद्योग धोरण परवाने,<br>२.औद्योगिक स्थान निश्चयन धोरण,<br>३.औद्योगिक विकास सचिव समिती (कोसिड),<br>४.औद्योगिक विकास संदर्भात प्रकरणे,<br>५. नागरी जमीन कमाल धारणा ,<br>६.अंतर्गत औद्योगिकरणासाठी सूट,<br>७.औद्योगिकरणाच्या संदर्भात पर्यावरण विषयक बाबी,<br>८.कृषी धोरण व द्राक्ष प्रक्रिया धोरण,<br>९.माहिती व तंत्रज्ञान धोरण,<br>१०.पायाभुत सुविधा सर्वसाधारण बाबी. |
| उद्योग- ३ | श्रीमती रे. वि. काटम, कक्ष अधिकारी, (१२२८२०३८०) (दालन क्र. १०२ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. वै.भू.लटके,उप सचिव (उद्योग), (अतिरीक्त कार्यभार) (१२२८२४५१९, २२७९३५४६) (दालन क्र.११८ विस्तार इमारत, मंत्रालय, मुंबई) | १.उद्योग संचालनालय, मुंबई यांच्या आस्थापना व प्रशासन विषयक सर्व बाबी |
| उद्योग - ४ | श्री. वि. ए. गायकवाड, कक्ष अधिकारी, (१२२०४४२१२, | श्री. वै.भू.लटके, उप सचिव (उद्योग) (१२२८१०३८६ २२७९३२१९ ) (दालन क्र. १२६ विस्तार इमारत, | १.शासकीय मुद्रण व लेखन सामग्री<br>२. संचालनालयाच्या आस्थापना विषयक आणि सर्व प्रशासकीय बाबी,<br>३.यशवंतराव चव्हाण महाराष्ट्र ओपन यूनिवर्सिटी व बोर्ड बैठका आणि अनुषंगिक |

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| | २२७९४०२७) (दालन क्र. १२७ विस्तार इमारत, मंत्रालय, मुंबई) | मंत्रालय, मुंबई) | बाबी.<br>४.उद्योगकक्ष संबंधित ग्रामीण ऊर्जा कार्यक्रम,<br>५.उद्योगातील ऊर्जा संरक्षण ,<br>६.उद्योग कक्ष संबंधित ऊर्जा अभिसरण व उद्योगकक्ष संबंधित संकीर्ण बाबी,<br>७.मध्यवर्ती भांडार खरेदी संघटना/ भांडार खरेदी धोरण.<br>८.शासकीय मुद्रण व लेखन सामग्री मुद्रण व लेखन सामग्री धोरण / वित्तीय मंजुरी प्रकरणे /शासकीय प्रकाशनांची प्रदर्शने, .<br>९.उद्योग मित्र.<br>१०. भूकंप पुनर्वसन कार्यक्रमांतर्गत ग्रामोद्योगांना अर्थसहाय्य . |
| उद्योग - ६ | कक्ष अधिकारी / अवर सचिव, (२२०४९०८९, २२७९३०१५) (दालन क्र. १२१ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. वै.भू.लटके, उप सचिव (उद्योग) (२२८१०३८६ २२७९३२१९ ) (दालन क्र. १२६ विस्तार इमारत, मंत्रालय, मुंबई) | १.मुख्यमंत्र्यांचे सचिवालयातील संदर्भांचे समन्वय आणि नियंत्रण ,<br>२. विशेष कार्यकक्षाकडील संदर्भ,<br>३. उद्योग विषयासंदर्भातील लोकसभा राज्यसभा सदस्य यांच्याकडून आलेले संदर्भ ,<br>४.महाराष्ट्र राज्य खादी व ग्रामोद्योग मंडळ, मुंबई ,<br>५.कायम स्वरुपी औद्योगिक प्रदर्शन ,<br>६.स्टेट-एड-टू इंडस्ट्रीज ऍक्ट १९६१ अंतर्गत कर्ज निर्लेखन प्रकरणे ,<br>७.महाराष्ट्र राज्य लघु उद्योग विकास महामंडळ, मुंबई ,<br>८.हस्तकलेचा विकास / हस्तकलेला उत्तेजन देणे व त्या संदर्भातील प्रशिक्षण सत्रे,<br>९.विविध औद्योगिक संघटना / संस्थांकडील संदर्भांवरील कार्यवाही,<br>१०. स्थानिकांना रोजगार उपलब्ध करण्यासंदर्भावरील प्रकरणे / स्थानीकांना नोकरीत प्राधान्य ८० %.<br>११.उद्योग विषयक सर्व बाबींचे समन्वय, |

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| उद्योग - ७ | श्री. प्र.पु.राठोड, कक्ष अधिकारी, (२२८१०३९३, २२७९३०१७) (दालन क्र.१२२ विस्तार इमारत, मंत्रालय, मुंबई ) | श्री. वै.भू.लटके, उप सचिव (उद्योग), (२२८२४५१९, २२७९३५४६) (दालन क्र.११८ विस्तार इमारत, मंत्रालय, मुंबई) | १.महाराष्ट्र राज्य वित्तीय महामंडळ,<br>२.महाराष्ट्र मेल्ट्रॉन महामंडळ ,<br>३.महाराष्ट्र पेट्रोकेमिकल्स महामंडळ ,<br>४. .राज्य स्तरीस प्रदर्शने व परिषदा (राज्य शासनाचा आर्थिक सहभाग होस्ट पार्टनर स्टेट म्हणून पाठिंबा दर्शविणे, राज्य शासनाचा लोगो वापरण्याची परवानगी इ. बाबी)<br>५. निर्याती करिता पायाभूत सुविधांचा विकास करण्यासाठी राज्य शासनास सहाय्य (असाईड÷ योजना ASIDE).<br>६.भारत आंतरराष्ट्रीय मेळा आयोजित करणे / निधी उपलब्ध करून देणे<br>७.निर्यात प्रचलनात वाढ करण्यासंबंधित बाबी ,<br>८.वस्त्रोद्योग समुह विकास योजना (TCID) राज्य स्तरिय सनियंत्रण संमितीचे कामकाज.<br>९. इंडस्ट्रियल इन्फ्रास्ट्रक्चर अपग्रेडेशन स्कीम (IIUS)<br>१०.अर्बन हाट योजनेअंतर्गत केंद्र शासनाचे अर्थ सहाय्य मिळण्यासाठी शिफारस.<br>११.या कार्यासनाशी निगडीत असलेल्या बाबींच्या बैठकांचे आयोजन.<br>१२. सर्व बाबीं संबधी औद्योगिक प्रदर्शने / सेमिनार आयोजन / सहभागी होणे.<br>१३.सुशिक्षित बेरोजगारांकरीता बीज भांडवल / पंतप्रधान रोजगार योजना , (कर्ज पुरवठा /वसुली)<br>१४.महाराष्ट्र औद्योगिक आणि तांत्रिक सल्लागार संघटना मर्या. (मिटकॉन) ,<br>१५.महाराष्ट्र उद्योजकता विकास केंद्र आणि प्रशिक्षण अनुषंगाने असणा-या अशासकीय संस्था ,<br>१६.लघु उद्योग (धोरणात्मक बाबी व्यतिरिक्त),<br>१७.लघु उद्योग क्षेत्रात पतपुरवठा करण्याकरीता रिझर्व्ह बँकेने स्थापना केलेली |

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| | | | समिती ,<br>१८.सहकारी औद्योगिक वसाहती, (औद्योगिक नगरीचा दर्जा, भाग भांडवल)<br>१९.जिल्हा उद्योग केंद्र कर्ज योजना ,<br>२०.जिल्हा उद्योग केंद्र इमारतीची देशभाल (लहान बांधकामे दुरुस्ती आणि रंगकाम)<br>२१.नॅशनल ऍवार्ड ,<br>२२.राज्यस्तरीय बँकर्स समिती ,<br>२३. कच्चा माल पुरवठा , कोळसा वगैरे.<br>२४.वीस कलमी कार्यक्रम,<br>२५.भारतीय औद्योगिक विकास बँकेच्या बैठका (पश्चिम विभागीय समिती) |
| उद्योग - ८ | श्री. दा.अ.कुलकर्णी, अवर सचिव (१२२०२५०३२) (दालन क्र. ११२ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. व.शं.कुलकर्णी, उप सचिव (उद्योग), (१२२०२६६९४, २२७९३५४८) (दालन क्र. ११८ विस्तार इमारत, मंत्रालय, मुंबई) | १.सिकॉम<br>२.सामुहिक प्रोत्साहन योजना ,<br>३.केंद्रीय गुंतवणूक अनुदान,<br>४.महाराष्ट्र इलेक्ट्रॉस्मेल्ट बोर्ड मिटींग ,<br>५.अनिवासी भारतीयांकडून स्थापन झालेले उद्योग आणि तद्संबंधीचे प्रश्न,<br>६.उद्योग सेतू |
| उद्योग-९ | श्री. अ.नि.साखरकर, कक्ष अधिकारी, (१२२८७२४७६, २२७९३९४२) (दालन क्र. १८अ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. व.शं.कुलकर्णी, उप सचिव (उद्योग), (१२२०२६६९४, २२७९३५४८) (दालन क्र. ११८ विस्तार इमारत, मंत्रालय, मुंबई) | १.महाराष्ट्र खनिकर्म महामंडळ यांचे सर्व कामकाज,<br>२.भूविज्ञान खनिकर्म संचालनालय आस्थापना विषयक कामकाज व नियंत्रण,<br>३.खाणी व खनिज अधिनियम, १९५७ चे कामकाज,<br>४.महाराष्ट्र खनिज विकास निधी राज्य खनिज धोरण,<br>५.मॅगेनिज ओअर इंडस्ट्रीज कामकाज ,<br>६. पायाभूत सुविधा सर्वसाधारण बाबी . |

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| उद्योग- १० | श्री. र.कृ.निखारगे, कक्ष अधिकारी, (१२२०४४२१२, २२७९४०२७) (दालन क्र. १२७ विस्तार इमारत, मंत्रालय, मुंबई) | श्री.वै.भू.लटके,उप सचिव (उद्योग), (१२२८२४५१९, २२७९३५४६) (दालन क्र.११८ विस्तार इमारत, मंत्रालय, मुंबई) | १.आजारी उद्योग घटक,<br>२.औद्योगिक व वित्तीय आणि फेररचना मंडळ,<br>३.आजारी उद्योग कंपन्या (विशेष तरतुदी) अधिनियम,१९८५,<br>४.रिझर्व्ह बँकेच्या औद्योगिक आणि वित्तीय फेररचना ,<br>५.मंडळाची राज्यस्तरीय आंतर-संस्थाविषयक समिती संबंधित बाबी,<br>६.बी.आर.यु.अंतर्गत आजारीउद्योगांना संरक्षण,<br>७.विभागीय विकास महामंडळांच्या सर्व प्रशासकीय व वित्तीय बाबी<br>(अ)पश्चिम महाराष्ट्र विकास महामंडळ<br>(ब) विदर्भ विकास महामंडळ,<br>(क) मराठवाडा विकास महामंडळ आणि<br>(ड) कोकण विकास महामंडळ,<br>८.उद्योग कक्षांतर्गत सर्व मंडळे/ महामंडळे यांचे समन्वय,<br>९.वैधानिक विकास मंडळे,<br>१०.कंपनी अधिनियमांतर्गत संदर्भ |
| उद्योग- १४ | श्री. र.तु.जाधव, कक्ष अधिकारी (१२२०४४२१२, २२७९४०२७) (दालन क्र. १२७ विस्तार इमारत, मंत्रालय, मुंबई) | श्री.वै.भू.लटके, उप सचिव (उद्योग) (१२२८१०३८६ २२७९३२१९ ) (दालन क्र. १२६ विस्तार इमारत, मंत्रालय, मुंबई) | १.महाराष्ट्र औद्योगिक विकास महामंडळ - जमिनीबाबतच्या सर्व बाबी,<br>२.महाराष्ट्र औद्योगिक विकास अधिनियम, १९६१ आणि महाराष्ट्र औद्योगिक विकास नियम,१९६२ अंतर्गत सर्व बाबी,<br>३.विकास केंद्र<br>४. महानगर गॅस लि. (औद्योगिक घटकांना पुरविण्यात येणारा गॅसचा पुरवठा तसेच गॅस.<br>५.बॉम्बे हाय आणि नैसर्गिक वायू वितरण, मुंबई,<br>६.वायू पुरवठा अधिनियम, १९४९,<br>७. विषयी विविध ग्राहक संस्थांकडून येंणाऱ्या तक्रारी, गॅस पुरवठयाबाबत विविध |

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| **कार्यासनाचे नांव** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| | | | प्रकल्प (उदा. दहेंज, उरण पाईप लाईन) नैसर्गिक गॅस सल्लागार समितीचे कामकाज.<br>८. दि गॅस कंपनीज ऍक्ट १९६३ मंडळाच्या बैठका |

## ऊर्जा प्रभाग

प्रभाग प्रमुख- **श्री. विद्याधर कानडे (भाप्रसे),** अपर मुख्य सचिव (ऊर्जा), ए/०५, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. दरध्वनी क्र. २६४७६७४३ विस्तार-३५०१

| ऊर्जा प्रभाग | | | |
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| **कार्यासन क्रमांक** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| ऊर्जा -१ | श्री.ल.ना.सदाफुले, कक्ष अधिकारी (२६४७४२११ विस्तार इमारत, मंत्रालय, मुंबई-३५५७)<br><br>दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | श्री. आ. भ. रामटेके, उप सचिव (ऊर्जा), (२६४७५७९४ विस्तार इमारत, मंत्रालय, मुंबई-२५५९) ए/२२, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | १. दाभोळ पॉवर प्रोजेक्ट (रत्नागिरी गॅस ॲन्ड पॉवर प्रायव्हेट लि.) संबंधीत सर्व बाबी.<br>२. मुंबई विद्युत शुल्क कायदा १९५८ आणि त्या खालील नियम.<br>३. विद्युत विक्रीवरील कर अधिनियम, १९६३ व त्याखालील नियम.<br>४. मुंबई उदवाहक अधिनियम, १९३९ व त्याखालील नियम.<br>५. मुंबई विद्युत (विशेष अधिकार) नियम १९४६.<br>६. प्राइव्हेट लाईन्सेस / मूळा प्रवरा इलेक्ट्रीक को.ऑ.सोसायटी/ बीईएसटी/ बीएसईएस/ रिलायन्स संदर्भातील सर्व प्रकरणे.<br>७. विद्युत कायदा २००३ विषयक दुरुस्ती, सुधारणा इ. विषयक कार्यवाही. |
| ऊर्जा-२ | श्री. सं. श. शिरसीकर, अवर सचिव दू.क्र. २६४७४२११ विस्तार -३५५८<br><br>तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | श्री. सि. मं. इनामदार, उप सचिव (ऊर्जा), (२६४७६८०४ विस्तार -३७४९)<br><br>ए/२२, ६ वा मजला, | १) सी.ई.(इलेक्ट्रीकल) आस्थापना संदर्भातील प्रकरणे.<br>२) एम.ई.आर.सी.संदर्भातील प्रकरणे<br>३) समन्वय संदर्भातील प्रकरणे पुढीलप्रमाणे-<br>अ) लेजीस्लेटिव्ह बिजनेस,<br>ब) ऑल द पॉवर युटिलिटी, |

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| **कार्यासन क्रमांक** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| | | प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | क) माहितीचा अधिकार,<br>ड) मंत्रालयातील इतर विभागांना पाठवावयाची ऊर्जा उप विभागाची एकत्रित माहिती.<br>ई) संकीर्ण प्रकरणे,<br>४) जनरल मॅटर्स,<br>५) द इलेक्ट्रिसिटी ॲक्ट, २००३ व त्या खालील नियम |
| ऊर्जा-३ | श्री.वि.म.राजुरकर, अवर सचिव, दू.क्र. २६४७४२११ विस्तार -३५८२ तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | श्री. आ. भ. रामटेके, उप सचिव (ऊर्जा), (२६४७५७९४ विस्तार -२५५९)<br>ए/२२, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | १) प्रीपरेशन ऑफ बजेट अँड मॉनिटरिंग ऑफ फायनान्स मॅटर ऑफ ऑल पॉवर युटीलिटीज, इन्क्लुडींग सी.ई.(इलेक्ट्रीकल) एमईआरसी.<br>२) रेकगनायझेशन ऑफ एम.एस.ई.बी.<br>३) ऑल मॅटर्स रिलेटिंग टू एम.एस.ई.बी. होल्डींग कंपनी. |
| ऊर्जा-४ | कु र.उ. बागडे , कक्ष अधिकारी दू.क्र. २६४७४२११ विस्तार -३५५७ दुसरा मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | उप सचिव / सहसचिव (ऊर्जा), (२६४७६८०४ विस्तार -३७४९)<br>ए/२२, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | १) ऑल मॅटर्स रिगार्डींग जनरेशन सेक्टर,<br>२) ऑल मॅटर्स रिगार्डींग ट्रान्समिशन सेक्टर,<br>३) पोजेक्टस अंडर एम.ओ.यु.अँड लेटर ऑफ सपोर्ट<br>४) अल्ट्रा मेगा पॉवर प्रोजेक्ट. |
| ऊर्जा-५ | कक्ष अधिकारी / अवर सचिव दू.क्र. २६४७४२११ विस्तार -३५८२ फॅक्स-२६४७५२१२ तळ मजला, प्रकाशगड, वांद्रे (पूर्व), मुंबई-५१. | श्री. सिराज मं. इनामदार, उप सचिव (ऊर्जा), (२६४७६८०४ विस्तार -३७४९)<br>ए/२२, ६ वा मजला, प्रकाशगड,वांद्रे (पूर्व), मुंबई-५१. | १) ऑल मॅटर्स रिगार्डींग डिस्ट्रीब्युशन सेक्टर,<br>२) पेंडिंग अपील्स अंडर द इंडियन ॲक्ट, १९१०<br>३) लोड शेडिंग. |
| ऊर्जा-७ | श्री. सु. व. पारकर व श्रीमती मि.भा.निकम, कक्ष अधिकारी / | श्रीमती स्मि.श.रानडे, सहसचिव (ऊर्जा), (२२८२४३८१ | १) द इलेक्ट्रीसिटी कन्झर्वेशन ॲक्ट-२००१ ,<br>२) नॉन कन्वेशनल एनर्जी सोर्सेस, |

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| **कार्यासन क्रमांक** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| | अवर सचिव दू.क्र. २२८७६००८, २२७९३७५०<br>(दालन क्र.७२९ विस्तार इमारत, मंत्रालय, मुंबई) | २२७९४०२९) (दालन क्र. ७२९ विस्तार इमारत, मंत्रालय, मुंबई) | ३) ऑल मॅटर्स रिलेटिंग जू एम.ई.डी.ए. |

## कामगार प्रभाग

प्रभाग प्रमुख- **श्री. अरविंदकुमार (भाप्रसे),** प्रधान सचिव (कामगार व प्रशासन), दालन क्रमांक-६२० (विस्तार) सहावा मजला, दरध्वनी क्र. २२०२७४३३, विस्तार- ३६२९

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| **कार्यासन क्रमांक** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| कामगार-१ | श्रीमती ज.आ.खवणेकर, अवर सचिव (२२०४९०८९, २२७९३८५५) (दालन क्र १२३ विस्तार) | श्री.बा.सो.कोळसे (भा.प्र.से.) सहसचिव (कामगार) (२२८८३१७५, २२७९३५०८) (दालन क्र. ११८-ए विस्तार) | १) औद्योगिक सुरक्षा आणि आरोग्य संचालनालयाचे आस्थापना बाबी,<br>२) बाष्पके व धूम्र उपद्रव मुख्य निरिक्षक यांच्या आस्थापना विषयक बाबी<br>३) ओव्हरसीज एम्प्लॉयमेंट. |
| कामगार-२ | श्री. सं.धों.डगळे, कक्ष अधिकारी, (२२८५००१९, २२७९३०१९) (दालन क्र. १८ विस्तार इमारत, मंत्रालय, मुंबई) | श्री.बा.सो.कोळसे (भा.प्र.से.) सहसचिव (कामगार) (२२८८३१७५, २२७९३५०८) (दालन क्र. ११८-ए विस्तार) | १) मुंबई औद्योगिक संबंध अधिनियम १९४६ आणि त्याअंतर्गत तयार करण्यात आलेले नियम, कापड गिरणी कामगार व सदर अधिनियमांतर्गत येणाऱ्या सर्व बाबी,<br>२) औद्योगिक विवाद अधिनियम १९४७ व सदर अधिनियमांतर्गत येणाऱ्या सर्व बाबी, (लॉक आऊट्स, ले-ऑफ, स्ट्राईक्स, क्लोजर, रिट्रेचमेंट्स),<br>३) राज्यातील बंद गिरण्या कारखाने/ कंपन्या यांच्या जमिनी विकास प्रस्तावास ना-हरकत प्रमाणपत्रे देणे.<br>४) टेक्साईल मिल्स प्राब्लेम्स |
| कामगार-३ | श्री.सु.सा.चौधरी, अवर सचिव (२२०२६३३०, २२७९३०१४) (दालन क्र १५८ विस्तार इमारत, मंत्रालय, मुंबई) | श्री.बा.सो.कोळसे (भा.प्र.से.) सहसचिव (कामगार) (२२८८३१७५, २२७९३५०८) (दालन क्र. ११८-ए विस्तार) | १) ट्रेड युनियन ॲक्ट,१९२६<br>२) महाराष्ट्र कामगार संघांना मान्यता देणे व अनुचित प्रथा प्रकार प्रतिबंध अधिनियम १९७१ व त्याखालील नियम<br>३) विक्री संवर्धन कामगार (सेवा शर्ती ) अधिनियम १९७६<br>४) कामगार राज्य विमा अधिनियम १९४८<br>५) नॅशनल रिन्युअल फंड |

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| **कार्यासन क्रमांक** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| | | | ६) औद्योगिक रोजगार अधिनियम १९४६ (स्थायी आदेश),<br>७) महाराष्ट्र कामगार किमान घरभाडे भत्ता अधिनियम १९८३ व त्या खालील नियम<br>८) अतिरिक्त फायदे ( सक्तीची ठेव) अधिनियम<br>९) साखर कारखाने कामगार व त्यासाठी नियुक्त करण्यात आलेली समिती / अभ्यासगट |
| कामगार-४ | श्री. र.धों.पाटणकर, कक्ष अधिकारी (☎२२०२६३३०, २२७९३०१४) (दालन क्र १५८ विस्तार इमारत, मंत्रालय, मुंबई) | श्री.बा.सो.कोळसे (भा.प्र.से.) सहसचिव (कामगार) (☎२२८८३१७५, २२७९३५०८) (दालन क्र. ११८ए विस्तार इमारत, मंत्रालय, मुंबई) | १) कारखाने अधिनियम १९४६,<br>२) बाल कामगार अधिनियम १९८६<br>३) कामगार भविष्य निर्वाह निधी अधिनियम १९५२ (निवृत्तीवेतनासह)<br>४) धोकादायक यंत्रे (नियमक) अधिनियम १९८३<br>५) उपदान प्रदान अधिनियम १९७२ ,<br>६) स्वयंचलन ,<br>७) कोळसा खाणी भविष्य निर्वाह निधी आणि संकिर्ण तरतूदी अधिनियम १९४८<br>८) खाण सुरक्षा अधिनियम,<br>९) मोटार परिवहन कामगार अधिनियम १९६१,<br>१०) लहान बंदरे कामगार अधिनियम १९८३ (सुरक्षा व सेवा शर्ती)<br>११) वेठबिगार पध्दती निर्मूलन १९७६ |
| कामगार-५ | श्री. ना.द.थोरवे, कक्ष अधिकारी (☎२२८७१९७८, २२७९३८७३) (दालन क्र एम-६ विस्तार इमारत, | श्री. आ.गुं.अस्वले, सह सचिव (प्रशासन) (☎२२०२६३३०, २२७९३५०९) (दालन क्र. १५८ | १) महाराष्ट्र माथाडी हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम १९६९ ,<br>२) राज्यस्तरीय माथाडी / सुरक्षा रक्षक सल्लागार समिती. |

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| | पोटमाळ, मंत्रालय, मुंबई) | विस्तार इमारत, मंत्रालय, मुंबई) | ३) महाराष्ट्र खाजगी सुरक्षा रक्षक (नोकरीचे नियमन व कल्याण) अधिनियम १९८१ |
| कामगार-६ | श्रीमती शै.स.शिरोडकर, कक्ष अधिकारी (दू.२२८५००१९, २२७९३०१९) (दालन क्र १८ विस्तार इमारत, तळमजला,मंत्रालय, मुंबई) | श्री. संजय देगांवकर, उप सचिव (कामगार) (दू. २२०२६३६५, २२७९३६२४) (दालन क्र. १२५ विस्तार इमारत, मंत्रालय, मुंबई) | १) औद्योगिक न्यायालय,<br>२) कामगार न्यायालय व वेतन मंडळे यांच्या आस्थापना विषयक बाबी<br>३) कामगार नुकसान भरपाई अधिनियम १९२३ ,<br>४) व्यक्तिगत दुखापती भरपाई अधिनियम, १९७१ ,<br>५) श्रमिक पत्रकार व पत्रकारिता कर्मचारी (सेवेच्या अटी व संकीर्ण तरतुदी ) अधिनियम १९५५ ,<br>६) बिडी व सिगारेट कामगार (कामासंबंध परिस्थिती) अधिनियम १९६६ (बिडी कामगारांसाठी निवासी योजना व कल्याण निधी<br>७) राहणीमान / ग्राहक मुल्य निर्देशांक<br>८) महाराष्ट्र श्रम विज्ञान संस्थेच्या आस्थापनाविषयक बाबी. |
| कामगार-७ | श्री. सु. स. सामंत, कक्ष अधिकारी (दू.२२८५००१९, २२७९३०१९) (दालन क्र १८ विस्तार इमारत, मंत्रालय, मुंबई) | श्री.बा.सो.कोळसे (भा.प्र.से.) सहसचिव (कामगार) (दू.२२८८३१७५, २२७९३५०८) (दालन क्र. ११८ए विस्तार इमारत, मंत्रालय, मुंबई) | १) किमान वेतन अधिनियम, १९४८<br>२) वेतन प्रदान अधिनियम, १९३६ ,<br>३).बोनस प्रदान अधिनियम,१९६५ ,<br>४) समान पारिश्रमिक अधिनियम,१९७९,<br>५) महाराष्ट्र बेरोजगार भत्ता (कारखान्यातील कामगारांना देणा-या वेतनातून) अधिनियम १९७६<br>६) प्रसुती लाभ अधिनियम १९६१ , |
| कामगार-७अ | श्री. सु.द.सहस्त्रबुद्धे, कक्ष अधिकारी (दू.२२८१०३९३, २२७९३०१७) (दालन क्र १२२ विस्तार इमारत, | श्री.बा.सो.कोळसे (भा.प्र.से.) सहसचिव (कामगार) (दू.२२८८३१७५, २२७९३५०८) | १) ऊस तोडणी कामगार<br>२) घरेलू कामगार अधिनियम-२००८<br>३)सिनेवर्कर्स बोर्ड |

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| | मंत्रालय, मुंबई) | (दालन क्र. ११८ए विस्तार इमारत, मंत्रालय, मुंबई) | ४) सफाई कामगार<br>५) इमारत व बांधकाम कामगार अधिनियम १९९६ (सुरक्षा व कल्याण)<br>६) असंघटीत कामगार, असंघटित कामगार प्राधिकरण<br>७) जनश्री विमा योजना<br>८) महिला कामगार जागृतीसंबंधीचे प्रस्ताव<br>९) राष्ट्रीय स्वास्थ विमा योजना (RSBY) |
| कामगार-८ | श्री. सं.क.गुप्ते, कक्ष अधिकारी (१२२०२३१८१, २२७९३८७५) (दालन क्र १२३ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. आ.गुं.अस्वले, सह सचिव (प्रशासन) (१२२०२६३३०, २२७९३५०९) (दालन क्र. १५८ विस्तार इमारत, मंत्रालय, मुंबई) | १) कामगार आयुक्त कार्यालयाच्या आस्थापना व प्रशासकीय विषयक बाबी<br>२) कामगार आयुक्त कार्यालयाच्या अंतर्गत विभागीय चौकशी व न्यायालयीन प्रकरणे<br>३) कामगार आयुक्त कार्यालयाच्या अंतर्गत कार्यालयातील आस्थापना विषयक सर्व संकीर्ण बाबी. |
| कामगार-९ | श्रीमती शै.स.शिरोडकर, कक्ष अधिकारी (अतिरीक्त कार्यभार) (१२२८७१९७८, २२७९३८७३) (दालन क्र एम-६ विस्तार इमारत, पोटमाळा,मंत्रालय, मुंबई) | श्री. संजय देगांवकर, उप सचिव (कामगार) (१ २२०२६३६५, २२७९३६२४) (दालन क्र. १२५ विस्तार इमारत, मंत्रालय, मुंबई) | १).भारतीय बाष्पके अधिनियम १९२३ व त्याखालील नियम<br>२).भारतीय बाष्पके नियमन १९५० ,<br>३).महाराष्ट्र इकॉनॉमायझर रुल्स १९६२<br>४)कामगार कक्षातील माहिती व तंत्रज्ञान आणि उद्योग विषयक धोरणात्मक बाबी<br>५) आंतरराष्ट्रीय श्रम संघटना विषयक बाबी<br>६). राज्य स्तरीय सल्लागार मंडळ आणि इतर राज्ये व केंद्र औद्योगिक संबंध समित्या ,<br>७).कामगार विषयक सर्व बाबींचे समन्वय / राज्यपालांचे अभिभाषण, |

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| | | | ८).कामगार कक्षातील इतर कार्यासनांना विविक्षित रित्या न देण्यात आलेले विषय<br>९).वीस कलमी कार्यक्रम ,<br>१०).कामगार कायद्यांच्या एकत्रित विषया संदर्भात लोकसभा आणि राज्य सभा प्रश्न, केंद्र शासनाकडून आलेल्या कामगार विषयक संदर्भ बाबींचा पत्रव्यवहार.<br>११) व्यवस्थापन कामगारांच्या सहभाग योजना<br>१२) केंद्र शासन व मा.खासदार यांच्याशी संबंधित बाबी, संयुक्त संसदीय समितीचे दौरे. |
| कामगार-१० | श्री. अ. म. बावीसकर, कक्ष अधिकारी (☎२२७९३०९३) (दालन क्र १२३ विस्तार इमारत, मंत्रालय, मुंबई) | श्री.बा.सो.कोळसे (भा.प्र.से.) सहसचिव (कामगार) (☎२२८८३१७५, २२७९३५०८) (दालन क्र. ११८ए विस्तार इमारत, मंत्रालय, मुंबई) | १) कंत्राटी कामगार अधिनियम १९७० (नियमन व निर्मूलन)<br>२).आंतरराज्य स्थलांतरित कामगार (सेवायोजन नियमन) सेवेच्या शर्ती अधिनियम १९७९ ,<br>३) ठेकेदारी पध्दतीने काम करणारे सर्व कामगार / कंपन्यांमधील बदली कामगार व हंगामी कामगारांचे सर्व प्रश्न<br>४) कंत्राटी पध्दतीने काम करणारे सफाई कामगारांचे प्रश्न<br>५).विदर्भ मराठवाडा व कोकण विकासाचा कालबध्द कार्यक्रम<br>६) भूमीपुत्र कामगारांचे प्रश्न<br>७) विविध कामगार कायद्यांअंतर्गत निर्धारित विवरणपत्रे संगणकीय पध्दतीने सादर करणे व सर्व कामगारांसाठी स्मार्ट कार्ड योजना लागू करणे तसेच कामगार विभागाचे संगणकीकरण<br>८) मुंबई दुकाने व आस्थापना अधिनियम १९४८ |

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| | | | ९) यंत्रमाग कामगार मंडळ (पॉवर लूम बोर्ड)<br>१०) महाराष्ट्र कामगार कल्याण मंडळ, मुंबई (महाराष्ट्र कामगार कल्याण निधी अधिनियम -१९५३) |

**प्रशासन विभाग**

प्रभाग प्रमुख- **श्री. अरविंदकुमार (भाप्रसे),** प्रधान सचिव (कामगार व प्रशासन), दालन क्रमांक-६२० (विस्तार) सहावा मजला, दरध्वनी क्र. २२०२७४३३, विस्तार- ३६२९

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| प्रशासन-१ | श्री. अ.स.परब, कक्ष अधिकारी (दू. २२८१०३९३, २२७९३०१७) (दालन क्र. १२२ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. संजय देगांवकर, उप सचिव (कामगार) (दू.२२०२६३६५, २२७९३६२४) (दालन क्र. १२५ विस्तार इमारत, मंत्रालय, मुंबई) | १. विभागाच्या व अधिपत्याखालील विभाग प्रमुख कार्यालयाच्या सर्व अर्थ संकल्पविषयक बाबी.<br>२. कार्यक्रम अंदाजपत्रक, वार्षिक योजना, योजनांतर्गत योजना, विषेश कृती कार्यक्रम, विशेष घटक योजना. |
| प्रशासन-२ | श्री. कृ.जो.मेंगाणे, कक्ष अधिकारी (दू.२२८१०३९४, २२७९३७२१) (दालन क्र. १२० विस्तार इमारत, मंत्रालय, मुंबई) | श्री. संजय देगांवकर, उप सचिव (कामगार) (दू.२२०२६३६५, २२७९३६२४) (दालन क्र. १२५ विस्तार इमारत, मंत्रालय, मुंबई) | १.विधीमंडळ कामकाजाचे समन्वय,नियंत्रण.<br>२.मागासवर्गीयांचा अनुशेष,<br>३.शासकीय कामकाजाचे कालबध्द संगणकीकरण,<br>४.संगणक प्रशिक्षण .<br>५.प्रभावी व संवेदनशील शासन.<br>६.देशांतर्गत व परदेशी प्रशिक्षण कार्यक्रम.<br>७.शासकीय नियमपुस्तिका सुलभ/अद्ययावत करणे.<br>८. प्रशासन यंत्रणा गतिमान व कार्यक्षम करणे, प्रोत्साहन देणे.<br>९. विभागाच्या कार्याचा कार्याभ्यास,<br>१०.संगणक यंत्रणा व सिस्टिम रिक्वायरमेंट स्पेसिफिकेशन्स व यंत्रणा सिस्टिम उपलब्ध करणे.<br>११.कामकाजातील सुलभतेसाठी तंत्रज्ञानाचा वापर, नियम व त्यात सुधारणा.<br>१२. भ्रष्टाचार निर्मूलन समिती कामकाज, श्वेतपत्रिका कार्यक्रमाची अंमलबजावणी |

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| | | | १३. वित्तीय व प्रशासकीय शक्तीचे विकेंद्रीकरण |
| प्रशासन-३ | श्री. श्र.वि.मोकल, अवर सचिव (१२२८१०३९४, २२७९३७२१) (दालन क्र. १२० विस्तार इमारत, मंत्रालय, मुंबई) | श्री. आ.गुं.अस्वले, सह सचिव (प्रशासन) (१२२०२६३३०, २२७९३५०९) (दालन क्र. १५८ विस्तार इमारत, मंत्रालय, मुंबई) | १.उद्योग, ऊर्जा व कामगार विभाग (खुद्द) मधील वर्ग-४ वगळता सर्व आस्थापना विषयक बाबी<br>२. सर्व प्रकारचे अग्रीम<br>३. नियुक्ती , बदली, ज्येष्ठता सूची, गोपनीय अभिलेख<br>४. वेतन निश्चिती<br>५. विभागीय चौकशी प्रकरणे, न्यायालयीन प्रकरणे. |
| प्रशासन-४ | श्री. सं.क.गुप्ते, कक्ष अधिकारी (अतिरीक्त कार्यभार) (१२२०२५४४३, २२७९३०२३) (दालन क्र. १२५ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. आ.गुं.अस्वले, सह सचिव (प्रशासन) (१२२०२६३३०, २२७९३५०९) (दालन क्र. १५८ विस्तार इमारत, मंत्रालय, मुंबई) | १.उद्योग, ऊर्जा व कामगार विभाग (खुद्द) मधील वर्ग-४ बाबतच्या सर्व आस्थापना विषयक बाबी ,<br>२.कार्यालयीन देखभाल, गृहव्यवस्था, राजशिष्टाचार,<br>३.मागासवर्गीय कल्याण समित्यांचे अहवाल,<br>४.विशिष्ट अशा कार्यासनांकडे जे काम सोपविण्यात आलेले नाही अशा समित्या/सभा यांचे समन्वय, संकीर्ण बाबी |
| प्रशासन-५ | श्री. पो.द.देखमुख, कक्ष अधिकारी (१२२८२०३८०, २२७९३०९०) (दालन क्र. ७२७ विस्तार इमारत, मंत्रालय, मुंबई) | श्री. संजय देगांवकर, उप सचिव (कामगार) (१२२०२६३६५, २२७९३६२४) (दालन क्र. १२५ विस्तार इमारत, मंत्रालय, मुंबई) | १.खर्चमेळ / खर्चाचा ताळमेळ,<br>२.लोकलेखा समिती , सार्वजनिक उपक्रम समिती ,अंदाज समिती,पंचायत राज समिती, भारताचे नियंत्रक महालेखा परीक्षक यांचे अहवाल / संदर्भ,<br>३.विनियोजन लेखे,<br>४.हमी / कर्जे /वसूली,<br>५.वित्त आयोगास माहिती सादर करणे. |
| रोखशाखा | श्री. पो.द.देखमुख, कक्ष अधिकारी (अतिरीक्त कार्यभार) (१'२२७९३०२२) (दालन क्र. १५२ | श्री. आ.गुं.अस्वले, सह सचिव (प्रशासन) (१२२०२६३३०, २२७९३५०९) (दालन क्र. १५८ | उद्योग, ऊर्जा व कामगार विभाग, मंत्रालय, मुंबई येथील अधिकारी/कर्मचाऱ्यांची (वेतन देयके, प्रवास देयके, भनिनि देयके, कॉन्टीनजेन्सी देयके इ.) देयके. |

| प्रशासन प्रभाग | | | |
|---|---|---|---|
| **कार्यासन क्रमांक** | **जन माहिती अधिकारी** | **अपिलीय अधिकारी** | **विषय** |
| | विस्तार इमारत, मंत्रालय, मुंबई) | विस्तार इमारत, मंत्रालय, मुंबई) | |
| नोंदणी शाखा | श्रीमती रो.प्र.जाधव,अवर सचिव (२२७९३९३७) (दालन क्र. १४ए विस्तार इमारत, मंत्रालय, मुंबई) | श्री. आ.गुं.अस्वले, सह सचिव (प्रशासन) (२२०२६३३०, २२७९३५०९) (दालन क्र. १५८ विस्तार इमारत, मंत्रालय, मुंबई) | विभागातील / विभागांतर्गत पत्रव्यवहार. कार्यालयीन लेखनसामग्रीचे वितरण. |

# परिशिष्ट-५

कामगार विभागाशी संबंधीत अधिनियम व इतर बाबी.

# The Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

1. Short title, extent and commencement.- (1) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State of such date1* as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed by the State Government for different areas and for different provisions of this Act.

2. Definitions.- In this Act, unless the context requires,--

(a) "adult" means a person who has completed eighteen years of age ;

(b) "child" means a person who has not completed fourteen years of age ;

(c) "competent authority" means any authority authorised by the State Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein ;

(d) "contractor" means a person who, in relation to a manufacturing process, undertakes to produce a given result by executing the work through contract labour or who engages labour for any manufacturing process in a private dwelling house and includes a sub-contractor, agent, munshi, thekedar or sattedar ;

(e) "contract labour" means any person engaged or employed in any premises by or through a contractor, with or without the knowledge of the employer, in any manufacturing process ;

(f) "employee" means a person employed directly or through any agency, whether for wages or not, in any establishment to do any work, skilled, unskilled, manual or clerical, and includes--

(i) any labour who is given raw materials by an employer or a contractor for being made into beedi or cigar or both at home (hereinafter referred to in this Act as "home worker"), and

(ii) any person not employed by an employer or a contractor but working with the permission of, or under agreement with, the employer or contractor ;

(g) "employer, means,--

(a) in relation to contract labour, the principal employer, and

(b) in relation to other labour, the person who has the ultimate control over the affairs of any establishment or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any establishment, and includes any other person to whom the affairs of the establishment are entrusted, whether such other person is called the managing agent, manager, superintendent or by any other name ;

(h) "establishment" means any place or premises including the precincts thereof in which or in any part of which any manufacturing process connected with the making of beedi or cigar or both is being, or is ordinarily,carried on and includes an industrial premises ;

(i) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry or manufacturing process connected with the making of beedi or cigar or both is being; or is ordinarily, carried on with or without the aid or power;

(j) "Inspector" means an Inspector appointed under sub-section (1) of section 6 ;

(k) "manufacturing process" means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as beedi or cigar or both ;

(l) "prescribed" means prescribed by rules made by the State Government under this Act ;

(m) "principal employer" means a person for whom or on whose behalf any contract labour is engaged or employed in an establishment ;

(n) "private dwelling house" means a house in which persons engaged in the manufacture of beedi or cigar or both reside ;

(o) "State Government", in relation to a Union territory, means the Administrator thereof ;

(p) "week" means a period of seven days beginning at midnight on Saturday ;

(q) "young person" means a person who has completed fourteen years of age but has not completed eighteen years of age.

**3. Industrial premises to be licensed.-** Save as otherwise provided in this Act, no employer shall use or allow to be used any place or premises as an industrial premises unless he holds a valid licence issued under this Act and no such premises shall be used except in accordance with the terms and conditions of such licence.

**4. Licences**.- (1) Any person who intends to use or allows to be used any place or premises as industrial premises shall make an application in writing to the competent authority, in such form and on payment of such fees as may be prescribed, for a licence to use, or allow to be used, such premises as an industrial premises.

(2) The application shall specify the maximum number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed.

(3) The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters:--

(a) the suitability of the place or premises which is proposed to be used for the manufacture of beedi or cigar or both ;

(b) the previous experience of the applicant ;

(c) the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of the laws of the time being in force relating to welfare of labour ;

(d) whether the application is made bona fide on behalf of the applicant himself or in benami of any other person;

(e) welfare of the labour in the locality, the interest of the pubic generally and such other matters as may be prescribed.

(4) (a) A licence granted under this section shall not be valid beyond the financial year in which it is granted but may be renewed from financial year to financial year.

(b) An application for the renewal of a licence granted under this Act shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be prescribed, and where such an application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until renewal of the licence, or, as the case may be, the rejection of the application for the renewal thereof.

(c) The competent authority shall, in deciding whether to renew a licence or to refuse a renewal thereof, have regard to the matters specified in sub-section (3).

(5) The competent authority shall not grant or renew a licence unless it is satisfied that the provisions of this Act and the rules made thereunder have been substantially complied with.

(6) The competent authority may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under this Act if it appears to it that such licence has been obtained by misrepresentation or fraud or that the licensee has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder or any of the terms or conditions of the licence.

(7) The State Government may issue in writing to a competent authority such directions of a general character as that Government may consider necessary in respect of any matter relating to the grant or renewal of licences under this section.

(8) Subject to the foregoing provisions of this section, the competent authority may grant or renew licences under this Act on such terms and conditions as it may determine and where the competent authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

**5. Appeals.-** Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence may, within such time and on payment of such fees, not exceeding twenty rupees, as may be prescribed, appeal to such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, and such authority may by order confirm, modify or reverse any order refusing to grant or renew a licence or cancelling or suspending a licence.

**6. Inspectors**.- (1) The State Government may, by notification in the Official Gazette, appoint such of its officers or such officers of any local authority as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

(3) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**7. Powers of Inspectors**.- (1) Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed,--

(a) make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied with in any place or premises:

Provided that no person shall be compelled under this section to answer any question or to give any evidence which may tend to incriminate himself ;

(b) require the production of any prescribed register and any other document relating to the manufacture of beedi or cigar or both;

(c) enter, with such assistants as he thinks fit, at all time any place or premises including the residences of employees if he has reasonable grounds for suspecting that any manufacturing process is being carried on or is ordinarily carried on in any such place or premises;

(d) exercise such other powers as may be prescribed.

(2) If an Inspector has reasonable grounds for suspecting that any manufacturing process is being carried on in any establishment in contravention of the provisions of this Act, he may, after giving due notice to the employer or, in the absence of the employer, to the occupier, enter such establishment with such assistants, if any, as he may think fit.

(3) Every employer or occupier shall accord to the Chief Inspector or the Inspector, as the case may be, all reasonable facilities in the discharge of his duties under this Act.

**8. Cleanliness.-** Every industrial premises shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and shall also maintain such standard of cleanliness including white washing, colour washing, varnishing or painting, as may be prescribed.

**9. Ventilation.**- (1) For the purpose of preventing injury to the health of the persons working therein, every industrial premises shall maintain such standards of lighting, ventilation and temperature, as maybe prescribed.

(2) Wherever dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the persons employment in any industrial premises is given off by reason of the manufacturing process carried on in such premises, the competent

authority may require the employer to take such effective measures as may prevent the inhalation of such dust, fume or other impurity and accumulation thereof in any work room.

**10. Over-crowding**.- (1) No room in any industrial premises shall be overcrowded to an extent injurious to the health of the persons employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in any work room of such premises at least four and a quarter cubic metres of space for every person employed therein, and for the purposes of this sub-section, no account shall be taken of any space which is more than three metres above the level of the floor of the work room.

**11. Drinking water.-** (1) The employer shall make in every industrial premises effective arrangements to provide and maintain at suitable points conveniently situated for all person employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by the majority of the persons employed in the industrial premises and no such point shall be situated within six metres of any washing place, urinal or latrine except with the prior approval in writing of the competent authority.

**12. Latrines and urinals**.- (1) In every industrial premises, sufficient latrine and urinal accommodation of such types as may be prescribed shall be provided and shall be so conveniently situated as may be accessible to the employees at all times while they are in the industrial premises:

Provided that it shall not be necessary to provide separate urinals in industrial premises where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

(2) The State Government may specify the number of latrines and urinals which shall be provided in any industrial premises in proportion to any number of male and female employees ordinarily employed therein, and may provide for such further matters in respect of sanitation in the industrial premises including obligation of the employees in this regard as it may consider necessary in the interest of the health of the persons employed therein.

**13. Washing facilities.-** In every industrial premises, where blending or sieving or both of tobacco or warming or beedi in hot ovens is carried on, the employer shall provide such washing facilities for the use of the employees, as may be prescribed.

**14. Creeches.**- (1) In every industrial premises wherein more than fifty female employees are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female employees.

(2) Such rooms shall--

(a) provide adequate accommodation ;

(b) be adequately lighted and ventilated ;

(c) be maintained in a clean and sanitary condition ;

(d) be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules,--

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section.

(b) requiring the provision in any industrial premises to which this section applies, of additional facilities for the care of children belonging to female employers, including suitable provision of facilities for washing and changing their clothing ;

(c) requiring the provision in any industrial premises of free milk or refreshment or both for such children ;

(d) requiring that facilities shall be given in any industrial premises for the mothers of such children to feed them at necessary intervals.

**15. First aid.-** Every industrial premises shall provide such first aid facilities as may be prescribed.

**16. Canteens.-** The State Government may, by rules, require the employer to provide and maintain in every industrial premises wherein not less than two hundred and fifty employees are ordinarily employed, a canteen for the use of the employees.

**17. Working hours.-** No employee shall be required or allowed to work in any industrial premises for more than nine hours in any day or for more than forty-eight hours in any week:

Provided that any adult employee may be allowed to work in such industrial premises for any period in excess of the limit fixed under this section subject to the payment of overtime wages if the period of work,including overtime work, does not exceed ten hours in any day and in the aggregate fifty-hours in any week.

**18. Wages for overtime work.-** (1) Where any employee employed in any industrial premises is required to work overtime, he shall be entitled in respect of such overtime work, to wages at the rate of twice his ordinary rate of wages.

(2) Where the employees in a industrial premises are paid on a piecerate basis, the overtime rate shall be calculated, for the purposes of this section, at the time rates which shall be as nearly as possible equivalent to the daily average of their full time earnings for the days on which they had actually worked during the week immediately preceding the week in which the overtime work has been done.

(3) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowance, including the cash equivalent of the advantage accruing through the concessional sale to the employees of foodgrains and other articles as the employee is for the time being entitled to but does not include bonus.

(4) The cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a

standard family.

Explanation I.--"Standard family" means a family consisting of the employee, his or her spouse and two children requiring in all three adult consumption units.

Explanation II.--"Adult consumption units" means the consumption unit of a male above the age of fourteen years ; and the consumption unit of a female above the age of the fourteen years and that of a child shall be calculated at the rate of eight-tenths and six-tenths, respectively, of one adult consumption unit.

**19. Interval for rest.-** The periods of work for employees in an industrial premises each day shall be so fixed that no period shall exceed five hours and that no employee shall work for more than five hours before he has had an interval for rest of at least half an hour.

**20. Spread over**.- The periods of work of an employee in an industrial premises shall be so arranged that inclusive of his intervals for rest under section 19, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spread over to twelve hours.

**21. Weekly holidays**.- (1) Every industrial premises shall remain entirely closed, except for wetting of beedi or tobacco leaves, on one day in the week which day shall be specified by the employer in a notice exhibited in a conspicuous place in the industrial premises and the day so specified shall not be altered by the employer more often than once in three months and except with the previous written permission of the Chief Inspector.

(2) Notwithstanding anything contained in sub-section (1), an employee employed in the said premises for wetting of beedi or tobacco leaves on the day on which it remains closed in pursuance of sub- section (1), shall be allowed a substituted holiday on one of the three days immediately before or after the said day.

(3) For a holiday under this section, an employee shall be paid, notwithstanding any contract to the contrary, at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the week immediately preceding the holiday exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation.--The expression "total full time earnings" shall have the meaning assigned to it in section 27.

**22. Notice of periods of work**.- (1) There shall be displayed and correctly maintained in every industrial premises a notice of periods of work in such form and in such manner as may be prescribed, showing clearly for every day the periods during which the employees may be required to work.

(2) (a) A copy of the notice referred to in sub-section (1) shall be sent in triplicate to the Inspector having jurisdiction over the industrial premises within two weeks from the date of the grant of a licence for the first time under this Act, in the case of any industrial premises

carrying on work at the commencement of this Act, and in the case of any industrial premises beginning work after such commencement, before the day on which the work is begun in the industrial premises.

(b) Any proposed change in the system of work which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in triplicate before the change is made and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

**23. Hours of work to correspond with notice under section 22.-** No employee shall be employed in any industrial premises otherwise than in accordance with the notice of work displayed in the premises under section 22.

**24. Prohibition of employment of children.-** No child shall be required or allowed to work in any industrial premises.

25. Prohibition of employment of women or young persons during certain hours.- No woman or young person shall be required or allowed to work in any industrial premises except between 6 a.m. and 7 p.m.

26. Annual leave with wages.- (1) Every employee in an establishment shall be allowed in a calendar year leave with wages--

(i) in the case of an adult, at the rate of one day for every twenty days of work performed by him during the previous calendar year ;

(ii) in the case of a young person at the rate of one day for every fifteen days of work performed by him during the previous calendar year.

Explanation.--The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during, or at the beginning or at the end of, the period of leave.

(2) If an employee is discharged or dismissed from service or quits employment during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section(1).

(3) In calculating leave under this section, any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted.

(4) If any employee does not, in any calendar year, take the whole of the leave allowed to him under sub-section (1), the leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a young person.

(5) An application of an employee for the whole or any portion of the leave allowed under sub-section (1) shall be in writing and ordinarily shall have to be made sufficiently in advance of the day on which he wishes the leave to begin.

(6) If the employment of an employee who is entitled to leave under sub-section (1) is terminated by the employer before he has taken the entire leave to which he is entitled, or if having applied for leave, he has not been granted such leave, or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 27 in respect of leave not taken and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day.

(7) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

27. Wages during leave period.- (1) For the leave allowed to him under section 26, an employee shall be paid at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the month immediately preceding his leave exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation I.--In this sub-section, the expression "total full time earnings" includes the cash equivalent of the advantage accruing through the concessional sale to employees of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

**Explanation** II.--For the purpose of determining the wages payable to a home worker during leave period or for the purpose of payment of maternity benefit to a woman home worker, "day" shall mean any period during which such home worker was employed, during a period of twenty-four hours commencing at midnight, for making beedi or cigar or both.

(2) An employee who has been allowed leave for not less than four days in the case of an adult and five days in the case of a young person, shall, before his leave begins, be paid wages due for the period of the leave allowed.

28. Application of the Payment of Wages Act, 1936 to industrial premises.- (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936) (hereinafter referred to in this section as the said Act), the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of employees in establishment or class of establishments to which thisAct, an Inspector appointed under this Act shall be deemed to be the Inspector for the purposes of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(2) The State Government may, by a like notification, cancel or vary any notification issued under sub-section (1).

29. Special provisions.- (1) The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees.

(2) The employer shall maintain in the prescribed form a record of the work permitted under sub-section (1) to be carried on outside the industrial premises.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises:

Provided that nothing in this sub-section shall apply to any labour who is given raw material by an employer or a contractor for being made into beedi or cigar or both at home.

30. Onus as to age.- (1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act and such person is, in the opinion of the court, prima facie under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a medical officer not below the rank of a Civil Assistant Surgeon relating to an employee that he has personally examined him and believes him to be under the age stated in such declaration, shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that employee.

31. Notice of dismissal.- (1) No employer shall dispense with the services of an employee who has been employed for a period of six months or more, except for a reasonable cause, and without giving such employee at least one month's notice or wages in lieu of such notice:

Provided that such notice shall not be necessary if the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held by the employer for the purpose.

(2) (a) The employee discharged, dismissed or retrenched may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer or on the ground that such punishment of discharge or dismissal was severe.

(b) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period during which he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.

(3) The decision of the appellate authority shall be final and binding on both the parties and be given effect to within such time as may be specified in the order of the appellate authority.

32. Penalty for obstructing Inspector.- Whoever obstructs the Chief Inspector or an Inspector in the exercise of any powers conferred on him by or under this Act, or fails to produce on demand by the Chief Inspector or an Inspector any register or other document

kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any employee in an industrial premises from appearing before or being examined by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. General penalty for offence.- (1) Save as otherwise expresslyprovided in this Act, any person who contravenes any of the provisions of this Act or of any rule made thereunder, or fails to pay wages orcompensation in accordance with any order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall, be punishable, for the first offence, with fine which may extend to two hundred and fifty rupees and for a second or any subsequent offence with imprisonment for a term which shall not be less than one month or more than six months or with fine which shall not be less than one hundred rupees or more than five hundred rupees or with both.

(2) (a) Any employer who fails to reinstate any employee in accordance with the order of the appellate authority passed under clause (b) of sub-section (2) of section 31, shall be punishable with fine which may extend to two hundred and fifty rupees.

(b) Any employer, who, after having been convicted under clause (a), continues, after the date of such conviction, to fail to reinstate an employee in accordance with the order mentioned in that clause, shall be punishable, for each day of such default, with fine which may extend to twenty rupees.

(c) Any Court trying an offence punishable under this sub-section may direct that the whole or any part of the fine, if realised, shall be paid, by way of compensation, to the person, who, in its opinion, has been injured by such failure.

(3) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936) with regard to the definition of wages, any compensation required to be paid by an employer under clause (b) of sub-section (2) of section 31 but not paid by him shall be recoverable as delayed wages under the provisions of that Act.

(4) It shall be no defence in a prosecution of any person for the contravention of the provisions of section 3 that any manufacturing process connected with the making of beedi or cigar or both was carried on by such person himself or by any member of his family or by any other person living with or dependent on such person.

34. Offences by companies.- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to, the company for conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purpose of this section--

(a) "company" means any body corporate and includes a firm,and other association of individuals ; and

(b) "director", in relation to a firm, means a partner in the firm.

35. Indemnity.- (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

36. Cognizance of offences.- (1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint made by, or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector:

Provided that where the offence consists of disobeying a written order made by the competent authority, the Chief Inspector or an Inspector,complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

(2) No Court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

37. Application of the Industrial Employment (Standing Orders) Act, 1946 and the Maternity Benefit Act, 1961.- (1) The provisions of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) shall apply to every industrial premises wherein fifty or more person are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official

Gazette, apply all or any of the provisions of the Industrial Employment (Standing Orders), Act, 1946 (20 of 1946), to any industrial premises wherein less than fifty employees are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(3) Notwithstanding anything contained in the Maternity Benefit Act, 1961 (53 of 1961), the provisions of that Act shall apply to every establishment as if such establishment were an establishment to which that Act has been applied by a notification under sub-section (1) of section 2 thereof:

Provided that the said Act shall, in its application to a home worker, apply subject to the following modifications, namely:--

(a) in section 5, in the Explanation to sub-section (1), the words "or one rupee a day, whichever is higher" shall be omitted; and

(b) sections 8 and 10 shall be omitted.

**38**. Certain provisions not to apply to industrial premises.- (1) Chapter IV and section 85 of the Factories Act, 1948 (62 of 1948.) shall apply to an industrial premises and the rest of the provisions in that Act shall not apply to any industrial premises.

(2) Nothing contained in any law relating to the regulation of the conditions of work of workers in shops or commercial establishments shall apply to any establishment to which this Act applies.

**39**. Application of the Industrial Disputes Act, 1947.- (1) The provisions of the Industrial Disputes Act, 1947 (14 of 1947) shall apply to matters arising in respect of every industrial premises.

(2) Notwithstanding anything contained in sub-section (1), a dispute between an employer and employee relating to--

(a) the issue by the employer of raw materials to the employees,

(b) the rejection by the employer of beedi or cigar or both made by an employee,

(c) the payment of wages for the beedi or cigar or both rejected by the employer,

shall be settled by such authority and in such summary manner as the State Government may by rules specify in this behalf.

(3) Any person aggrieved by a settlement made by the authority specified under sub-section (2) may prefer an appeal to such authority and within such time as the State Government may, by notification in the Official Gazette, specify in this behalf.

(4) The decision of the authority specified under sub-section (3) shall be final.

40. Effect of laws and agreements inconsistent with this Act.-(1)The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the

time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Act, the employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

41. Power to exempt.- The State Government may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions as it may impose, any class of industrial premises or class of employers or employees from all or any of the provisions of this Act or of any rules made thereunder :

Provided that nothing in this section shall be construed as empowering the State Government to grant any exemption in respect of any woman employee from any of the provisions of this Act or any rules made thereunder relating to annual leave with wages, maternity benefits, creches, wages, rejection of beedi or cigar and night work.

42. Powers of Central Government to give directions.- The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

43. Act not to apply to self-employed persons in private dwelling houses.- Nothing contained in this Act shall apply to the owner or occupier of a private dwelling house who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him:

**Provided that the owner or occupier thereof is not an employee of an employer to whom this Act applies**.

Explanation.--For the purposes of this section, "family" means the spouse and children of the owner or occupier.

44. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the terms and conditions subject to which a licence may be granted or renewed under this Act and the fees to be paid in respect of such licence:

(b) the form of application for a licence under this Act and the documents and plans to be submitted together with such application:

(c) other matters which are to be taken into consideration by the competent authority for granting or refusing a licence ;

(d) the time within which, the fees on payment of which and the authority to which, appeals may be preferred against any order granting or refusing to grant a licence ;

(e) the submission of a monthly return by an employer to the competent authority specifying the quantity of tobacco released by the Central Excise Department and the number of beedi or cigar or both manufactured by him ;

(f) the powers which may be conferred on the Inspectors under this Act ;

(g) the standards of cleanliness required to be maintained under this Act ;

(h) the standards of lighting, ventilation and temperature required to be maintained under this Act ;

(i) the types of urinals and latrines required to be provided under this Act ;

(j) the washing facilities which are to be provided under this Act ;

(k) canteens ;

(l) the form and manner of notice regarding the periods of work ;

(m) the form in which records of work done outside an establishment shall be maintained ;

(n) the authority to which and the time within which an appeal may be filed by a dismissed, discharged or retrenched employee;

(o) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed;

(p) the records and registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this Act and the rules made thereunder;

(q) the maintenance of first aid boxes or cupboards and the contents thereof and the persons in whose charge such boxes shall be placed;

(r) the manner in which sorting or rejection of beedi or cigar or both and disposal of rejected beedi or cigar to both shall be carried out;

(s) the fixation of maximum limit of the percentage of rejection of beedi or cigar or both manufactured by an employee;

(t) specifying the place at which wages shall be paid to persons who receive directly or through an agent raw materials for the manufacture of beedi or cigar or both at home;

(u) supervision by the Inspectors over distribution of raw materials including beedi and tobacco leaves to the employees ;

(v) precautions to be taken against fire for the safety of workers ;

(w) authority by which and the manner in which a dispute as to the issue of raw materials shall be settled and the authority to which an appeal shall lie from the settlement made by the first-mentioned authority ;

(x) any matter which is required to be, or may be, prescribed.

(3) All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication ; and the dates to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897) shall not be less than three months from the date on which draft of the proposed rules was published.

(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses, or where such Legislature consists of one House, before that House, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislatures agree in making any modification in the rule or the Legislatures agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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## THE BEEDI WORKERS WELFARE FUND ACT, 1976

*Act* *No.* *62* *of* *1976*
Enactment Date: ***[10th*** ***April,*** ***1976.]***

***Act Objective:*** *An Act to provide for the financing of measures to promote the welfare of persons engaged in beedi establishments. BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :--*

1. Short title, extent and commencement.

(1) This Act may be called the Beedi Workers Welfare Cess Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central 'Government may, by notification in the Official Gazette, appoint.

2. Definitions. In this Act, unless the context otherwise requires,-

(a) "Fund" means the 'Beedi Workers Welfare Fund formed under section 3 of the Beedi Workers Welfare Fund Act, 1976.

(b) "prescribed" means prescribed by rules made under this Act.

3[(c) words and expressions used but not defined in this Act and defined in the Central Excises and Salt Act, 1944, shall have, the meanings respectively assigned to them in that Act."]

4["3. Levy and collection of cess on manufactured beedis. (1)With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected by way of cess for the purposes of the Beedi Workers Welfare Fund Act, 1976, a duty of excise on manufactured beedis at such rate which shall not be less than ten paise, or more than fifty paise per thousand manufactured beedis, as the Central Government may, from time to time, fix by notification in the Official Gazette.

(2) The duty of excise levied under sub-section (1) shall be in addition to any cam or duty leviable on manufactured beedis (whether spelt as such or as biris or in any other manner) under any law for the time being in force.]

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1. 15.2.1977: Vide Notifn. No. G.S.R. 55 (E), dt. 2.2.1977.

2. Subs. by Act 47 of 1981, s.2 (w.e.f. 1.1.1982).

4. Subs by S. 4, ibid.

3. Ins. by s.3, ibid

LATEST AMENDMENTS TO B SEEN

1 ["3A. Application of Act of 1944 to cess. The Provisions of the Central Excises and Salt Act, 1994 or the roles thereunder, including those relating to refunds and exemption from duty, as in force from time to time, shall so far 'as may be, apply in relation to the levy-, collection and refund of, or exemption from, cess under this Act, as they apply in relation to the levy, collection and l refund of, or exemption from, duties of excise in' respect of manufactured biris under that Act.]

4. Crediting of proceeds of duty to the Consolidated Fund of India. The proceeds of the duty of excise levied under sub-section (1) of section 3 shall be credited to the Consolidated Fund of India.

5. Power to call for information. The Central Government or any other authority specified by It In this behalf may require any person to furnish, for the purposes of this Mt, such statistical and arty other information as it may think fit,

6. Protection of action taken in good faith. No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other. employee of tile, CM* Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

7. Power to make rules.

(1) The Central Government may, by notification In, the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generally of the foregoing power, such rules may provide for-

2* * *

(b) the furnishing to the Central Government or any other authority specified by it in this behalf by any person of such statistical and any other information as may be required to be furnished,under' section 5;

(c) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

1. Ins. by Act 47 of 1981, S. 5, (w.e.f. 1-1-1982).

2 Omitted by s. 6, ibid.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session -or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form' or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

# THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

(ACTNO.19OF1976.) **Enactment Date:** [9th February, 1976.]

**Act Objective:** An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:--

**1. Short title, extent and commencement**.- (1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of October, 1975.

**2. Definitions**.- In this Act, unless the context otherwise requires,--

(a) "advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);

(b) "agreement" means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

Explanation.--The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely:--

Adiyamar, Baramasia, asahya, Bethu, Bhagela, Cherumar, Garru-galu, Hali,Hari, Harwai, Holya,Jana,Jeetha,Kamiya,Khundit-Mundit,Kuthia,Lakhari,Munjhi,Mat,Munish system, Nit-Majoor, Paleru, Padiyal,Pannayilal,Sagri, Sanji,Sanjawat, Sewak, Sewakia, Seri,Vetti;

(c) "ascendant" or "descendant", in relation to a person belonging to a matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society;

(d) "bonded debt" means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system;

(e) "bonded labour" means any labour or service rendered under the bonded labour system;

(f) "bonded labourer" means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt;

(g) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,--

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community, he would--

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him, and includes the system of forced, or partly forced, labour

under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of

the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

1*[Explanation.-- For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970),or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub- clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is "bonded labour system" within the meaning of this clause.]

(h) "family", in relation to a person, includes the ascendant and descendant of such person;

(i) "nominal wages", in relation to any labour, means a wage which is less than,--

(a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force, and

(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

(j) "prescribed" means prescribed by rules made under this Act.

3. Act to have overriding effect.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

## CHAPTER II

## ABOLITION OF BONDED LABOUR SYSTEM

**4. Abolition of bonded labour system**.- (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.

(2) After the commencement of this Act, no person shall--

(a) make any advance under, or in pursuance of, the bonded labour system, or

(b) compel any person to render any bonded labour or other form of forced labour.

1. Added by Act 73 of 1985, s.2.

**5. Agreement, custom, etc., to be void.-** On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act), by virtue of which any person, or any member of the family or dependant of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

## CHAPTER III

## EXTINGUISHMENT OF LIABILITY TO REPAY BONDED DEBT

**6. Liability to repay bonded debt to stand extinguished.-**

(1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceeding shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependant was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such

property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act:

Provided that the bonded labourer, or an agent authorised by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decee-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

**7. Property of bonded labourer to be freed from mortgage, etc**.-(1) All property vested in a bonded labourer which was, immediately before the commencement of this Act under any mortgage, charge, lien or other incumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other incumbrances, and where any such property was, immediately before the commmencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or incumbrance, such property shall (except where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded laborer, such laborer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or incumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

**8. Freed bonded labourer not to be evicted from homestead, etc.**-

(1) No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as early as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

**9. Creditor not to accept payment against extinguished debt.-** (1)No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

## CHAPTER IV

## IMPLEMENTING AUTHORITIES

**Authorities who may be specified for implementing the provisions of this Act.**- The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

**11. Duty of District Magistrate and other officers to ensure credit.**- The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

**12. Duty of District Magistrate and officers authorised by him.-**It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system

of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

## CHAPTER V

## VIGILANCE COMMITTEES

**13. Vigilance Committees**.- (1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members namely:-

(a) the District Magistrate, or a person nominated by him, who shall be the Chairman;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the district, to be nominated by the District Magistrate;

(c) two social workers, resident in the district, to be nominated by the District Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;

(e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:--

(a) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(c) two social workers, resident in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate;

(e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(f) one officer specified under section 10 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by--

(a) the District Magistrate, in the case of a Vigilance Committee constituted for the district;

(b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

**14. Functions of Vigilance Committees.-** (1) The functions of each Vigilance Committee shall be,--

(a) to advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to provide for the economic and social rehabiliation of the freed bonded labourers;

(c) to co-ordinate the functions of rural banks and co-operative societies with a view to canalising adequate credit to the freed bonded labourer;

(d) to keep an eye on the number of offences of which cognizance has been taken under this Act;

(e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;

(f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

(2) A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed, for the purpose of such suit, to be the authorised agent of the freed bonded labourer.

**15. Burden of proof.-** Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

## CHAPTER VI

## OFFENCES AND PROCEDURE FOR TRIAL

**16. Punishment for enforcement of bonded labour.-** Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

**17. Punishment for advancement of bonded debt.-** Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

**18. Punishment for extracting bonded labour under the bonded labour system.**- Whoever enforces, after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependant of such person is required to render any service under the bonded labour system shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

**19. Punishment for omission or failure to restore possession of property to bonded labourers.-** Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencmcnt of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

**20. Abetment to be an offence.-** Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

**Explanation**,--For the purpose of this Act, "abetment" has the meaning assigned to it in the Indian Penal Code (46 of 1860).

**21. Offences to be tried by Executive Magistrates.-** (1) The State Government may confer, on an Executive Magistrates, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Act may be tried summarily by a Magistrate.

**22. Cognizance of offences.-** Every offence under this Act shall be cognizable and bailable.

**23. Offences by companies.-** (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the Company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.--**For the purposes of this section,--

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" , in relation to a firm, means a partner in the firm.

## CHAPTER VII

## MISCELLANEOUS

**24. Protection of action taken in good faith.-** No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

**25. Jurisdiction of civil courts barred.-** No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

**26. Power to make rules.-** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of section 6 is to be submitted in pursuance of sub-section (6) of that section;

(b) the time within which application for restoration of possession of property is to be made, under sub-section (6) of section 6, to the prescribed authority;

(c ) steps to be taken by Vigilance Committees under clause (a) of sub-section (1) of section 14, to ensure the implementation of the provisions of this Act or of any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**27.Repeal and saving.-** (1) The Bonded Labour System (Abolition) Ordinance, 1975(17 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.

## THE BONDED LABOUR SYSTEM (ABOLITION AMENDMENT ACT, 1985

NO.73 OF 1985 [24th December, 1985.]

**An Act to amend Bonded Labour System (Abolition) Act, 1976.**

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:-

1.Short title.- This Act may be called the Bonded Labour System (Abolition) Amendment Act, 1985.

2.Amendment of section 2.- . In the Bonded Labour System (Abolition) Act, 1976, (19 of 1976) in section 2, in clause (g), the following Explanation shall be added at the end, namely:-

Explanation:-For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970, (37 of 1970.) or an inter-State migrant workman as defined in clause (e) of sub-section (1) of

section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979)., is required to render labour or service in circumstances of the nature in sub-clause (1) of this clause or is subject to all or any of the disabilities referred to in sub-clauses (2) to(4) , is "bonded labour system" within the meaning of this clause.'.

## HISTORY OF THE LEGISLATION:

### A. STATEMENT OF OBJECTS AND REASONS:

There still exists in different parts of the country a system of usury under which the debtor or his decendants or dependants have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt. At times, several generations work under bondage for the repayment of a paltry sum which had been taken by some remote ancestor. The interest rates are exhorbitant and such bondage cannot be interpreted as the result of any legitimate contract or agreement. The system implies the infringement of the basic human rights and destruction of the dignity of human labour.

2. Article 23 (1) of the Constitution prohibits "begar" and other similar forms of forced labour and further provides that any contravention of the said prohibition shall be an offence punishable in accordance with law. Article 35 (a) (ii) of the Constitution not only confers the power on Parliament to provide for punishment for the contravention of the said provisions of Article 23 (1) but expressly takes away the power of the State Legislature to make any legislation with regard to the said matter. Accordingly, the Bonded Labour System (Abolition) Ordinance, 1975, was promulgated by the President on the 24th October, 1975. By the said Ordinance, the bonded labour system was abolished and bounded labourers were freed and discharged from any obligation to render any bonded labour and their bonded debts were also extinguished. The Ordinance further affords protection to the freed bonded labourers from eviction from their homestead. Contraventions of the provisions of the Ordinance have been made offences punishable in accordance with law. Provisions for the follow-up measures and economic rehabilitation of the freed bonded labourers have also **been made in the** Ordinance.

3. The Bill seeks to replace the said Ordinance.

B. ACT 19 OF 1976

**The Bill, received the assent of THE HON'BLE PRESIDENT on 9th February, 1976.**

An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto.

This Act may be called THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976.

It extends to the whole of India.

It shall be deemed to have come into force on the 25th day of October, 1975.

C. COMMENTS:

Bonded labour is a kind of forced labour. The object of the Act, is to wipe out all forms of forced labour.

Section 12 of this Act cast a duty on every Magistrate and every officer specified by him to inquire whether any bonded labour system or any other form of forced labour is being

enforced by or on behalf of any person and, if so to take such action as may be necessary to wipe of such forced labour.

D. NOTE:

The Bonded Labour System (Abolition) Act, 1976.

S.3 Act to have overriding effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment, other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

E. ACT SCOPE:

The Bonded Labour System (Abolition) Act, 1976.

S.27 Repeal and saving:

(1) The Bonded Labour System (Abolition) Ordinance, 1975 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.

F. DELEGATED LEGISLATION:

I. RULES:

THE BONDED LABOUR SYSTEM (ABOLITION) RULES, 1976

These Rules shall come into force on the date of their publication in the Official Gazette.

(Published in the Gazette of India, Extraordinary, Pt. II, Sec. 3 (i) dated 28th February 1976.

G. MARCH OF LEGISLATION:

1. The Bonded Labour System (Abolition) Amendment Act, 1985 (73 of 1985).

THE BUILDINGS AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996

ACT NO. 27 OF 1996

[19th August, 1996]

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:-

An Act to regulate the employment and condition of service of buildings and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.

CHAP

PRELIMINARY

## CHAPTER I

## PRELIMINARY

1.

Short title extent commencement and application.

1. Short title extent commencement and application. (1) This Act may be called the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more buildings workers in any building or other construction work.



Explanation.- For the purposes of this sub-section, the buildings workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of buildings workers employed in the establishment.

2.

Definitions.

2. Definitions. (1) In this Act, unless the context otherwise requires,-

(a) "appropriate Government" means,-

(i) in relation to an establishment (which employs building workers either directly or through a contractor) in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any such establishment, being a public sector undertaking, as the Central Government may by notification specify which employs building workers either directly or through a contractor, the Central Government;

Explanation.-For the purposes of sub-clause (ii), "public sector

undertaking" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act 1956 (1 of 1956), which is owned, controlled or managed by the Central Government;

(iii) in relation to any other establishment which employs building workers either directly or through a contractor, the Government of the State in which that other establishment is situate;

(b) "beneficiary" means a building worker registered under section 12;

(c) "Board" means a Building and Other Construction Workers' Welfare Board constituted under sub-section (1) of section 18;

(d) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply;

(e) "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person-

(i) who is employed mainly in a managerial or administrative capacity;

or

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

(f) "Chief Inspector" means the Chief Inspector of Inspection of Building and Construction appointed under sub-section (2) of section 42;



(g) "contractor" means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of buildings workers or who supplies buildings workers for any work of the establishment; and includes a sub-contractor;

(h) "Director-General" means the Director-General of Inspection appointed under sub-section (1) of section 42;

(i) "employer", in relation to an establishment, means the owner thereof, and includes,-

(i) in relation to A building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;

(ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment directly without any contractor, the chief executive officer of that authority or establishment;

(iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor,

(j) "establishment" means any establishment belonging to, or

under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;

(k) "Fund" means the Building and Other Construction Workers' Welfare Fund of a Board constituted under sub-section (1) of section 24;

(l) "notification" means a notification published in the Official Gazette;

(m) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(n) "wages" shall have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936).

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

CHAP

THE ADVISORY COMMITTEES AND EXPERT COMMITTEES

## CHAPTER II

## THE ADVISORY COMMITTEES AND EXPERT COMMITTEES

3.

Central Advisory Committee.

3. Central Advisory Committee. (1) The Central Government shall, as soon as may be, constitute a Committee to be called the Central Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the Central Advisory Committee) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The Central Advisory Committee shall consist of-

(a) a Chairperson to be appointed by the Central Government;

(b) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States-members;

(c) the Director-General-member, ex officio;



(d) such number of other members, not exceeding thirteen but not less than nine, as the Central Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (d) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Advisory Committee shall be such as may be prescribed:

Provided that the members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

(4) It is hereby declared that the office of member of the Central Advisory Committee shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

4.

State Advisory Committee.

4. State Advisory Committee. (1) The State Government shall constitute a committee to be called the State Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the State Advisory Committee) to advise the State Government on such matters arising out of the administration of this act as may be referred to it.

(2) The State Advisory Committee shall consist of-

(a) a Chairperson to be appointed by the State Government;

(b) two members of the State Legislature to be elected from the State Legislature members;

(c) a member to be nominated by the Central Government;

(d) the Chief Inspector-member, ex officio;

(e) such number of other members, not exceeding eleven" but not less than seven, as the State Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the State Government, ought to be represented on the State Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (e) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of State Advisory Committee shall be such as may be prescribed:

Provided that the number of members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

5.

Expert Committees.

5. Expert Committees. (1) The appropriate Government may constitute one or more expert committees consisting of persons specially qualified in building or other construction work for advising that Government for making rules under this Act.

(2) The members of the export committee shall be paid such fees and allowances for attending the meetings of the committee as may be prescribed:

Provided that no fee or allowances shall be payable to a member who is in officer of Government or of any body corporate established by or under any law for the time being in force.

CHAP

REGISTRATION OF ESTABLISHMENTS

## CHAPTER III

## REGISTRATION OF ESTABLISHMENTS

6.

Appointment of registering officers.

6. Appointment of registering officers. The appropriate Government may, by order notified in the Official Gazette,-

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit, to be the registering officers for the purposes of this Act; and

(b) define the limits within which a registering officer shall exercise the powers conferred on him by or under this Act.

7.

Registration of establishments.

7. Registration of establishments. (1) Every employer shall,-

(a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and

(b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment,

make an application to the registering officer for the registration of such establishment:

Provided that the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.

(4) Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.

8.

Revocation of registration in certain cases.

8. Revocation of registration in certain cases. If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that the provisions of this Act are not being complied with in relation to any work carried on by such establishment, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, he may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration.

9.

Appeal.

9. Appeal. (1) Any person aggrieved by an order made under section 8 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, confirm, modify or reverse the order of revocation as expeditiously as possible.

10.

Effect of non-registration.

10. Effect of non-registration. No employer of an establishment to which this Act applies shall,-

(a) in the case of an establishment required to be registered under section 7, but which has not been registered under that section;

(b) in the case of an establishment the registration in respect of which has been revoked under section 8 and no appeal has been preferred against such order of revocation under section 9 within the period prescribed for the preferring of such appeal or where an appeal has been so preferred, such appeal has been dismissed,

employ building workers in the establishment after the expiry of the period referred to in clause (a) or clause (b) of sub-section (1) of section 7, or after the revocation of registration



under section 8 or after the expiry of the period for preferring an appeal under section 9 or after the dismissal of the appeal, as the case may be.

CHAP

REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES

## CHAPTER IV

## REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES

11.

Beneficiaries of the Fund.

11. Beneficiaries of the Fund. Subject to the provisions of this Act, every building worker registered as a beneficiary under this Act shall be entitled to the benefits provided by the Board from its Fund under this Act.

12.

Registration of building workers as beneficiaries.

12. Registration of building workers as beneficiaries. (1) Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act.

(2) An application for registration shall be made in such form, as may be prescribed, to the officer authorised by the Board in this behalf.

(3) Every application under sub-section (2) shall be accompanied by such documents together with such fee not exceeding fifty rupees as may be prescribed.

(4) If the officer authorised by the Board under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, he shall register the name of the building worker as a beneficiary under this Act:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard.

(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the Secretary of the Board or any other officer specified by the Board in this behalf and the decision of the Secretary or such other officer on such appeal shall be final:

Provided that the Secretary or any other officer specified by the Board in this behalf may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the building worker was prevented by sufficient cause from filing the appeal in time.

(6) The Secretary of the Board shall cause to maintain such registers as may be prescribed.

13.

Identity cards.

13. Identity cards. (1) The Board shall give to every beneficiary an identity card with his photograph duly affixed thereon and with enough space for entering the details of the building or other construction work done by him.

(2) Every employer shall enter in the identity card the details of the building or other construction work done by the beneficiary and authenticate the same and return it to the beneficiary.

(3) A beneficiary who has been issued an identity card under this Act shall produce the same whenever demanded by any officer of Government or the Board, any inspector or any other authority for inspection.

14.

Cessation as a beneficiary.

14. Cessation as a beneficiary. (1) A building worker who has been registered as a beneficiary under this Act shall cease. to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due



to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as may be prescribed.

Explanation.-For computing the period of three years as a beneficiary with a Board under this sub-section, there shall be added any period for which a person had been a beneficiary with any other Board immediately before his registration.

15.

Register of beneficiaries.

15. Register of beneficiaries. Every employer shall maintain a

register in such form as may be prescribed showing the details of employment of beneficiaries employed in the building or other construction work undertaken by him and the same may be inspected without any prior notice by the Secretary of the Board or any other officer duly authorised by the Board in this behalf.

16.

Contribution of buildings workers.

16. Contribution of buildings workers. (1) A building worker who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate per mensem as may be specified by the State Government, by notification in the Official Gazette and different rates of contribution may be specified for different classes of building workers:

Provided that the Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.

(2) A beneficiary may authorise his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.

17.

Effect of non-payment of contribution.

17. Effect of nonpayment of contribution. When a beneficiary has not paid his contribution under sub-section (1) of section 16 for a continuous period of not less than one year, he shall cease to be a beneficiary:

Provided that if the Secretary of the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the building worker is willing to deposit the arrears, he may allow the building worker to deposit the contribution in arrears and on such deposit being made, the registration of building worker shall stand restored.

CHAP

BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE BOARDS

## CHAPTER V

## BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE BOARDS

18.

Constitution of State Welfare Boards.

18. Constitution of State Welfare Boards. (1) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the (name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of a chairperson, a person to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:

Provided that the Board shall include an equal number of members representing the State Government, the employers and the building

workers and that at least one member of the Board shall be a woman.

(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Board, and the



manner of filling of casual vacancies of the members of the Board, shall be such as may be prescribed.

19.

Secretary and of Boards.

19. Secretary and of Boards. (1) The Board shall appoint a Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The Secretary of the Board shall be its chief executive officer.

(3) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Board shall be such as may be prescribed.

20.

Meetings of Boards.

20. Meetings of Boards. (1) The Board shall meet at such time and place and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed.

(2) The chairperson or, if for any reason he is unable to attend a meeting of the Board, any member nominated by the chairperson in this behalf and in the absence of such nomination, any other member elected by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting, and in the event of equality of votes, the chairperson, or in his absence, the person presiding, shall have a second or a casting vote.

21.

Vacancies, etc., not to invalidate proceedings of the Boards.

21. Vacancies, etc., not to invalidate proceedings of the Boards. No act or proceedings of a Board shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Board;

or

(b) any defect in the appointment of a person acting as a member of the Board;

or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

22.

Functions of the Boards.

22. Functions of the Boards. (1) The Board may-

(a) provide immediate assistance to a beneficiary in case of accident;

(b) make payment of pension to the beneficiaries who have completed the age of sixty years;

(c) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;

(d) pay such amount in connection with premia for Group Insurance Scheme of the beneficiaries as it may deem fit;

(e) give such financial assistance for the education of children of the beneficiaries as may be prescribed;

(f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;

(g) make payment of maternity benefit to the female beneficiaries; and

(h) make provision and improvement of such other welfare measures and facilities as may be prescribed.

(2) The Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the



welfare of building workers in any establishment.

(3) The Board may pay annually grants-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard specified by the Board for the benefit of the building workers and the members of their family, so, however, that the amount payable as grants-in-aid to any local authority or employer shall not exceed-

(a) the amount spent in providing welfare measures and facilities as determined by the State Government or any person specified by it in this behalf, or

(b) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf.

23.

Grants and loans by the Central Government.

23. Grants and loans by the Central Government. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to a Board grants and loans of such sums of money as the Government may consider necessary.

24.

Building and Other Construction Worker's Welfare Fund and its application.

24. Building and Other Construction Worker's Welfare Fund and its application. (1) There shall be constituted by a Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto-

(a) any grants and loans made to the Board by the Central Government under section 23;

(b) all contributions made by the beneficiaries;

(c) all sums received by the Board from such other sources as may be decided by the Central Government.

(2) The Fund shall be applied for meeting-

(a) expenses of the Board in the discharge of its functions under section 22; and

(b) salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(c) expenses on objects and for purposes authorised by this Act.

(3) No Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year.

25.

Budget.

25. Budget. The Board shall prepare, in such form and at such time each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the State Government and the Central Government.

26

Annual report.

26. Annual report. The Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government and the Central Government.

27.

Accounts and audit.

27. Accounts and audit. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.



(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board under this Act.

(3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(4) The Board shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

(5) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the State Legislature.

## CHAPTER VI

## HOURS OF WORK, WELFARE MEASURES AND OTHER CONDITIONS OF SERVICE OF BUILDING WORKERS

28.

Fixing hours for normal working day, etc.

28. Fixing hours for normal working day, etc. (1) The appropriate Government may, by rules,-

(a) fix the number of hours of work which shall constitute a normal working day for a building worker, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all building workers and for the payment of remuneration in respect of such days of rest;

(c) provide for payment of work on a day of rest at a rate not less than the overtime rate specified in section 29.

(2) The provisions of sub-section (1) shall, in relation to the following classes of building workers, apply only to such extent, and subject to such conditions, as may be prescribed, namely:-

(a) persons engaged on urgent work, or in any emergency which could not have been foreseen or prevented;

(b) persons engaged in a work in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;

(c) persons engaged in any work which for technical reasons has to be completed before the day is over;

(d) persons engaged in a work which could not be carried on except at times dependant on the irregular action of natural forces.

29.

Wages for overtime work.

29. Wages for overtime work. (1) Where any building worker is required to work on any day in excess of the number of hours constituting a normal working day, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowances as the worker is for the time being entitled to but does not include any bonus.



30.

Maintenance of registers and records.

30. Maintenance of registers and records. (1) Every employer shall maintain such registers and records giving such particulars of building workers employed by him, the work performed by them, the number of hours of work which shall constitute a normal working day for them, a day of rest in every period of seven days which shall be allowed to them, the wages paid to them, the receipts given by them and such other particulars in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the place where such workers may be employed,

notices in the prescribed form containing the prescribed particulars.

(3) The appropriate Government may, by rules, provide for the issue of wage books or wage slips to building workers employed in an establishment and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

31.

Prohibition of employment of certain persons in certain buildings or other construction work.

31. Prohibition of employment of certain persons in certain buildings or other construction work. No person about whom the employer knows or has reason to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

32.

Drinking water.

32. Drinking water. (1) The employer shall make in every place where building or other construction work is in progress, effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "Drinking Water" in a language understood by a majority of the persons employed in such place and no such point shall be situated within six metres of any washing place, urinal or latrine.

33.

Latrines and urinals.

33. Latrines and urinals. In every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation of such types as may be prescribed and they shall be so conveniently situated as may be accessible to the building workers at all times while they are in such place:

Provided that it shall not be necessary to provide separate urinals in any place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

34.

Accommodation.

34. Accommodation. (1) The employer shall provide, free of charges and within the work site or as near to it as may be possible, temporary living accommodation to all building workers employed by him for such period as the building or other construction work is in progress.

(2) The temporary accommodation provided under sub-section (1) shall have separate cooking place, bathing, washing and lavatory facilities.

(3) As soon as may be, after the building or other construction work is over, the employer shall, at his own cost, cause removal or demolition of the temporary structures erected by him for the purpose of providing living accommodation, cooking place or other facilities to the building workers as required under sub-section (1) and restore the ground in good level and clean condition.

(4) In case an employer is given any land by a Municipal Board

or any other local authority for the purposes of providing temporary accommodation for the building workers under this section, he shall, as soon as may be after the construction work is over, return the possession of such land in the same condition in which he received the same.



35.

Creches.

35. Creches. (1) In every place wherein, more than fifty female building workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female workers.

(2) Such rooms shall-

(a) provide adequate accommodation;

(b) be adequately lighted and ventilated;

(c) be maintained in a clean and sanitary condition;

(d) be under the charge of women trained in the care of children and infants.

36.

First-aid.

36. First-aid. Every employer shall provide in all the places where building or other construction work is carried on such first-aid facilities as may be prescribed.

37.

Canteens, etc.

37. Canteens, etc. The appropriate Government may, by rules, require the employer-

(a) to provide and maintain in every place wherein not less than two hundred and fifty building workers are ordinarily employed, a canteen for the use of the workers;

(b) to provide such other welfare measures for the benefit of building workers as may be prescribed.

CHAP

SAFETY AND HEALTH MEASURES

## CHAPTER VII

## SAFETY AND HEALTH MEASURES

38.

Safety Committee and safety officers.

38. Safety Committee and safety officers. (1) In every establishment wherein five hundred or more building workers are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the building workers as may be prescribed by the State Government:

Provided that the number of persons representing the workers, shall, in no case, be less than the persons representing the employer.

(2) In every establishment referred to in sub-section (1), the employer shall also appoint a safety officer who shall possess such qualifications and perform such duties as may be prescribed.

39.

Notice of certain accidents.

39. Notice of certain accidents. (1) Where in any establishment an accident occurs which causes death or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such a nature as may be prescribed, the employer shall give notice thereof to such authority, in such form and within such time as may be prescribed.

(2) On receipt of a notice under sub-section (1) the authority referred to in that subsection may make such investigation or inquiry as it considers necessary.

(3) Where a notice given under sub-section (1) relates to an accident causing death of five or more persons, the authority shall make an inquiry into such accident within one month of the receipt of the notice.

40.

Power of appropriate Government to make rules for the safety and health of buildings workers.

40. Power of appropriate Government to make rules for the safety and health of buildings workers. (1) The appropriate Government may, by notification, make rules regarding the measures to be taken for the safety and health of building workers in the course of their employment and the equipment and appliances necessary to be provided to them for ensuring their safety, health and protection, during such employment.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-



(a) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(b) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person and the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(c) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(d) the erection, installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(e) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances,

(f) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in

progress and of all openings dangerous to building workers employed;

(g) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;

(h) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;

(i) the safeguarding of machinery including the fencing of every fly-Wheel and every moving part of a prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working on any of the operations and as if it were securely fenced;

(j) the safe handling and use of plant, including tools and equipment operated by compressed air;

(k) the precautions to be taken in case of fire;

(l) the limits of weight to be lifted or moved by workers;

(m) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(n) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;

(o) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

(p) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipments and floating operational equipments;



(q) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(r) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefor and the matters connected therewith, to be framed by the employers and contractors for the operation to be carried on in a building or other construction work;

(s) the information to be furnished to the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986 (63 of 1986), regarding the use of any article or process covered under the Act in a buildings or other construction work;

(t) the provision and maintenance of medical facilities for building workers;

(u) any other matter concerning the safety and health of workers working in any of the operations being carried on in a building or other construction work.

41.

Framing of model rules for safety measures.

41. Framing of model rules for safety measures. The Central Government may, after considering the recommendation of the expert committee constituted under section 5, frame model rules in respect of all or any of the matters specified in section 40 and where any such model rules have been framed in respect of any such matter the appropriate Government shall, while making any rules in respect of that matter under section 40, so far as is practicable, conform to such model rules.

CHAP

INSPECTING STAFF

## CHAPTER VIII

## INSPECTING STAFF

42.

Appointment of Director-General, Chief Inspector and Inspectors.

42. Appointment of Director-General, Chief Inspector and Inspectors. (1) The Central Government may, by notification, appoint a Gazetted Officer of that Government to be the Director-General of Inspection who shall be responsible for laying down the standards of inspection and shall also exercise the powers of an Inspector throughout India in relation to all the establishments for which the Central Government is the appropriate Government.

(2) The State Government may, by notification, appoint a Gazetted Officer of that Government to be the Chief Inspector of Inspection of Building and Construction who shall also exercise the powers of an Inspector under this Act throughout the State in relation to establishments for which the State Government is the appropriate Government.

(3) The appropriate Government may, by notification, appoint such number of its officers as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(4) Every Inspector appointed under this section shall be subject to the control of the Director-General or the Chief Inspector, as the case may be, and shall exercise his powers and perform his functions under this Act subject to general control and supervision of the Director-General or the Chief inspector.

(5) The Director-General, the Chief Inspector and every Inspector shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

43.

Power of Inspectors.

43. Power of Inspectors. (1) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,-

(a) enter, at all reasonable hours, with such assistants (if any) being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where building or other construction work is carried on, for the purpose of examining any register or record or notices required to be kept or exhibited by or under this Act, and require the production thereof for inspection;



(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe is a building worker employed therein;

(c) require any person giving out building or other construction work to any building worker, to give any information which is in his power to give with respect to the names and addresses of the persons to, for and whom the building or other construction work is given out or received, and with respect to the payments to be made for the building or other construction work;

(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of

an offence under this Act which he has reason to believe has been committed by the employer; and

(e) exercise such other powers as may be prescribed.

(2) For the purposes if this section, the Director-General or the chief Inspector, as the case may be, may employ experts or agencies having such qualifications and experience and on such terms and conditions as may be prescribed.

(3) any person required to produce any document or to give my information required by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

CHAP

SPECIAL PROVISIONS

## CHAPTER IX

## SPECIAL PROVISIONS

44.

Responsibility of employers.

44. Responsibility of employers. An employer shall be responsible for providing constant and adequate supervision of any building or other construction work in his establishment as to ensure compliance with the provisions of this Act relating to safety and for taking all practical steps necessary to prevent accidents.

45.

Responsibility for payment of wages and compensation.

45. Responsibility for payment of wages and compensation. (1) An employer shall be responsible for payment of wages to each building worker employed by him and such wages shall be paid on or before such date as may be prescribed.

(2) In case the contractor fails to make payment of compensation in respect of a building worker employed by him, where he is liable to make such payment when due, or makes short payment thereof, then in the case of death or disablement of the building worker, the employer shall be liable to make payment of that compensation in full or the unpaid balance due in accordance with the provisions of the Workmen's compensation Act 1923 (8 of 1923), and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

46.

Notice of commencement of building or other construction work.

46. Notice of commencement of building or other construction work. (1) An employer shall, at least thirty days before the commencement of any building or other construction work, send or cause to be sent to the Inspector having jurisdiction in the area where the proposed building or other construction work is to be executed, a written notice containing-

(a) the name and situation of the place where the buildings or other construction work is proposed to be carried on;

(b) the name and address of the person who is undertaking the building or other construction work;

(c) the address to which communications relating to the building or other construction work may be sent;



(d) the nature of the work involved and the facilities, including any plant and machinery, provided;

(e) the arrangements for the storage of explosives, if any, to be used in the building or other construction work,

(f) the, number of workers likely to be employed during the various stages of building or other construction work;

(g) the name and designation of the person who will be in overall charge of the building or other construction work at the site;

(h) the approximate duration of the work;

(i) such other matters as may be prescribed.

(2) Where any change occurs in any of the particulars furnished under sub-section (1), the employer shall intimate the change to the Inspector within two days of such change.

(3) Nothing contained in sub-section (1) shall apply in case of such class of building or other construction work as the appropriate Government may by notification specify to be emergent works.

CHAP

PENALTIES AND PROCEDURE

## CHAPTER X

## PENALTIES AND PROCEDURE

47.

Penalty for contravention of provisions regarding safety measures.

47. Penalty for contravention of provisions regarding safety measures. (1) Whoever contravenes the provisions of any rules made under section 40 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person who has been convicted of any offence punishable under subsection (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees or with both:

Provided that for the purposes of this sub-section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted:

Provided further that the authority imposing the penalty, if it is satisfied that there are exceptional circumstances warranting such a course may, after recording its reasons in writing, impose a fine of less than five hundred rupees.

48.

Penalty for failure to give notice of the commencement of the building or other construction work.

48. Penalty for failure to give notice of the commencement of

the building or other construction work. Where an employer fails to give notice of the commencement of the building or other construction work under section 46, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may "tend to two thousand rupees, or with both.

49.

Penalty for obstructions.

49. Penalty for obstructions. (1) Whoever obstructs an Inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in



relation to an establishment shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before, or being examined by, an Inspector acting in pursuance of his duties under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

50.

Penalty for other offences.

50. Penalty for other offences. (1) Whoever contravenes any other provision of this Act or any rules made thereunder or who fails to comply with any provision of this Act or any rules made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, and in the case of a continuing contravention or failure, as the case may be, with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure.

(2) A penalty under sub-section (1) may be imposed-

(a) by the Director-General where the contravention or failure relates to a matter to which the appropriate Government is the Central Government; and

(b) by the Chief Inspector where the contravention or failure relates to a matter to which the appropriate Government is the State Government.

(3) No penalty shall be imposed unless the person concerned is given a notice, in writing-

(a) informing him of the grounds on which it is proposed to impose a penalty; and

(b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

(4) Without prejudice to any other provision contained in this Act, the Director- General and the Chief Inspector shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while exercising any powers under this section, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record, or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(5) Nothing contained in this section shall be construed to prevent the person concerned from being prosecuted under any other provision of this Act or any other law for any offence made punishable by this Act or by that other law, as the case may be, or for being liable under this Act or any such law to any other or higher penalty or punishment than is provided for such offence by this section:

Provided that no person shall be punished twice for the same offence.



51.

Appeal.

51. Appeal. Any person aggrieved by the imposition of any penalty under section 50 may prefer an appeal-

(a) where the penalty has been imposed by the Director-General, to the Central Government;

(b) where the penalty has been imposed by the Chief Inspector, to the State Government, imposition of such penalty:

Provided that the Central Government or the State Government, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the aforesaid period of three months, allow such appeal to be preferred within a further period of three months.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, if he so desires, and after making such further inquiry, if any, as it may consider necessary, pass such order as it thinks fit confirming, modifying or reversing the order appealed against or may send back the case with such directions as it may think fit for a fresh decision.

52.

Recovery of penalty.

52. Recovery of penalty. Where any penalty imposed on any person under section 50 is not paid,-

(i) the Director-General or, as the case may be, the Chief Inspector may deduct the amount so payable from any money owing to such person which may be under his control; or

(ii) the Director-General or, as the case may be, the Chief Inspector may recover the amount so payable by detaining or selling the goods belonging to such person which are under his control; or

(iii) if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii), the Director-General or, as the case may be, the Chief Inspector may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such

certificate shall proceed, to recover from such person the amount specified thereunder as if it were an arrear of land revenue.

53.

Offences by companies.

53. Offences by companies. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.



54.

Cognizance of offences.

54. Cognizance of offences. (1) No court shall take cognizance of any offence punishable under this Act except on a complaint-

(a) made by, or with the previous sanction in writing of, the Director-General or the Chief Inspector; or

(b) made by an office-bearer of a voluntary organisation registered under the Societies Registration Act, 1860 (21 of 1860); or

(c) made by an office-bearer of any concerned trade union registered under the Trade Unions Act, 1926 (16 of 1926).

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

55.

Limitation of prosecutions.

55. Limitation of prosecutions. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the Director-General, the Chief Inspector, an office-bearer of a voluntary Organisation or, as the case may be, an office-bearer of any concerned trade union.

CHAP

## CHAPTER XI

## MISCELLANEOUS

56.

Delegation of powers.

56. Delegation of powers. A Board may, by general or special order, delegate to the Chairperson or any other member or to the Secretary or any other officer or employee of the Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

57.

Returns.

57. Returns. Every Board shall furnish from time to time to the Central Government and to the State Government such returns as they may require.

58.

Application of Act 8 of 1923 to building workers.

58. Application of Act 8 of 1923 to building workers. The provisions of the Workmen's Compensation Act, 1923, shall so far as may be, apply to building workers as if the employment to which this Act applies had been included in the Second Schedule to that Act.

59.

Protection of action taken in good faith.

59. Protection of action taken in good faith. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No prosecution or other legal proceeding shall lie against the Government, any Board or Committees constituted under this Act or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or Committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made or issued thereunder.

60.

Power of Government to give direction.

60. Power of Government to give direction. The Central Government may give directions to the Government of any State or to a Board as to the carrying into execution in that State of any of the provisions of this Act.

61.

Power to remove difficulties.

61. Power to remove difficulties. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to

be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.



(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

62.

Power to make rules.

62. Power to make rules. (1) The appropriate Government may, after consultation with the expert committee, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the number of persons to be appointed as members representing various interests on the Central Advisory Committee and the State Advisory Committees, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies under sub-section (3) of section 3 or, as the case may be, under sub-section (3) of section 4;

(b) the fees and allowances that may be paid to the members of the expert committee for attending its meetings under sub-section (2) of section 5;

(c) the form of application for the registration of an establishment, the levy of fees therefore and the particulars it may contain under sub-section (2) of section 7;

(d) the form of certificate of registration, the time within which and the conditions subject to which such certificate may be issued under sub-section (3) of section 7;

(e) the form in which the change in ownership or management or other particulars shall be intimated to the registering officer under sub-section (4) of section 7;

(f) the form in which an application for registration as a beneficiary shall be made under sub-section (2) of section 12;

(g) the document and the fee which shall accompany the application under subsection (3) of section 12;

(h) the registers which the Secretary of the Board shall cause to be maintained under sub-section (6) of section 12;

(i) the benefits which may be given under sub-section (2) of section 14;

(j) the form in which register of beneficiaries shall be maintained under section 15;

(k) the terms and conditions of appointment, the salaries and other allowances payable to, and the manner of filling of casual vacancies of, the Chairperson and other members of the Board under sub-section (4) of section 18;

(l) the terms and conditions of service and the salaries and allowances payable to the Secretary and the other officers and employees of the Board under subsection (3) of section 19;

(m) the time and place, of the meeting of the Board and the rules of procedure to be followed at such meeting under sub-section (1) of section 20 including quorum necessary for the transaction of business;

(n) the amount payable as house building loans or advances, the terms and conditions of such payment under clause (c), educational assistance under clause (e), medical expenses payable and the persons who shall be the dependent of the beneficiaries under clause (f), and the other welfare measures for which provision may be made under

clause (h), of sub-section (1) of section 22;

(o) the limits of grants-in-aid payable to the local authorities and employers under clause (b) of sub-section (3) of section 22;



(p) the form in which and the time within which the budget of the Board shall be prepared and forwarded to Government under section 25;

(q) the form in which and the time within which the annual report of the Board shall be submitted to the State Government and the Central Government under section 26;

(r) the form of annual statement of accounts under sub-section (1), and the date before which the audited copy of the accounts together with the auditor's report shall be furnished under sub-section (4), of section 27;

(s) the matters required to be provided under sub-section (1) of section 28 and the extent up to which, and the conditions subject to which, the provisions of that subsection shall apply to the building workers under sub-section (2) of that section;

(t) the registers and records that shall be maintained by the employer and the form in which such registers and records shall be maintained and the particulars to be included therein under sub-section (1) of section 30;

(u) the form and manner in which a notice shall be exhibited and the particulars it may contain under sub-section (2) of section 30;

(v) the issue of wage books or wage slips to building workers and the manner in which entries are to be made and authenticated in wage books or wage slips under sub-section (3) of section 30;

(w) the types of latrines and urinals required to be provided under section 33;

(x) the first-aid facilities which are to be provided under section 36;

(y) the canteen facilities which are to be provided under clause (a) of section 37;

(z) the welfare measures which are to be provided under clause (b) of section 37;

(za) the number of representatives of the employer and the building workers under sub-section (1) of section 38 and the qualifications of safety officers and the duties to be performed by them under sub-section (2) of that section;

(zb) the form of a notice of accident, other matters to be provided in this behalf and the time within which such notice shall be given under sub-section (1) of section 39;

(zc) the rules to be made for the safety and health of building workers under section 40;

(zd) the powers that may be exercised by an Inspector under clause (e) of subsection (1) of section 43 and the qualifications and experience which the experts or agencies employed under sub-section (2) of that section shall possess and the terms and conditions on which such experts or agencies may be employed;

(ze) the date on or before which wages shall be paid to a building worker under section 45;

(zf) the matters which are required to be prescribed under clause (i) of subsection (1) of section 46;

(zg) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more

successive session, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or



both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House

63.

Saving of certain laws.

63. Saving of certain laws. Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than those provided for them by or under this Act.

64.

Repeal and saving.

64. Repeal and saving. (1) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Third Ordinance, 1996 (Ord. 25 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

*Short Title:* THE BUILDINGS AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996 **Act No. of Year:** NO. 27 OF 1996 **Enactment Date:** [19th August, 1996] **Act Objective:** BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:- **An Act to regulate the employment and condition of service of buildings and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.**

## CHAPTER I
## PRELIMINARY

**Short title extent commencement and application. (1) This Act may be called the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.**

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more buildings workers in any building or other construction work.

Explanation.- For the purposes of this sub-section, the buildings workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of buildings workers employed in the establishment.

**Definitions**. (1) In this Act, unless the context otherwise requires,-

(a) "appropriate Government" means,-

(i) in relation to an establishment (which employs building workers either directly or through a contractor) in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any such establishment, being a public sector undertaking, as the Central Government may by notification specify which employs building workers either directly or through a contractor, the Central Government;

Explanation.-For the purposes of sub-clause (ii), "public sector undertaking" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act 1956 (1 of 1956), which is owned, controlled or managed by the Central Government;

(iii) in relation to any other establishment which employs building workers either directly or through a contractor, the Government of the State in which that other establishment is situate;

(b) "beneficiary" means a building worker registered under section 12;

(c) "Board" means a Building and Other Construction Workers' Welfare Board constituted under sub-section (1) of section 18;

(d) "building or other construction work" means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948),
or the Mines Act, 1952 (35 of 1952), apply;

(e) "building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person-

(i) who is employed mainly in a managerial or administrative capacity; or

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

(f) "Chief Inspector" means the Chief Inspector of Inspection of Building and Construction appointed under sub-section (2) of section 42;

(g) "contractor" means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of buildings workers or who supplies buildings workers for any work of the establishment; and includes a sub-contractor;

(h) "Director-General" means the Director-General of Inspection appointed under sub-section (1) of section 42;

(i) "employer", in relation to an establishment, means the owner thereof, and includes,-

(i) in relation to A building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;

(ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment directly without any contractor, the chief executive officer of that authority or establishment;

(iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor,

(j) "establishment" means any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, **but does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;**

(k) "Fund" means the Building and Other Construction Workers' Welfare Fund of a Board constituted under sub-section (1) of section 24;

(l) "notification" means a notification published in the Official Gazette;

(m) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(n) "wages" shall have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936).

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

## CHAPTER II

## THE ADVISORY COMMITTEES AND EXPERT COMMITTEES

**3. Central Advisory Committee**. (1) The Central Government shall, as soon as may be, constitute a Committee to be called the Central Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the Central Advisory Committee) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The Central Advisory Committee shall consist of-

(a) a Chairperson to be appointed by the Central Government;

(b) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States-members;

(c) the Director-General-member, ex officio;

(d) such number of other members, not exceeding thirteen but not less than nine, as the Central Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (d) of sub-section (2), the term of office and other conditions of service of, the

procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Advisory Committee shall be such as may be prescribed:

Provided that the members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

(4) It is hereby declared that the office of member of the Central Advisory Committee shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

**4. State Advisory Committee.** (1) The State Government shall constitute a committee to be called the State Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the State Advisory Committee) to advise the State Government on such matters arising out of the administration of this act as may be referred to it.

(2) The State Advisory Committee shall consist of-

(a) a Chairperson to be appointed by the State Government;

**(b) two members of the State Legislature to be elected from the State Legislature members;**

(c) a member to be nominated by the Central Government;

(d) the Chief Inspector-member, ex officio;

(e) such number of other members, not exceeding eleven" but not less than seven, as the State Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the State Government, ought to be represented on the State Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (e) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of State Advisory Committee shall be such as may be prescribed:

**5. Expert Committees.** (1) The appropriate Government may constitute one or more expert committees consisting of persons specially qualified in building or other construction work for advis-ing that Government for making rules under this Act.

(2) The members of the export committee shall be paid such fees and allowances for attending the meetings of the committee as may be prescribed:

Provided that no fee or allowances shall be payable to a member who is in officer of Government or of any body corporate established by or under any law for the time being in force.

Provided that the number of members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

## CHAPTER III

## REGISTRATION OF ESTABLISHMENTS

**6. Appointment of registering officers**. The appropriate Government may, by order notified in the Official Gazette,-

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit, to be the registering officers for the purposes of this Act; and

(b) define the limits within which a registering officer shall exercise the powers conferred on him by or under this Act.

**7. Registration of establishments.** (1) Every employer shall,-

(a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and

(b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment, make an application to the registering officer for the registration of such establishment:

**Provided that** the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.

(4) Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.

**8. Revocation of registration in certain cases.** If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that the provisions of this Act are not being complied with in relation to any work carried on by such establishment, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, he may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration.

**9. Appeal.** (1) Any person aggrieved by an order made under section 8 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, confirm, modify or reverse the order of revocation as expeditiously as possible.

**10. Effect of non-registration**. No employer of an establishment to which this Act applies shall,-

(a) in the case of an establishment required to be registered under section 7, but which has not been registered under that section;

(b) in the case of an establishment the registration in respect of which has been revoked under section 8 and no appeal has been preferred against such order of revocation under section 9 within the period prescribed for the preferring of such appeal or where an appeal has been so preferred, such appeal has been dismissed employ building workers in the establishment after the expiry of the period referred to in clause (a) or clause (b) of sub-section (1) of section 7, or after the revocation of registration under section 8 or after the expiry of the period for preferring an appeal under section 9 or after the dismissal of the appeal, as the case may be.

**11. Beneficiaries of the Fund.** Subject to the provisions of this Act, every building worker registered as a beneficiary under this Act shall be entitled to the benefits provided by the Board from its Fund under this Act.

## CHAPTER IV

## REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES

**12. Registration of building workers as beneficiaries**. (1) Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act.

(2) An application for registration shall be made in such form, as may be prescribed, to the officer authorised by the Board in this behalf.

(3) Every application under sub-section (2) shall be accompanied by such documents together with such fee not exceeding fifty rupees as may be prescribed.

(4) If the officer authorised by the Board under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, he shall register the name of the building worker as a beneficiary under this Act:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard.

(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the Secretary of the Board or any other officer specified by the Board in this behalf and the decision of the Secretary or such other officer on such appeal shall be final:

Provided that the Secretary or any other officer specified by the Board in this behalf may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the building worker was prevented by sufficient cause from filing the appeal in time.

(6) The Secretary of the Board shall cause to maintain such registers as may be prescribed.

**13. Identity cards.** (1) The Board shall give to every beneficiary an identity card with his photograph duly affixed thereon and with enough space for entering the details of the building or other construction work done by him.

(2) Every employer shall enter in the identity card the details of the building or other construction work done by the beneficiary and authenticate the same and return it to the beneficiary.

(3) A beneficiary who has been issued an identity card under this Act shall produce the same whenever demanded by any officer of Government or the Board, any inspector or any other authority for inspection.

**14. Cessation as a beneficiary**. (1) A building worker who has been registered as a beneficiary under this Act shall cease. to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as may be prescribed.

Explanation.-For computing the period of three years as a beneficiary with a Board under this sub-section, there shall be added any period for which a person had been a beneficiary with any other Board immediately before his registration.

**15. Register of beneficiaries**. Every employer shall maintain a register in such form as may be prescribed showing the details of employment of beneficiaries employed in the building or other construction work undertaken by him and the same may be inspected without any prior notice by the Secretary of the Board or any other officer duly authorised by the Board in this behalf.

**16. Contribution of buildings workers.** (1) A building worker who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate per mensem as may be specified by the State Government, by notification in the Official Gazette and different rates of contribution may be specified for different classes of building workers:

Provided that the Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.

(2) A beneficiary may authorise his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.17. Effect of nonpayment of contribution. When a beneficiary has not paid his contribution under sub-section (1) of section 16 for a continuous period of not less than one year, he shall cease to be a beneficiary:

Provided that if the Secretary of the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the building worker is willing to deposit the arrears, he may allow the building worker to deposit the contribution in arrears and on such deposit being made, the registration of building worker shall stand restored.

## CHAPTER V

## BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE BOARDS

**18. Constitution of State Welfare Boards**. (1) **Every State Government** shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the (name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of a chairperson, **a person to be nominated by the Central Government** and such number of other members, **not exceeding fifteen,** as may be appointed to it by the State Government:

Provided that the Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman.

(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Board, and themanner of filling of casual vacancies of the members of the Board, shall be such as may be prescribed.

**19. Secretary and of Boards.** (1) The Board shall appoint a Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

**(2) The Secretary of the Board shall be its chief executive officer.**

(3) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Board shall be such as may be prescribed.

**20. Meetings of Boards**. (1) The Board shall meet at such time and place and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such
meetings) as may be prescribed.

(2) The chairperson or, if for any reason he is unable to attend a meeting of the Board, any member nominated by the chairperson in this behalf and in the absence of such nomination, any other member elected by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting, and in the event of equality of votes, the chairperson, or in his absence, the person presiding, shall have a second or a casting vote.

**21. Vacancies, etc., not to invalidate proceedings of the Boards**. No act or proceedings of a Board shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board;or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

**22. Functions of the Boards.** (1) The Board may-

(a) provide immediate assistance to a beneficiary in case of accident;

(b) make payment of pension to the beneficiaries who have completed the age of sixty years;

(c) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;

(d) pay such amount in connection with premia for Group Insurance Scheme of the beneficiaries as it may deem fit;

(e) give such financial assistance for the education of children of the beneficiaries as may be prescribed;

(f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;

(g) make payment of maternity benefit to the female beneficiaries; and

(h) make provision and improvement of such other welfare measures and facilities as may be prescribed.

(2) The Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the welfare of building workers in any establishment.

(3) The Board may pay annually grants-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard specified by the Board for the benefit of the building workers and the members of their family, so, however, that the amount payable as grants-in-aid to any local authority or employer shall not exceed-

(a) the amount spent in providing welfare measures and facilities as determined by the State Government or any person specified by it in this behalf, or

(b) such amount as may be prescribed, whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf.

**23. Grants and loans by the Central Government.** The Central Government may, after due appropriation made by Parliament by law in this behalf, make to a Board grants and loans of such sums of money as the Government may consider necessary.

**24. Building and Other Construction Worker's Welfare Fund and its application.** (1) There shall be constituted by a Board a fund to be called the Building and Other Construction Workers' Welfare Fund and there shall be credited thereto-

(a) any grants and loans made to the Board by the Central Government under section 23;

(b) all contributions made by the beneficiaries;

(c) all sums received by the Board from such other sources as may be decided by the Central Government.

(2) The Fund shall be applied for meeting-

(a) expenses of the Board in the discharge of its functions under section 22; and

(b) salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(c) expenses on objects and for purposes authorised by this Act.

(3) No Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year.

**25. Budget.** The Board shall prepare, in such form and at such time each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the State Government and the Central Government.

**26. Annual report.** The Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government and the Central Government.

27. Accounts and audit. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board under this Act.

(3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(4) The Board shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

(5) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the State Legislature.

## CHAPTER VI

## HOURS OF WORK, WELFARE MEASURES AND OTHER CONDITIONS OF SERVICE OF BUILDING WORKERS

**28. Fixing hours for normal working day, etc.** (1) The appropriate Government may, by rules,-

(a) fix the number of hours of work which shall constitute a normal working day for a building worker, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all building workers and for the payment of remuneration in respect of such days of rest;

(c) provide for payment of work on a day of rest at a rate not less than the overtime rate specified in section 29.

(2) The provisions of sub-section (1) shall, in relation to the following classes of building workers, apply only to such extent, and subject to such conditions, as may be prescribed, namely:-

(a) persons engaged on urgent work, or in any emergency which could not have been foreseen or prevented;

(b) persons engaged in a work in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;

(c) persons engaged in any work which for technical reasons has to be completed before the day is over;

(d) persons engaged in a work which could not be carried on except at times dependant on the irregular action of natural forces.

**29. Wages for overtime work**. (1) Where any building worker is required to work on any day in excess of the number of hours constituting a normal working day, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of this section, "ordinary rates of wages" means the basic wages plus such allowances as the worker is for the time being entitled to but does not include any bonus.

**30. Maintenance of registers and records**. (1) Every employer shall maintain such registers and records giving such particulars of building workers employed by him, the work performed by them, the number of hours of work which shall constitute a normal working day for them, a day of rest in every period of seven days which shall be allowed to them, the wages paid to them, the receipts given by them and such other particulars in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the place where such workers may be employed, notices in the prescribed form containing the prescribed particulars.

(3) The appropriate Government may, by rules, provide for the issue of wage books or wage slips to building workers employed in an establishment and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

**31. Prohibition of employment of certain persons in certain buildings or other construction work.**

No person about whom the employer knows or has reason to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

**32. Drinking water.** (1) The employer shall make in every place where building or other construction work is in progress, effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of

wholesome drinking water.

(2) All such points shall be legibly marked "Drinking Water" in a language understood by a majority of the persons employed in such place and no such point shall be situated within six metres of any washing place, urinal or latrine.

**33. Latrines and urinals**: In every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation of such types as may be prescribed and they shall be so conveniently situated as may be accessible to the building workers at all times while they are in such place:

Provided that it shall not be necessary to provide separate urinals in any place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

**34. Accommodation**. (1) The employer shall provide, free of charges and within the work site or as near to it as may be possible, temporary living accommodation to all building workers employed by him for such period as the building or other construction work is in progress.

(2) The temporary accommodation provided under sub-section (1) shall have separate cooking place, bathing, washing and lavatory facilities.

(3) As soon as may be, after the building or other construction work is over, the employer shall, at his own cost, cause removal or demolition of the temporary structures erected by him for the purpose of providing living accommodation, cooking place or other facilities to the building workers as required under sub-section (1) and restore the ground in good level and clean condition.

(4) In case an employer is given any land by a Municipal Board or any other local authority for the purposes of providing temporary accommodation for the building workers under this section, he shall, as soon as may be after the construction work is over, return the possession of such land in the same condition in which he received the same.

**35. Creches**. (1) In every place wherein, more than fifty female building workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female workers.

(2) Such rooms shall-

(a) provide adequate accommodation;

(b) be adequately lighted and ventilated;

(c) be maintained in a clean and sanitary condition;

(d) be under the charge of women trained in the care of children and infants.

**36. First-aid.** Every employer shall provide in all the places where building or other construction work is carried on such first-aid facilities as may be prescribed.

**37. Canteens, etc**. The appropriate Government may, by rules, require the employer-

(a) to provide and maintain in every place wherein not less than two hundred and fifty building workers are ordinarily employed, a canteen for the use of the workers;

(b) to provide such other welfare measures for the benefit of building workers as may be prescribed.

## CHAPTER VII

## SAFETY AND HEALTH MEASURES

**38. Safety Committee and safety officers.** (1) In every establishment wherein five hundred or more building workers are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the building workers as may be prescribed by the State Government:

Provided that the number of persons representing the workers, shall, in no case, be less than the persons representing the employer.

(2) In every establishment referred to in sub-section (1), the employer shall also appoint a safety officer who shall possess such qualifications and perform such duties as may be prescribed.

**39. Notice of certain accidents**. (1) Where in any establishment an accident occurs which causes death or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such a nature as may be prescribed, the employer shall give notice thereof to such authority, in such form and within such time as may be prescribed.

(2) On receipt of a notice under sub-section (1) the authority referred to in that subsection may make such investigation or inquiry as it considers necessary.

(3) Where a notice given under sub-section (1) relates to an accident causing death of five or more persons, the authority shall make an inquiry into such accident within one month of the receipt of the notice.

**40. Power of appropriate Government to make rules for the safety and health of buildings workers.**

(1) The appropriate Government may, by notification, make rules regarding the measures to be taken for the safety and health of building workers in the course of their employment and the equipment and appliances necessary to be provided to them for ensuring their safety, health and protection, during such employment.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(b) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person and the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(c) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(d) the erection, installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(e) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances,

(f) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;

(g) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;

(h) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;

(i) the safeguarding of machinery including the fencing of every fly-Wheel and every moving part of a prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working on any of the operations and as if it were securely fenced;

(j) the safe handling and use of plant, including tools and equipment operated by compressed air;

(k) the precautions to be taken in case of fire;

(l) the limits of weight to be lifted or moved by workers;

(m) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(n) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;

(o) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;

(p) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipments and floating operational equipments;

(q) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(r) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefor and the matters connected therewith, to be framed by the employers and contractors for the operation to be carried on in a building or other construction work;

(s) the information to be furnished to the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986 (63 of 1986), regarding the use of any article or process covered under the Act in a buildings or other construction work;

(t) the provision and maintenance of medical facilities for building workers;

(u) any other matter concerning the safety and health of workers working in any of the operations being carried on in a building or other construction work.

**41. Framing of model rules for safety measures**. The Central Government may, after considering the recommendation of the expert committee constituted under section 5, frame model rules in respect of all or any of the matters specified in section 40 and where any such model rules have been framed in respect of any such matter the appropriate Government shall, while making any rules in respect of that matter under section 40, so far as is practicable, conform to such model rules.

## CHAPTER VIII

## INSPECTING STAFF

**42. Appointment of Director-General, Chief Inspector and Inspectors**. (1) The Central Government may, by notification, appoint a Gazetted Officer of that Government to be the Director-General of Inspection who shall be responsible for laying down the standards of inspection and shall also exercise the powers of an Inspector throughout India in relation to all the establishments for which the Central Government is the appropriate Government.

(2) The State Government may, by notification, appoint a Gazetted Officer of that Government to be the Chief Inspector of Inspection of Building and Construction who shall also exercise the powers of an Inspector under this Act throughout the State in relation to establishments for which the State Government is the appropriate Government.

(3) The appropriate Government may, by notification, appoint such number of its officers as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(4) Every Inspector appointed under this section shall be subject to the control of the Director-General or the Chief Inspector, as the case may be, and shall exercise his powers and perform his functions under this Act subject to general control and supervision of the Director-General or the Chief inspector.

(5) The Director-General, the Chief Inspector and every Inspector shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**43. Power of Inspectors**. (1) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,-

(a) enter, at all reasonable hours, with such assistants (if any) being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where building or other construction work is carried on, for the purpose of examining any register or record or notices required to be kept or exhibited by or under this Act, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe is a building worker employed therein;

(c) require any person giving out building or other construction work to any building worker, to give any information which is in his power to give with respect to the names and addresses of the persons to, for and whom the building or other construction work is given out or received, and with respect to the payments to be made for the building or other construction work;

(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the employer; and

(e) exercise such other powers as may be prescribed.

(2) For the purposes if this section, the Director-General or the chief Inspector, as the case may be, may employ experts or agencies having such qualifications and experience and on such terms and conditions as may be prescribed.

(3) any person required to produce any document or to give my information required by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

## CHAPTER IX

## SPECIAL PROVISIONS

**44. Responsibility of employers**. An employer shall be responsible for providing constant and adequate supervision of any building or other construction work in his establishment as to ensure compliance with the provisions of this Act relating to safety and for taking all practical steps necessary to prevent accidents.

**45. Responsibility for payment of wages and compensation.** (1) An employer shall be responsible for payment of wages to each building worker employed by him and such wages shall be paid on or before such date as may be prescribed.

(2) In case the contractor fails to make payment of compensation in respect of a building worker employed by him, where he is liable to make such payment when due, or makes short payment thereof, then in the case of death or disablement of the building worker, the employer shall be liable to make payment of that compensation in full or the unpaid balance due in accordance with the provisions of the Workmen's compensation Act 1923 (8 of 1923), and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

**46. Notice of commencement of building or other construction work.** (1) An employer shall, at least thirty days before the commencement of any building or other construction work, send or cause to be sent to the Inspector having jurisdiction in the area where the proposed building or other construction work is to be executed, a written notice containing-

(a) the name and situation of the place where the buildings or other construction work is proposed to be carried on;

(b) the name and address of the person who is undertaking the building or other construction work;

(c) the address to which communications relating to the building or other construction work may be sent;

(d) the nature of the work involved and the facilities, including any plant and machinery, provided;

(e) the arrangements for the storage of explosives, if any, to be used in the building or other construction work,

(f) the, number of workers likely to be employed during the various stages of building or other construction work;

(g) the name and designation of the person who will be in overall charge of the building or other construction work at the site;

(h) the approximate duration of the work;

(i) such other matters as may be prescribed.

(2) Where any change occurs in any of the particulars furnished under sub-section (1), the employer shall intimate the change to the Inspector within two days of such change.

(3) Nothing contained in sub-section (1) shall apply in case of such class of building or other construction work as the appropriate Government may by notification specify to be emergent works.

## CHAPTER X

## PENALTIES AND PROCEDURE

**47. Penalty for contravention of provisions regarding safety measures.**

(1) Whoever contravenes the provisions of any rules made under section 40 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person who has been convicted of any offence punishable under subsection (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees or with both:

Provided that for the purposes of this sub-section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted:

Provided further that the authority imposing the penalty, if it is satisfied that there are exceptional circumstances warranting such a course may, after recording its reasons in writing, impose a fine of less than five hundred rupees.

**48. Penalty for failure to give notice of the commencement of the building or other construction** work. Where an employer fails to give notice of the commencement of the building or other construction work under section 46, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may "tend to two thousand rupees, or with both.

**49. Penalty for obstructions**. (1) Whoever obstructs an Inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing

before, or being examined by, an Inspector acting in pursuance of his duties under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

**50. Penalty for other offences**. (1) Whoever contravenes any other provision of this Act or any rules made thereunder or who fails to comply with any provision of this Act or any rules made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, and in the case of a continuing contravention or failure, as the case may be, with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure.

(2) A penalty under sub-section (1) may be imposed-

(a) by the Director-General where the contravention or failure relates to a matter to which the appropriate Government is the Central Government; and

(b) by the Chief Inspector where the contravention or failure relates to a matter to which the appropriate Government is the State Government.

(3) No penalty shall be imposed unless the person concerned is given a notice, in writing-

(a) informing him of the grounds on which it is proposed to impose a penalty; and

(b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

(4) Without prejudice to any other provision contained in this Act, the Director- General and the Chief Inspector shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while exercising any powers under this section, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record, or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(5) Nothing contained in this section shall be construed to prevent the person concerned from being prosecuted under any other provision of this Act or any other law for any offence made punishable by this Act or by that other law, as the case may be, or for being liable under this Act or any such law to any other or higher penalty or punishment than is provided for such offence by this section:

Provided that no person shall be punished twice for the same offence.

51. Appeal. Any person aggrieved by the imposition of any penalty under section 50 may prefer an appeal-

(a) where the penalty has been imposed by the Director-General, to the Central Government;

(b) where the penalty has been imposed by the Chief Inspector, to the State Government, imposition of such penalty:

Provided that the Central Government or the State Government, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the aforesaid period of three months, allow such appeal to be preferred within a further period of three months.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, if he so desires, and after making such further inquiry, if any, as it may consider necessary, pass such order as it thinks fit confirming, modifying or reversing the order appealed against or may send back the case with such directions as it may think fit for a fresh decision.

52. Recovery of penalty. Where any penalty imposed on any person under section 50 is not paid,-

(i) the Director-General or, as the case may be, the Chief Inspector may deduct the amount so payable from any money owing to such person which may be under his control; or

(ii) the Director-General or, as the case may be, the Chief Inspector may recover the amount so payable by etaining or selling the goods belonging to such person which are under his control; or

(iii) if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii), the Director-General or, as the case may be, the Chief Inspector may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate shall proceed, to recover from such person the amount specified thereunder as if it were an arrear of land revenue.

53. Offences by companies. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

**54. Cognizance** of offences. (1) No court shall take cognizance of any offence punishable under this Act except on a complaint-

(a) made by, or with the previous sanction in writing of, the Director-General or the Chief Inspector; or

(b) made by an office-bearer of a voluntary organisation registered under the Societies Registration Act, 1860 (21 of 1860); or

(c) made by an office-bearer of any concerned trade union registered under the Trade Unions Act, 1926 (16 of 1926).

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

**55.** Limitation of prosecutions. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the Director-General, the Chief Inspector, an office-bearer of a voluntary Organisation or, as the case may be, an office-bearer of any concerned trade union.

CHAPTER XI

## MISCELLANEOUS

**56. Delegation of powers**. A Board may, by general or special order, delegate to the Chairperson or any other member or to the Secretary or any other officer or employee of the Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

**57. Returns. Every Board shall furnish from time to time to the** Central Government and to the State Government such returns as they may require.

**58. Application** of Act 8 of 1923 to building workers. The provisions of the Workmen's Compensation Act, 1923, shall so far as may be, apply to building workers as if the employment to which this Act applies had been included in the Second Schedule to that Act.

**59. Protection of action taken in good faith**. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No prosecution or other legal proceeding shall lie against the Government, any Board or Committees constituted under this Act or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or Committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made or issued thereunder.

**60. Power of Government to give direction.** The Central Government may give directions to the Government of any State or to a Board as to the carrying into execution in that State of any of the provisions of this Act.

**61. Power to remove difficulties. (1) If any difficulty arises** in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**62. Power to make rules.** (1) The appropriate Government may, after consultation with the expert committee, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the number of persons to be appointed as members representing various interests on the Central Advisory Committee and the State Advisory Committees, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies under sub-section (3) of section 3 or, as the case may be, under sub-section (3) of section 4;

(b) the fees and allowances that may be paid to the members of the expert committee for attending its meetings under sub-section (2) of section 5;

(c) the form of application for the registration of an establishment, the levy of fees therefore and the particulars it may contain under sub-section (2) of section 7;

(d) the form of certificate of registration, the time within which and the conditions subject to which such certificate may be issued under sub-section (3) of section 7;

(e) the form in which the change in ownership or management or other particulars shall be intimated to the registering officer under sub-section (4) of section 7;

(f) the form in which an application for registration as a beneficiary shall be made under sub-section (2) of section 12;

(g) the document and the fee which shall accompany the application under subsection (3) of section 12;

(h) the registers which the Secretary of the Board shall cause to be maintained under sub-section (6) of section 12;

(i) the benefits which may be given under sub-section (2) of section 14;

(j) the form in which register of beneficiaries shall be maintained under section 15;

(k) the terms and conditions of appointment, the salaries and other allowances payable to, and the manner of filling of casual vacancies of, the Chairperson and other members of the Board under sub-section (4) of section 18;

(l) the terms and conditions of service and the salaries and allowances payable to the Secretary and the other officers and employees of the Board under subsection (3) of section 19;

(m) the time and place, of the meeting of the Board and the rules of procedure to be followed at such meeting under sub-section (1) of section 20 including quorum necessary for the transaction of business;

(n) the amount payable as house building loans or advances, the terms and conditions of such payment under clause (c), educational assistance under clause (e), medical expenses payable and the persons who shall be the dependent of the beneficiaries under clause (f), and the other welfare measures for which provision may be made under clause (h), of sub-section (1) of section 22;

(o) the limits of grants-in-aid payable to the local authorities and employers under clause (b) of sub-section (3) of section 22;

(p) the form in which and the time within which the budget of the Board shall be prepared and forwarded to Government under section 25;

(q) the form in which and the time within which the annual report of the Board shall be submitted to the State Government and the Central Government under section 26;

(r) the form of annual statement of accounts under sub-section (1), and the date before which the audited copy of the accounts together with the auditor's report shall be furnished under sub-section (4), of section 27;

(s) the matters required to be provided under sub-section (1) of section 28 and the extent up to which, and the conditions subject to which, the provisions of that subsection shall apply to the building workers under sub-section (2) of that section;

(t) the registers and records that shall be maintained by the employer and the form in which such registers and records shall be maintained and the particulars to be included therein under sub-section (1) of section 30;

(u) the form and manner in which a notice shall be exhibited and the particulars it may contain under sub-section (2) of section 30;

(v) the issue of wage books or wage slips to building workers and the manner in which entries are to be made and authenticated in wage books or wage slips under sub-section (3) of section 30;

(w) the types of latrines and urinals required to be provided under section 33;

(x) the first-aid facilities which are to be provided under section 36;

(y) the canteen facilities which are to be provided under clause (a) of section 37;

(z) the welfare measures which are to be provided under clause (b) of section 37;

(za) the number of representatives of the employer and the building workers under sub-section (1) of section 38 and the qualifications of safety officers and the duties to be performed by them under sub-section (2) of that section;

(zb) the form of a notice of accident, other matters to be provided in this behalf and the time within which such notice shall be given under sub-section (1) of section 39;

(zc) the rules to be made for the safety and health of building

(zd) the powers that may be exercised by an Inspector under clause (e) of subsection (1) of section 43 and the qualifications and experience which the experts or agencies employed under sub-section (2) of that section shall possess and the terms and conditions on which such experts or agencies may be employed;

(ze) the date on or before which wages shall be paid to a building worker under section 45;

(zf) the matters which are required to be prescribed under clause (i) of subsection (1) of section 46;

(zg) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

**63. Saving of certain laws**. Nothing contained in this Act shall affect the operation f any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than those provided for them by or under this Act.

**64. Repeal and saving**. (1) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Third Ordinance, 1996 (Ord. 25 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

# CHILD LABOUR(PROHIBITION & REGULATION)ACT,1986

[Act No. 61 of Year 1986][1]

**An Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.**

## PART I: PRELIMINARY

**1. Short title, extent and commencement**

(1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.

(2) It extends to the whole of India.

(3) The provisions of this Act, other than Part III, shall come into force at once, and Part III shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and for different classes of establishment.

**2. Definitions**

In this Act, unless the context otherwise requires,-

(i) "appropriate government" means, in relation to an establishment under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government;

(ii) "child' means a person who has not completed his **fourteenth year of age;**

(iii) "day" means period of twenty four hours beginning at mid-night;

(iv) "establishment" includes a ship, commercial establishment, **work-shop**, farms, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(v) "family", in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, **brother or sister of such individual**;

(vi) "occupier", in relation to an establishment or a workshop, means the person who has the ultimate control over the affairs of the establishment or workshop;

(vii) "port authority" means any authority administering a port;

(viii) "prescribed" means prescribed by rules made under section 18;

(ix) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Inspector;

(x) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 67 of the Factories Act, 1948 (63 of 1948), for the time being, apply.

## PART II
## PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND PROCESSES

**3. Prohibition of employment of children in certain occupations and processes**

No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on:

PROVIDED that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, government.

**4. Power to amend the Schedule**

The Central Government, after giving by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

**5. Child Labour Technical Advisory Committee**

(1) The Central Government may, by notification in the Official Gazette, constitute an advisory committee to be called the Child Labour Technical Advisory Committee (hereafter in this section referred to as the committee) to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.

(2) The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

(3) The Committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure.

(4) The committee may, if it deems it necessary so to do, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the committee.

(5) The term of office of, the manner of filling casual vacancies in the office of, and the allowances, if any, payable to, the chairman and other members of the committee, and the conditions and restriction subject to which the committee may appoint any person who is not a member of the committee as a member of any of its sub-committees shall be such as may be prescribed.

## PART III
## REGULATION OF CONDITIONS OF WORK OF CHILDREN

**6. Application of part**

**The provisions of this part shall apply to an establishment or a class of establishment in which none of the occupations or processes referred to in section 3 is carried on.**

**7. Hours and period of work**

(1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

(4) No child shall be permitted or required to work between 7 p.m. and 8 p.m.

(5) No child shall be required or permitted to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

**8. Weekly holidays**

Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

**9. Notice to Inspector**

(1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:-

(a) the name and situation of the establishment;

(b) the name of the person in actual management of the establishment;

(c) the address to which communications relating to the establishment should be sent; and

(d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

*Explanation:* For the purposes of sub-sections (1) and (2), "date of commencement of this Act, in relation to an establishment" means the date of bringing into force of this act in relation to such establishment.

(3) Nothing in sections7, 8 and 9 shall apply to any establishment where in any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, government.

**10. Disputes as to age**

If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of the certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

**11. Maintenance of register**

These shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing :-

(a) the name and date of birth of every child so employed or permitted to work;

(b) hours and periods of work of any such child and the intervals of rest to which he is entitled;

(c) the nature of work of any such child; and

(d) such other particulars as may be prescribed.

**12. Health and Safety**

(1) The appropriate government may, by notification in the Official Gazette, make rules for the health and safety of the CHILDREN employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:-

(a)Cleanliness in the place of work and its freedom from nuisance;

(b) disposal of wastes and effluents; (c) ventilation and temperature;

(d) dust and fume; (e) artificial humidification; (f) lighting; (g) drinking water;

(h) latrine and urinals; (i) spittoons; (j) fencing of machinery;

(k) work at or near machinery in motion; (l) employment of children on dangerous machines; (m) instructions, training and supervision in relation to employment of children on dangerous machines; (n) device for cutting off power; (o) self–acting machines; (p) easing of new machinery; (q) floor, stairs and means of access; (r) pits, sumps, openings in floors, etc. (s) Excessive weights; (t) Protection of eyes; (u) Explosive or inflammable dust, gas etc; (v) Precautions in case of fire; (w) Maintenance of buildings, and (x) Safety of buildings and machinery.

## PART IV: MISCELLANEOUS

**14. Penalties**

(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

(3) Whoever-

(a) fails to give notice as required by section 9; or

(b) fails to maintain a register as required by section 11 or makes any false entry in any such register; or

(c) fails to display a notice containing an abstract of section 3 and this section as required by section 12; or

(d) fails to comply with or contravenes any other provisions of this Act or the rules made thereunder,

shall be punishable with simple imprisonment which may extend to one months or with fine which may extend to ten thousand rupees or with both.

**15. Modified application of certain laws in relation to penalties**

(1) Where any person is found guilty and convicted of contravention of any of the provisions mentioned in sub-section (2), he shall be liable to penalties provided in sub-sections (1) and (2) of section 14 of this Act and not under the Acts in which those provisions are contained.

(2) The provisions referred to in sub-section (1) are the provisions mentioned below:-

(a) section 67 of the Factories Act, 1948 (63 of 1948);

(b) section 40 of Mines Act, 1952 (35 of 1952);

(c) section 109 of Merchant Shipping Act, 1958 (44 of 1958); and

(d) section 21 of the Motor Transport Workers Act, 1961 (27 of 1961).

**16. Procedure relating to offences**

(1) Any person, police officer or Inspector may file a compliant of the commission of an offence under this Act in any court of competent jurisdiction.

(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.

(3) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

**17. Appointment of Inspectors**

The appropriate government may appoint Inspectors for the purposes of securing compliance with the provisions of this Act and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

**18. Power to make rules**

(1) The appropriate government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the term of office of, the manner of filling casual vacancies of, and the allowances payable to, the Chairman and members of the Child Labour Technical Advisory Committee and the conditions and restrictions subject to which a non-member may be appointed to a sub-committee under sub-section (5) of section 5;

(b) number of hours for which a child may be required or permitted to work under sub-section (1) of section 7;

(c) grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificate, the form of such certificate, the charges which may be made thereunder and the manner in which such certificate may be issued.

PROVIDED that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned,

(d) the other particulars which a register maintained under section 11 should contain.

**19. Rules and notifications to be laid before Parliament or State Legislature**

(1) Every rule made under this Act by the Central Government and every notification issued under section 4, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or to be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the Legislature of that State.

**20. Certain other provisions of law not barred**

Subject to the provisions contained in section 15, the provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948, the Plantation Labour Act, 1951 and the Mines Act, 1952.

**21. Power to remove difficulties**

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

PROVIDED that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Houses of Parliament.

**22. Repeal and saving**

(1) The Employment of CHILDREN Act, 1938 (26 of 1938) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

**23. Amendment of Act 11 of 1948**

In section 2 of the Minimum Wages Act, 1948,-

(i) for clause (a), the following clauses shall be substituted, namely:-

(a) "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

(aa) "adult" means a person who has completed his eighteenth year of age;

(ii) after clause (b), the following clause shall be inserted, namely:-

(bb) "child" means a person who has not completed his fourteenth year of age;

**24. Amendment of Act 69 of 1951**

In the Plantations Labour Act, 1951,

(a) in section 2, in clauses (a) and (c), for the word "fifteenth", the word "fourteenth" shall be substituted;

(b) section 24 shall be omitted;

(c) in section 26, in the opening portion, the words "who has completed his twelfth year" shall be omitted.

**25. Amendment of Act 44 of 1958**

In the Merchant Shipping Act, 1958, in section 109, for the word "fifteen" the word "fourteen" shall be substituted.

**26. Amendment of Act 27 of 1961**

In the Motor Transport Workers Act, 1961, in section 2, in clauses (A) and (c), for the word "fifteenth", the word "fourteenth" shall be substituted.

## SCHEDULE

*[Section 3]*

**PART A: OCCUPATIONS**

Any occupation connected with-

(1) Transport of passengers, goods or mails by railway,-

(2) Cinder picking, clearing of an ash pit or building operation in the railway premises;

(3) Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;

(4) Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;

(5) A port authority within the limits of any port;

[2][(6) Work relating to selling of crackers and fire works in shops with temporary licences.]

[3][Abattoirs/ slaughter houses]

**PART B: PROCESSES**

(1) Bidi-making.
(2) Carpet weaving.
(3) Cement manufacture, including bagging of cement.
(4) Cloth printing, dying and weaving.
(5) Manufacture of matches, explosives and fire works.
(6) Mica cutting and splitting.
(7) Shellac manufacture.
(8) Soap manufacture.
(9) Tanning.
(10) Wool cleaning.
(11) Building and construction industry.
[2](12) Manufacture of sate pencils (including packing).
(13) Manufacture of products from agate.
(14) Manufacturing processes using toxic metals and substances such a lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos.]
[3][(15) Hazardous processes' as defined in section 2(cb) and "dangerous operations" as notified in rules made under section 87 of the Factories Act, 1948 (63 of 1948)
(16) Printing as defined in section 2(k)(iv) of the Factories Act, 1948 (63 of 1948).
(17) Cashew and cashewnut descaling and processing.
(18) Soldering processes in electronic industries.]

**Foot Notes**

1 Vide Notification No. SO 333(E), 26th. May, 1993 was specified by the Central Government as the date on which the provisions of Part III of the said Act have come into force in respect of all classes of establishments, throughout the territory of India, in which none of the occupations and processes referred to in section 3 of this Act are carried on.
2 Inserted by SO 404(E), dated 5th. June, 1989.
3 Inserted by SO 263(E), dated 29th. March, 1994.

## FAQ

## Child Labour (Prohibition and Regulation) Act, 1986

### Who is a child labour?

Under the Act, 'Child' means a person who has not completed 14 years of age [**Sec 2(ii)**].

**What happens if any dispute arises as to the age of the child?**

If any question arises between the Inspector & the occupier as regards the age of the child, the same must be referred to the prescribed medical authority for decision in the absence of a certificate as to the age of the child [**Sec 10**]. The 'prescribed medical authority' shall be a government medical doctor not below the rank of an Assistant Surgeon of a District or a regular doctor of equivalent rank employed in ESI dispensary / hospital.

**Who is an occupier ?**
"Occupier", in relation to an establishment or a workshop, means the person who has the ultimate control over the affairs of the establishment or workshop [**Sec 2 (vi)**].

## What is Child Labour Technical Advisory Committee?

Child Labour Technical Advisory Committee has been constituted by the Central Government to advise it in adding occupations & processes wherein employment of children ought to be prohibited [**Sec 5**].

## What does 'establishment' include?

Establishment includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre, other place of public amusement or entertainment [**Sec 2 (iv)**].

## Can a child be employed in any kind of establishment?

A child cannot be employed or permitted to work in any occupation stated in Part A of the Schedule appended to the Act or in any workshop wherein any of the processes listed in Part B of the Schedule is carried on, except a workshop wherein the process is carried on by the occupier with the aid of his family or a Government recognised or aided school [**Sec 3**].

## What actions are required to be taken before employing a child?

Every employer who employs or permits any child to work in his establishment must within 30 days from the date of such employment send to the Inspector a written notice containing the following particulars: name & situation of the establishment, name of the person in actual management of the establishment, the address to which the communications are to be sent & the nature of the occupation & process carried on in the establishment. [**Sec 9]**.

## What are the safety standards specified for employing children in an establishment?

Every employer must adhere to the rules made by the Govt. for the health & safety. The employer must provide for: cleanliness in the place of work, disposal of wastes & effluents, ventilation & temperature control, dust & fumes, lighting, spittoons, drinking water, fencing of machinery, self-acting machines, excessive weights, protection of eyes, precautions in case of fire, safety of buildings & machinery etc. [**Sec 13**].

## Which are the occupations listed in Part A of the Schedule?

# THE CINE-WORKERS WELFARE FUND ACT, 1981

(ACT NO. 33 OF 1981) **Enactment Date:** [17th September, 1981.]

**Act Objective:** An Act to provide for the financing of activities to promote the welfare of certain cine-workers. BE it enacted by Parliament in the Thirty-second Year of the Republic of India as follows:--

**1. Short title, extent and commencement.-** (1) This Act may becalled the Cine-workers Welfare Fund Act, 1981

(2) It extends to the whole of India.

(3) It shall come into force on such date1* as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definition.-** In this Act, unless the context otherwise requires,--

(a) "cinematograph film" has the same meaning as in the Cinematograph Act, 1952 (37 of 1952);

(b) "cine-worker" means an individual--

(i) who has been employed, directly or through any contractor or in any other manner, in or in connection with the production of not less than five feature films to work as an artiste (including actor, musician or dancer) or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise; and

(ii) whose remuneration with respect to such employment in or in connection with the production of each of any five feature films, has not exceeded, where such remuneration has been by way of monthly wages, a sum of 2*[one thousand and six hundred rupees] per month, and where such remuneration has been by way of a lump sum, a sum of 2*[eight thousand rupees];

(c) "feature film" means a full length cinematograph film produced wholly or partly in India with a format and a story woven around a number of characters where the plot is revealed mainly through dialogues and not wholly through narration, animation or cartoon depiction and does not include an advertisement film;

1. 1-11-1984: Vide Notification No. G.S.R.721 (E). dt. 12-10-1984.
2. Subs. by Act 26 of 1987, s.2 (w.e.f. 10-8-1988)

(d) "Fund" means the Cine-workers Welfare Fund formed under section 3;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "producer", in relation to a feature film, means the person by whom arrangements necessary for the making of such film (including the raising of finance and engaging cine-workers for such film-making) are undertaken.

3. Cine-workers Welfare Fund.-There shall be formed a Fund, to becalled the Cine-workers Welfare Fund, and there shall be credited thereto--

(a) such amounts as the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from out of the proceeds of the duty of excise credited under section 5 of the Cine-workers Welfare Cess Act, 1981 (30 of 1981), after deducting therefrom the cost of collection as determined by the Central Government under this Act;

(b) any grants made to the Fund by the Central Government;

(c) any money received as donations for the purposes of this Act;

(d) any income from investment of the amounts in the Fund.

4. Application of Fund.- (1) The Fund shall be applied by theCentral Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of cine-workers; and, in particular,--

(a) to defray the cost of such welfare measures or facilities for the benefit of cine-workers as may be decided by the Central Government;

(b) to provide assistance in the form of grants or loans to indigent cine-workers;

(c) to sanction any money in aid of any scheme for the welfare of the cine-workers 1*[, including family welfare, family planning, education and services] which is approved by the Central Government;

(d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively and the salaries and allowances, if any, of persons appointed under section 8;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

1. Ins. by Act 26 of 1987, s. 3 (w.e.f. 10.8.1988).

(2) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

**5. Advisory Committees.-** (1) The Central Government may constitute as many Advisory Committees as it thinks fit to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing the Government, the cine-workers and the producers.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of the members of every Advisory Committee.

**6. Central Advisory Committee.-** (1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of 1*[such number of members as may be appointed] by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that the Central Advisory Committee shall include at least three members representing the Government, the cine-workers and the producers.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of the members of the Central Advisory Committee.

**7. Power to co-opt, etc**.- (1) An Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

1. Subs. by Act 26 of 1987, s.4 (w.e.f. 10.8.1988).

(3) An Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote thereat.

**8. Appointment of Welfare Commissioners, etc., and their powers.-**

(1) The Central Government may appoint as many Welfare Commissioners,Welfare Administrators, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Cine- workers Welfare Cess Act, 1981 (30 of 1981).

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Cine-workers Welfare Cess Act, 1981 (30 of 1981).

(3) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(4) Any Welfare Commissioner may,--

(a) with such assistance, if any, as he may think fit, enter, at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act and the Cine-workers Welfare Cess Act, 1981 (30 of 1981);

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

**9. Annual report of activities financed under the Act.-** The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of the activities financed under this Act during the financial year, together with a statement of accounts.

**10. Power to call for information.-** The Central Government may require a producer to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

**11. Power to make rules.-** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for--

(a) the manner in which the Fund may be applied for the measures and facilities specified in sub-section (1) of section 4;

(b) the conditions governing the grant of any loan under clause (b) of sub-section (1) of section 4;

(c) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees and the Central Advisory Committee shall conduct their business;

(d) the recruitment, conditions of service and the duties of all persons appointed under section 8;

(e) the powers that may be exercised by a Welfare Commissioner, a Welfare Administrator and an Inspector appointed under section 8;

(f) the furnishing to the Central Government by a producer of such statistical and other information as may be required to be furnished under section 10;

(g) the form in which and the period within which the statistical and other information are to be furnished under clause (f);

(h) any other matter which has to be, or may be, prescribed by rules under his Act.

(3) In making any rule under clause (f) or clause (g) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to two thousand rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should notbe made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

# Contract Labour (Regulation & Abolition) Act,1970

[Act No. 37 of Year 1970, dated 5th. September, 1970]

*An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith*

Be it enacted by Parliament in the Twenty-first Year of the Republic of India as follows: -

## CHAPTER I:

## PRELIMINARY

### 1. Short title, extent, commencement and application

(1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1970

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

(4) It applies-

(a) to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen:

PROVIDED that the appropriate government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

(5) (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.

(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate government shall decide the question after consultation with the Central Board or, as the case may be, as State Board, and its decision shall be final.

*Explanation:* For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature-

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or

(ii) if it is of a seasonal character and is performed for more than sixty days in a year.

## 2. Definitions

(1) In this Act, unless the context otherwise requires,-

[1][(a) "appropriate government" means-

(i) in relation to an establishment in respect of which the appropriate government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;]

(b) a workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

(c) "contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

(d) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(e) "establishment" means-

(i) any office or department of the government or a local authority, or

(ii) any place where any industry, trade, business, manufacture or occupation is carried on;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "principal employer" means-

(i) in relation to any office or department of the government or a local authority, the head of that office or department or such other officer as the government or the local authority; as the case may be, may specify in this behalf,

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948), the person so named.

(iii) in a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named,

(iv) in any other establishment, any person responsible for the supervision and control of the establishment.

*Explanation* : For the purpose of sub-clause (iii) of this clause, the expressions "mine", "owner" and "agent" shall have the meanings respectively assigned to them in clause (j) clause (l) and clause (c) of sub-section (1) of section 2 of the Mine Act, 1952 (35 of 1952);

(h) "wages" shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936);

(i) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person-

(A) who is employed mainly in a managerial or administrative capacity; or

(B) who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or

(C) who is an out-worker, that is to say, a person to whom any article and materials are given out by or on behalf of the principal employer to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of the principal employer and the process is to be carried out either in the home of the out-worker or in some other premises, not being premises under the control and management of the principal employer.

(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

## CHAPTER II

## THE ADVISORY BOARDS

### 3. Central Advisory Board

(1) The Central Government shall, as soon as may be, constitute a Board to be called the Central Advisory Contract Labour Board (hereinafter referred to as the Central Board) to advise the Central Government on such matter arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The Central Board shall consist of-

(a) a Chairman to be appointed by the Central Government;

(b) the Chief Labour Commissioner (Central), ex officio;

(c) such number of members, not exceeding seventeen but not less than eleven, as the Central Government may nominate to represent that government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

PROVIDED that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

### 4. State Advisory Board

(1) The State Government may constitute a Board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The State board shall consist of-

(a) a Chairman to be appointed by the State Government;

(b) the Labour Commissioner, ex officio, or in his absence any other officer nominated by the State Government in that behalf;

(c) such number of members, not exceeding eleven but not less than nine, as the State Government may nominate to represent that government, the industry, the contractors, the workmen and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies, among, the members of the State Board shall be such as may be prescribed:

PROVIDED that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

### 5. Power to constitute committees

(1) The Central Board or the State Board, as the case may be, may constitute such committees and for such purpose or purposes as it may think fit.

(2) The committee constituted under sub-section (1) shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending its meetings as may be prescribed:

PROVIDED that no fees shall be payable to a member who is an officer of government or of any corporation established by any law for the time being in force.

## CHAPTER III

## REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

### 6. Appointment of registering officers

The appropriate government may, by an order notified in the Official Gazette-

(a) appoint such persons, being Gazetted Officers of government, as it thinks fit to be registering officers for the purpose of this chapter; and

(b) define the limits, with in which a registering officer shall exercise the powers conferred on him by or under this Act.

## 7. Registration of certain establishments

(1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate government may, by notification in the Official Gazette, fix in this behalf with respect to establishment generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment:

PROVIDED that the registering officer may entertain any such application for registration after expiry of the period fixed in this behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) If the application for registration is complete in all respects, the registering officer shall register the establishment and issue to the principal employer of the establishment a certificate of registration containing such particulars as may be prescribed.

## 8. Revocation of registration in certain cases

If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate government, revoke the registration.

## 9. Effect of non-registration

No principal employer of an establishment, to which this Act applies, shall-

(a) in the case of an establishment required to be registered under section 7, but which has not been registered within the time fixed for the purpose under that section;

(b) in the case of an establishment the registration in respect of which has been revoked under section 8,

employ contract labour in the establishment after the expiry of the period referred to in clause (a) or after the revocation of registration referred to in clause (b), as the case may be.

### 10. Prohibition of employment of contract labour

(1) Notwithstanding anything contained in this Act, the appropriate government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as-

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

*Explanation :* If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate government thereon shall be final.

## CHAPTER IV

## LICENSING OF CONTRACTORS

### 11. Appointment of licensing officers

The appropriate government may, by an order notified in the Official Gazette-

(a) appoint such person, being Gazetted Officers of government, as it thinks fit to be licensing officers for the purposes of this chapter; and

(b) define the limits, within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

## 12. Licensing of contractors

(1) With effect from such date as the appropriate government may,by notification in the Official Gazette, appoint no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.

(2) Subject to the provisions of this Act, a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as the appropriate government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed.

## 13. Grant of licences

(1) Every application for the grant of licence under sub-section (1) of section 12 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which contract labour is to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under this chapter shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

## 14. Revocation, suspension and amendment of licences

(1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that-

(a) a licence granted under section 12 has been obtained by misrepresentation or suppression of any material fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence or forfeit the sum, if any, or any portion thereof deposited as security for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under section 12.

### 15. Appeal

(1) Any person aggrieved by an order made under section 7, section 8, section 12 or section 14 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the appropriate government:

PROVIDED that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard dispose of the appeal as expeditiously as possible.

## CHAPTER V

## WELFARE AND HEALTH OF CONTRACT LABOUR

### 16. Canteens

(1) The appropriate government may make rules requiring that in every establishment-

(a) to which this Act applies,

(b) wherein work requiring employment of contract labour is likely to continue for such period as may be prescribed, and

(c) wherein contract labour numbering one hundred or more is ordinarily employed by a contractor,

one or more canteens shall be provided and maintained by the contractor for the use of such contract labour.

(2) Without prejudice to the generality of the foregoing power, such rules, may provide for-

(a) the date by which the canteens shall be provided;

(b) the number of canteens that shall be provided, and the standards in respect of construction, accommodation, furniture and other equipment of the canteens; and

(c) the foodstuffs which may be served therein and the charges which may be made therefor.

### 17. Rest-rooms

(1) In every place where in contract labour is required to halt at night in connection within the work of an establishment-

(a) to which this Act applies, and

(b) in which work requiring employment of contract labour is likely to continue for such period as may be prescribed,

there shall be provided and maintained by the contractor for the use of the contract labour such number of rest-rooms or such other suitable alternative accommodation with such time as may be prescribed.

(2) The rest-rooms or the alternative accommodation to be provided under subsection (1) shall be sufficiently lighted and ventilated and shall be maintained in clean and comfortable condition.

### 18. Other facilities

It shall be the duty of every contractor employing contract labour in connection with the work of an establishment to which this Act applies, to provide and maintain-

(a) a sufficient supply of wholesome drinking-water for the contract labour at convenient places;

(b) a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment; and

(c) washing facilities.

### 19. First-aid facilities

There shall be provided and maintained by the contractor so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him.

### 20. Liability of principal employer in certain cases

(1) If any amenity required to be provided under section 16, section 17, section 18, or section 19 for the benefit of the contract labour employed in an establishment is not provided by the contractor within the time prescribed therefor, such amenity shall be provided by the principal employer within such time as may be prescribed.

(2) All expenses incurred by the principal employer in providing the amenity may be recovered by the principal employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

### 21. Responsibility for payment of wages

(1) A contractor shall be responsible for payment of wages to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

(3) It shall be the duty of the contractor or ensure the disbursement of wages in the presence of the authorised representative of the principal employer.

(4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

## CHAPTER VI: PENALTIES AND PROCEDURE

### 22. Obstructions

(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with

imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees, or with both.

### 23. Contravention of provisions regarding employment of contract labour

Whoever contravenes any provision of this Act or of any rules made thereunder prohibiting, restricting or regulating the employment of contract labour, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

### 24. Other offences

If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

### 25. Offences by companies

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation :* For the purpose of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

### 26. Cognizance of offences

No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, the inspector and no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

### 27. Limitation of prosecutions

No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:
PROVIDED that where the offence consists of disobeying a written order made by an inspector, complaint, thereof may be made within six months of the date on which the offence is alleged to have been committed.

## CHAPTER VII

## MISCELLANEOUS

### 28. Inspecting staff

(1) The appropriate government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, an inspector may, within the local limits for which he is appointed-

(a) enter, at all reasonable hours, with such assistance (if any), being persons in the service of the government or any local or other public authority as he thinks fit, any premises or place where contract labour is employed, for the purpose of examining any register or record or notice required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection:

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a workman employed therein;

(c) require any person giving out work and any workman, to give any information, which is in his power to give with respect to the names and addresses of the person to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or contractor; and

(e) exercise such other powers as may be prescribed.

(3) Any information required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code, 1860 (45 of 1860).

(4) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall, so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.[2]

### 29. Registers and other records to be maintained

(1) Every principal employer and every contractor shall maintain such register and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rate of wages paid to the contract labour and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the contract labour is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

### 30. Effect of laws and agreements inconsistent with this Act

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of the Act:

PROVIDED that where under any such agreement, contract of service or standing orders the contract labour employed, in the establishment are entitled to benefits in respect of any matter which are more favourable to them than those to which they would be entitled under this Act, the contract labour shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that they received benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any such contract labour from entering into an agreement with the principal employer or the contractor, as the case may be, for granting them rights or privileges in respect of any matter which are more favourable to them than those to which they would be entitled under this Act.

### 31. Power to exempt in special cases

The appropriate government may, in the case of an emergency, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

### 32. Protection of action taken under this Act

(1) No suit, prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other government servant or against any member of the Central Board or the State Board, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

### 33. Power to give directions

The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

### 34. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

### 35. Power to make rules

(1) The appropriate government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely-

(a) the number of persons to be appointed members representing various interests on the Central Board and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies;

(b) the times and places of the meetings of any committee constituted under that Act, the procedure to be followed at such meeting including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee;

(c) the manner in which establishments may be registered under section 7, the levy of a fee therefor and the form of certificate of registration;

(d) the form of application of the grant or renewal of a licence under section 13 and the particulars it may contains;

(e) the manner in which an investigation is to be made in respect of an application for the grant of a licence and the matters to be taken into account in granting or refusing a licence;

(f) the form of a licence which may be granted or renewed under section 12 and the conditions subject to which the licence may be granted or renewed, the fees to be levied for the grant or renewal of a licence and the deposit of any sum as security for the performance of such conditions:

(g) the circumstances under which licences may be varied or amended under section 14;

(h) the form and manner in which appeals may be filed under section 15 and the procedure to be followed by appellate officers in disposing of the appeals;

(i) the time within which facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the part of the contractor, by the principal employer;

(j) the number and types of canteens, rest-rooms, latrines and urinals that should be provided and maintained;

(k) the type of equipment that should be provided in the first-aid boxes;

(l) the period within which wages payable to contract labour should be paid by the contractor under sub-section (1) of section 21;

(m) the form of registers and records to be maintained by principal employers and contractors;

(n) the submission of returns, forms in which, and the authorities to which, such returns may be submitted;

(o) the collection of any information or statistics in relation to contract labour; and

(p) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## Foot Notes

1 Substituted by Act No. 14 of 1986, with effect from 28th. January, 1986.

2 Now see Section 94 of the Criminal Procedure Code, 1973.

**FAQ**
**Contract Labour (Regulation & Abolition) Act,1970**

**What is the scope & coverage of this Act?**
The Act extends to the whole of India. It applies to -

- every *establishment* wherein 20 or more *contract labours* are or were employed on any day during the preceding twelve months [**Sec 1(2)**].
- every *contractor* who employs or employed 20 or more *workmen* on any day of the preceding 12 months [**Sec 4**].

The Central / State Government is empowered to extend the provisions of this Act to any other establishment employing less than 20 contract labours.

However, the Act does not apply to any establishment wherein work of an intermittent or casual nature is performed [**Sec 1(5)**].
Work performed in an establishment will be regarded to be of an intermittent nature if it is performed for less than 120 days in the preceding 12 months OR if it is of a seasonal character & is performed for less than 60 days in a year.

**When is work said to be of intermittent nature?**
Intermittent means off & on, not continuous, alternating, recurrent. Work performed in an establishment will be regarded to be of an intermittent nature if it is performed for less than 120 days in the preceding 12 months OR if it is not of a seasonal character & is performed for less than 60 days in a year.
ormed [**Sec 1(5)**

**Who is a contractor?**

Contractor (including a sub-contractor) means a person who undertakes to produce a given result for an establishment through contract labour or who supplies contract labour for any work in an establishment. Persons who merely supply goods to or manufacture articles for an establishment are not contractors [**Sec 2(1)(c)**]. A piece-wager is also a contractor.

**Is a person supplying goods/articles to the establishment a contractor ?**

As per **Sec 2(c)** a person who merely supplies goods/articles to an establishment is not a contractor. A contractor is a person who supplies contract labour to an establishment to produce a given result for it. A sub-contractor & a piece-wager is also a contractor

**Who is a contract labour?**

As per **Sec 2(b)** a workman is said to be a contract labour if he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer. The contract labour is not an employee of the

establishment. It is not necessary that the work performed by the contract labour is a part of or incidental to the work performed by the principal employer.

**Which are the employees covered by the Act?**

The Act covers every workman employed in or in connection with any work of the establishment by or through a contractor, with or without the knowledge of the principal employer [**Sec 2(1)(b)**].

However, the Act does not apply to persons employed in managerial or administrative capacity, persons employed as supervisors & receiving wages exceeding Rs. 1600 p.m & 'out-workers' to whom materials are given for manufacturing or processing at his own premises [**Sec 2(1)(i)**

**What are the prohibitions on employment of contract labour?**

The Central & the State Government can after considering the conditions of work & benefits provided for the contract labour in the establishment & other relevant factors, prohibit employment of contract labour in that establishment [**Sec 10**]. Employment of contract labour may not be permitted for any process or operation & other work if :-

- it is incidental to or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment ;
- it is of perennial or perpetual nature of sufficient duration ;
- it is done ordinarily through regular workmen in that establishment or an establishment similar thereto ;
- it is sufficient to employ considerable number of whole time workmen.

**Is the employer required to get his establishment registered under the Act?**

As per **Sec 7**

- Every principal employer of an establishment to which the Act applies must get the establishment registered with the registering officer.
- The principal officer of the establishment must apply for registration to the Registering Officer in the prescribed Form I along with the prescribed fees. If the application for registration is complete in all respects, the registering officer shall issue a certificate of registration in Form-II stating the prescribed details.

The certificate is liable to be cancelled if it has been obtained by misrepresentation of facts or if it has become useless [**Sec 8**].

Principal employer's failure to get the establishment registered will not render the contract labour employees of the principal employer.

**How is an establishment registered under the Act?**

As per **Rule 17** the application for registration must be made in triplicate in Form-I along with the prescribed fees to the registering officer. The application must be delivered to the registrar personally or through registered post. On receipt of the application, the registering officer will note there on the date of receipt by him of the application & grant an acknowledgement to the applicant. If the application for registration is complete in all respects, the registering officer shall issue a certificate of registration in Form-II stating the prescribed details

**What are the effects of non-registration?**

If an establishment does not hold a certificate of registration or if its registration has been revoked, it cannot employ contract labour [**Sec 9**].

Principal employer's failure to get the establishment registered will not render the contract labour employees of the principal employer.

**Is the contractor required to get a license before getting the work done through contract labour?**

As per **Sec 12** a contractor cannot undertake or execute any work through contract labour unless he has acquired a license from the licensing officer. Sub-contractors & piece-wagers are also responsible for obtaining licenses. Failure to obtain license does not render the contract labour employees of the principal employer. However such failure will amount to a criminal offence. Undertaking work through contract labour without a license constitutes a fresh offence everyday.

**What is the procedure of obtaining licenses by contractors?**

A contractor desirous of obtaining a license must apply to the Licensing Officer in the prescribed form containing particulars such as location of the establishment, nature of process etc. On being satisfied that the application fulfills all the requirements and after making necessary investigations, the Licensing Officer shall grant the license on payment of the prescribed fees and security deposit. The license is valid for a specified period and on expiry has to be renewed from time to time [**Sec 13**].

**What are the provisions regarding payment of wages?**

The contractor is liable to pay the wages to contract labour, in the presence of an authorized representative of the principal employer. The wages must be paid before the expiry of the prescribed period. If the contractor makes a default, then the principal employer is liable to pay the wages to the contract labour. The principal employer can then recover the amount so paid by him from the contractor [**Sec 21**]. Further the term 'wages' includes balance or arrears thereof.

**What other Labour Laws / Acts are applicable to Contract Labour?**The following Acts are duly applicable to the contract labour employed in a factory or establishment which is otherwise covered by these Acts -

(**1**)Factories Act, 1948 (**2**) Industrial Disputes Act, 1947 (**3**)Payment of Wages Act, 1948 (**4**)Workmen's Compensation Act, 1923

**Is the employer required to maintain any registers?**
Every principal employer & contractor must maintain such registers & records stating the particulars of contract labour employed, wages paid, nature of work & such other particulars as prescribed [**Sec 29**]

**What are the rights of employers and contractors?**
Every employer and contractor has the following rights :

- Right to appeal against the order of the Registering Officer or the Licensing Officer if he refuses or revokes registration or license. The appeal must be filed with the appellate authority within 30 days from the date on which the order is communicated to him [**Sec 15**].
- Right to be represented on the Central & State Advisory Boards [**Sec 4**].

**What are the various offences & penalties prescribed under the Act?**

| Offences | Penalties | Section |
|---|---|---|
| • Obstructing an inspector while making inquiry , inspection, investigation ; or<br>• failure to produce registers & documents before an inspector for inspection. | • Imprisonment upto 3 months or fine upto Rs. 500 or both. | **Sec 22** |
| • Employing contract labour in contravention of the provisions of the Act ;<br>• violating any conditions of the registration certificate or license. | • Imprisonment upto 3 months or fine upto Rs. 1000 or both.<br>• In case of continuing offence additional fine upto Rs. 100 per day. | **Sec 23** |
| • Contravention of any other provision of the Act, or the Rules made thereunder. | • Imprisonment upto 3 months or fine upto Rs. 1000 or both. | **Sec 24** |

**What if the offence is committed by a company?**
In relation to offences by companies, firms, associations of persons or body corporate, the director, partner or the principal officer, as the case may be, who was incharge of responsible for the business at the time the offence was committed, shall be deemed to be guilty of that offence and punished accordingly [**Sec 25**].

# Equal Remuneration Act, 1976

## I PRELIMINARY

1. Short title extent and commencement

1. (1) This Act may be called the Equal Remuneration Act 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date not being later than three years from the passing of this Act as the Central Government may by notification appoint and different dates may be appointed for different establishments or employments.

## 2. Definitions

2. In this Act unless the context otherwise requires -

(a) "appropriate government" means -

(i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration or in relation to a banking company a mine oil-field or major port or any corporation established by or under a Central Act the Central Government and

(ii) in relation to any other employment the State Government;

(b) "commencement of this Act" means in relation to an establishment or employment the date on which this Act comes into force in respect of that establishment or employment;

(c) "employer" has the meaning assigned to it in clause (f) of section 2 of the Payment of Gratuity Act 1972 (39 of 1972);

(d) "man" and "woman" means male and female human beings respectively of any age;

(e) "notification" means a notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "remuneration" means the basic wage or salary and any additional emoluments whatsoever payable either in cash or in kind to a person employed in respect of employment or work done in such employment if the terms of the contract of employment express or implied were fulfilled;

(h) "same work or work of a similar nature" means work in respect of which the skill effort and responsibility required are the same when performed under similar working conditions by a man or a woman and the differences if any between the skill effort and responsibility required of a man and those required to a woman are not of practical importance in relation to the terms and conditions of employment;

(i) "worker" means a worker in any establishment or employment in respect of which this Act has come into force;

(j) words and expressions used in this Act and not defined but defined in the Industrial Disputes Act 1947 (14 of 1947) shall have the meanings respectively assigned to them in that Act.

### 3. Act to have overriding effect

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award agreement or contract of service whether made before or after the commencement of this Act or in any instrument having effect under any law for the time being in force.

## II PAYMENT OF REMUNERATION OF EQUAL RATES TO MEN AND WOMEN WORKERS AND OTHER MATTERS

**4. Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.**

4. (1) No employer shall pay to any worker employed by him in an establishment or employment remuneration whether payable in cash or in kind at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(2) No employer shall for the purpose of complying with the provisions of sub-section (1) reduce the rate of remuneration of any worker.

(3) Where in an establishment on employment the rates of remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex then the higher (in cases where there are only two rates) or as the case may be the highest (in cases where there are more than two rates) of such rates shall be the rate at which remuneration shall be payable on and from such commencement to such men and women workers.

Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.

**5. No discrimination to be made while recruiting men and women workers**

5. On and from the commencement of this Act no employer shall while making recruitment for the same work or work of a similar nature or in any condition of service subsequent to recruitment such as promotions training or transfer make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force :

Provided that the provisions of this section shall not affect any priority or reservation for scheduled castes or scheduled tribes ex-servicemen retrenched employees or any

other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

### 6. Advisory committee

6. (1) For the purpose of providing increasing employment opportunities for women the appropriate government shall constitute one or more advisory committees to advise it with regard to the extent to which women may be employed in such establishments or employments as the Central Government may by notification specify in this behalf.

(2) Every advisory committee shall consist of not less than ten persons to be nominated by the appropriate government of which one-half shall be women.

(3) In tendering its advice the advisory committee shall have regard to the number of women employed in the concerned establishment or employment the nature of work hours of work suitability of women for employment as the case may be the need for providing increasing employment opportunities for women including part-time employment and such other relevant factors as the committee may think fit.

(4) The advisory committee shall regulate its own procedure.

(5) The appropriate government may after considering the advice tendered to it by the advisory committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations issue such directions in respect of employment of women workers as the appropriate government may think fit.

6. (1) For the purpose of providing increasing employment opportunities for women the appropriate government shall constitute one or more advisory committees to advise it with regard to the extent to which women may be employed in such establishments or employments as the Central Government may by notification specify in this behalf.

(2) Every advisory committee shall consist of not less than ten persons to be nominated by the appropriate government of which one-half shall be women.

(3) In tendering its advice the advisory committee shall have regard to the number of women employed in the concerned establishment or employment the nature of work hours of work suitability of women for employment as the case may be the need for providing increasing employment opportunities for women including part-time employment and such other relevant factors as the committee may think fit.

(4) The advisory committee shall regulate its own procedure.

(5) The appropriate government may after considering the advice tendered to it by the advisory committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations issue such directions in respect of employment of women workers as the appropriate government may think fit.

**7. Power of appropriate government to appoint authorities for hearing and deciding claims and complaints**

7. (1) The appropriate government may by notification appoint such officers not below the rank of a labour officer as it thinks fit to be the authorities for the purpose of hearing and deciding -

(a) complaints with regard to the contravention of any provision of this Act;

(b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature;

any may by the same or subsequent notification define the local limits within which each such authority shall exercise its jurisdiction.

(2) Every complaint or claim referred to in sub-section (1)shall be made in such manner as may be prescribed.

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is made to the authority appointed under sub-section (1) it may after giving the applicant and the employer an opportunity of being heard and after such inquiry as it may consider necessary direct -

(i) in the case of a claim arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid;

(ii) in the case of complaint that adequate steps be taken by the employer so as to ensure that there is no contravention of any provision of this Act.

(5) Every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure 1908 (5 of 1908) for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents and every such authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure 1973 (2 of 1974).

(6) Any employer or worker aggrieved by any order may be an authority appointed under sub-section (1) on a complaint or claim may within thirty days from the date of the order prefer an appeal to such authority as the appropriate government may by notification specify in this behalf and that authority may after hearing the appeal conform modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

7) The authority referred to in sub-section (6) may if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub-section (6) allow the appeal to be preferred within a further period of thirty days not thereafter.

(8) The provisions of sub-section (1) of section 33C of the Industrial Disputes Act 1947 (14 of 1947) shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

## 8. Duty of employers to maintain registers

8. On and from the commencement of this Act every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

## 9. Inspectors

9. (1) The appropriate government may by notification appoint such persons as it may think fit to be inspectors for the purpose of making an investigation as to whether the provisions of this Act or the rules made thereunder are being complied with by employers and may define the local limits within which an inspector may make such investigation.

(2) Every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(3) An inspector may at any place within the local limits of his jurisdiction -

(a) enter at any reasonable time with such assistance as he thinks fit any building factory premises or vessel;

(b) require any employer to produce any register muster-roll or other documents relating to the employment of workers and examine such documents;

(c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being or have been complied with;

(d) examine the employer his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the inspector has reasonable cause to believe to be or to have been a worker in the establishment;

e) make copies or take extracts from any register or other document maintained in relation to the establishment under this Act.

(4) Any person required by an inspector to produce any register or other document or to give any information shall comply with such requisition.

## 10. Penalties

10. (1) If after the commencement of this Act any employer being required by or under the Act so to do -

(a) omits or fails to maintain any register or other document in relation to workers employed by him or

(b) omits or fails to produce any register muster-roll or other document relating to the employment of workers or

(c) omits or refuses to give any evidence or prevents his agents servant or any other person in charge of the establishment or any worker from giving evidence or

(d) omits or refuses to give any information he shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to ten thousand rupees or with both.

(2) If after the commencement of this Act any employer -

(a) makes any recruitment in contravention of the provisions of this Act or

(b) makes any payment of remuneration at unequal rates to men and women workers for the same work or work of a similar nature or

(c) makes any discrimination between men and women workers in contravention of the provisions of this Act or

(d) omits or fails to carry out any direction made by the appropriate government under sub-section (5) of section 6 he shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with imprisonment for a term which shall be not less than three months but which may extend to one year or with both for the first offence and with imprisonment which may extend to two years for the second and subsequent offences.

(3) If any person being required so to do omits or refuses to produce to an inspector any register or other document or to give any information he shall be punishable with fine which may extend to five hundred rupees.

### 11. Offences by companies

11. (1) Where an offence under this Act has been committed by a company every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director manager secretary or other officer of the company such director

manager secretary or other office shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section -

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

### 12. Cognizance and trial of offences

12. (1) No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence punishable under this Act except upon -

(a) its own knowledge or upon a complaint made by the appropriate government or an officer authorised by it in this behalf or

(b) a complaint made by the person aggrieved by the offence or by any recognised welfare institution or organisation.

Explanation : For the purposes of this sub-section "recognised welfare institution or organisation" means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

### 13. Power to make rules

13. (1) The Central Government may by notification make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters namely :-

(a) the manner in which complaint or claim referred to in sub-section (1) of section 7 shall be made;

(b) registers and other documents which an employer is required under section 8 to maintain in relation to the workers employer by him;

(c) any other matter which is required to be or may be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**14. Power of Central Government to give directions**

14. The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

**15. Act not to apply in certain special cases**

15. Nothing in this Act shall apply -

(a) to cases affecting the terms and conditions of a woman's employment in complying with the requirements of any law giving special treatment to women or

(b) to any special treatment according to women in connection with -

(i) the birth or expected birth of a child or

(ii) the terms and conditions relating to retirement marriage or death or to any provision made in connection with the retirement marriage or death.

### 16. Power to make declaration

16. Where the appropriate government is on a consideration of all the circumstances of the case satisfied that the differences in regard to the remuneration or a particular species of remuneration of men and women workers in any establishment or employment is based on a factor other than sex it may by notification make a declaration to that effect and any act of the employer attributable to such a difference shall not be deemed to be contravention of any provision of this act.

### 17. Power to remove difficulties

17. If any difficulty arises in giving effect to the provisions of this Act the Central Government may by notification make any order not inconsistent with the provisions of this Act which appears to it to be necessary for the purpose of removing the difficulty :

Provided that every such order shall as soon as may be after it is made be laid before each House of Parliament.

### 18. Repeal and saving

18. (1) The Equal Remuneration Ordinance 1975 (12 of 1975) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed (including any notification nomination appointment order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force when such thing was done or action was taken.

# FACTORIES ACT, 1948

[Act No. 63 of Year 1948 dated 23rd. September, 1948]

*An Act to consolidate and amend the law regulating labour in factories.*

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories;

It is hereby enacted as follows: -

## CHAPTER I :PRELIMINARY

### 1. Short title, extent and commencement

(1) This Act may be called the Factories Act, 1948.

[1][(2) It extends to the whole of India [2][* * *].

(3) It shall came into force on the lst day of April, 1949.

### 2. Interpretation

In this Act, unless there is anything repugnant in the subject or context,-

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year;

[3][(bb) "calendar year" means the period of twelve months beginning with the first day of January in any year;]

(c) "child" means a person who has not completed his fifteenth year of age;

[4][(ca) "competent person", in relation to any provision of this Act, means a person or an institution recognised as such by the Chief Inspector for the purposes of carrying out tests, examinations and inspections required to be done in a factory under the provisions of this Act having regard to-

(i) the qualifications and experience of the person and facilities available at his disposal; or

(ii) the qualifications and experience of the persons employed in such institution and facilities available therein,

with regard to the conduct of such tests, examinations and inspections, and more than one person or institution can be recognised as a competent person in relation to a factory;

(cb) "hazardous process" means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes, or effluents thereof would-

(i) cause material impairment to the health of the persons engaged in or connected therewith, or

(ii) result in the pollution of the general environment:

PROVIDED that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry, specified in the said Schedule;]

(d) "young person" means a person who is either a child or an adolescent;

(e) "day" means a period of twenty-four hours beginning at midnight;

(f) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;

(g) "power" means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(h) "prime mover" means any engine, motor or other appliance which generates or otherwise provides power;

(i) "transmission machinery" means any shaft, wheel drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;

(j) "machinery" includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;

**(k) "manufacturing process" means any process for-**

**(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or**

**[5][(ii) pumping oil, water, sewage or any other substance; or]**

**(iii) generating, transforming or transmitting power; or**

**[6][(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding;] [7][or]**

**(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; [7][or]**

**[7][(vi) preserving or storing any article in cold storage;]**

(l) "worker" means a person [8][employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not], in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process [7][but does not include any member of the armed forces of the Union];

(m) "factory" means any premises including the precincts thereof-

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) Whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,-

but does not include a mine subject to the operation of [9][the Mines Act, 1952 (35 of 1952)] or [10][a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place].

[7][*Explanation* [11][*I*] : For computing the number of workers for the purposes of this clause all the workers in [12][different groups and relays] in a day shall be taken into account;]

[13][*Explanation II*: For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if no manufacturing process is being carried on in such premises or part thereof;]

(n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory [14][***];

[13][PROVIDED that

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;

(ii) in the case of a company, any one of the directors shall be deemed to be the occupier;

(iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier:]

[7][[15][PROVIDED FURTHER that] in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,-

(1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under

(a) section 6, section 7, [4][section 7A, section 7B,] section 11 or section 12;

(b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;

(c) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;

(2) the owner of the ship or his agent or master or other office-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44, or section 45, Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to-

(a) the workers employed directly by him, or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person;]

[16][***]

(p) "prescribed" means prescribed by rules made by the State Government under this Act;

[17][* * *]

(r) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a [18]["group" or "relay"] and each of such periods is called a "shift".

### 3. References to time of day

In this Act references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time:

PROVIDED that for any area in which Indian Standard Time is not ordinarily observed the State Government may make rules,-

(a) specifying the area,

(b) defining the local mean time ordinarily observed therein, and

(c) permitting such time to be observed in all or any of the factories situated in the area.

### [6][4. Power to declare different departments to be separate factories or two or more factories to be a single factory

The State Government may, [4][on its own or] on an application made in this behalf by an occupier, direct, by an order in writing [4][and subject to such conditions as it may deem fit], that for all or any of the purposes of this act different departments or branches of a factory of the occupier specified in the application shall be treated as separate factories or that two or more factories of the occupier specified in the application shall be treated as a single factory:]

[19][PROVIDED that no order under this section shall be made by the State Government on its own motion unless an opportunity of being heard is given to the occupier.]

### 5. Power to exempt during public emergency

In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act [20][except section 67] for such period and subject to such conditions as it may think fit:

PROVIDED that no such notification shall be made for a period exceeding three months at a time.

[7][*Explanation*: For the purposes of this section "public emergency" means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.]

### 6. Approval, licensing and registration of factories

(1) The State Government may make rules-

[22][(a) requiring, for the purposes of the Act, the submission of plans of any class or description of factories to the Chief Inspector or the State Government;]

[21][(aa) requiring the previous permission in writing of the State Government or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories;

(b) requiring for the purpose of considering applications for such permission the submission of plans and specifications;

(c) prescribing the nature of such plans and specifications and by whom they shall be certified;

(d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licenses;

(e) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.

(2) If on an application for permission referred to in [22][clause (aa)] of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the State Government or Chief Inspectors by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

(3) Where a State Government or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the State Government and to the State Government in any other case.

*Explanation*: A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery [7][if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.]

### 7. Notice by occupier

(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing-

(a) The name and situation of the factory;

(b) the name and address of the occupier;

[23][(bb) the name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93;]

(c) the address to which communications relating to the factory may be sent;

(d) the nature of the manufacturing process-

(i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act; and

(ii) to be carried on in the factory during the next twelve months in the case of all factories;

[5][(e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;]

(f) the name of the manager of the factory for the purposes of this Act;

(g) the number of workers likely to be employed in the factory;

(h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act;

(i) such other particulars as may be prescribed.

(2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days from the date of the commencement of this Act.

(3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) [24][at least thirty days] before the date of the commencement of work.

(4) Whenever a new manager is appointed, the occupier shall send to the [25][Inspector a written notice and to the Chief Inspector a copy thereof] within seven days from the date on which such person takes over charge.

(5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as a manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

## CHAPTER II : THE INSPECTING STAFF

### [26][7A. General duties of the occupier

(1) Every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory.

(2) Without prejudice to the generality of the provisions of sub-section (1), the matters to which such duty extends, shall include-

(a) the provision and maintenance of plant and systems of work in the factory that are safe and without risks to health;

(b) the arrangements in the factory for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all workers at work;

(d) the maintenance of all places of work in the factory in a condition that is safe and without risks to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risks;

(e) the provision, maintenance or monitoring of such working environment in the factory for the workers that is safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work.

(3) Except in such cases as may be prescribed, every occupier shall prepare, and, as often as may be appropriate, revise, a written statement of his general policy with respect to the health and safety of the workers at work and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision thereof to the notice of all the workers in such manner as may be prescribed.

### 7B. General duties of manufacturers, etc., as regards articles and substances for use in factories

(1) Every person who designs, manufactures, imports or supplies any article for use in any factory, shall-

(a) ensure, so far as is reasonably practicable, that the article is so designed and constructed as to be safe and without risks to the health of the workers when properly used;

(b) carry out or arrange for the carrying out of such tests and examination as may be considered necessary for the effective implementation of the provisions of clause (a);

(c) take such steps as may be necessary to ensure that adequate information will be available

(i) in connection with the use of the article in any factory;

(ii) about the use for which it is designed and tested; and

(iii) about any conditions necessary to ensure that the, when put to such use, will be safe, and without risks to the health of the workers:

PROVIDED that where an article is designed or manufactured outside India, it shall be obligatory on the part of the importer to see-

(a) that the article conforms to the same standards if such article is manufactured in India, or

(b) if the standards adopted in the country outside for the manufacture of such article is above the standards adopted in India, that the article conforms to such standards.

(2) Every person, who undertakes to design or manufacture any article for use in any factory may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to the health or safety of the workers to which the design or article may give rise.

(3) Nothing contained in sub-sections (1) and (2) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

(4) Any duty imposed on any person by sub-sections (1) and (2) shall extend only to things done in the course of business carried on by him and to matters within his control.

(5) Where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.

(6) For the purposes of this section, an article is not to be regarded as properly used if it is used without regard to any information or advice relating to its use which has been made available by the person who has designed, manufactured, imported or supplied the article.

*Explanation* : For the purposes of this section, "article" shall include plant and machinery.]

## CHAPTER II : THE INSPECTING STAFF

### 8. Inspectors

(1) The State Government may, by notification in the Official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector through out the State.

[7][(2A) The State Government may, by notification in the Official Gazette, appoint as many Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors and as many other officers as it thinks fit to assist the Chief Inspector and to exercise such of the powers of the Chief Inspector as may be specified in such notification.

(2B) Every Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector and every other officer appointed under sub-section (2A) shall, in addition to the powers of a Chief Inspector specified in the notification by which he is appointed, exercise the powers of an Inspector throughout the State.]

(3) No person shall be appointed under sub-section (1), sub-section (2) [7][,sub-section (2A)] or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The State Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one the State Government may, by notification as aforesaid, declare the powers, which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.

(7) [27][Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed under this section] shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860), and shall be officially subordinate to such authority as the State Government may specify in this behalf.

### 9. Powers of Inspectors

Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,-

(a) enter, with such assistants, being persons in the service of the government, or any local or other public authority, [4][or with an expert] as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;

[28][(b) make examination of the premises, plant, machinery, article or substance;

(c) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or not, and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry;

(d) require the production of any prescribed register or any other document relating to the factory;

(e) seize, or take copies of, any register, record or other document or any portion thereof as he may consider necessary in respect of any offence under this Act, which he has reason to believe, has been committed;

(f) direct the occupier that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause (b);

(g) take measurements and photographs and make such recordings as he considers necessary for the purpose of any examination under clause (b), taking with him any necessary instrument or equipment;

(h) in case of any article or substance found in any premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health or safety of the workers, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of this Act), and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;

(i) exercise such other powers as may be prescribed:]

PROVIDED that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

**10. Certifying surgeons**

(1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the State Government, authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the State Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery connected therewith or is otherwise in the employ of the factory:

[7][PROVIDED that the State Government may, by order in writing and subject to such conditions as may be specified in the order, exempt any person or class of persons from the provisions of this sub-section in respect of any factory or class or description of factories.]

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with-

(a) the examination and certification of young persons under this Act;

(b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;

(c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where-

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein;

(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process;

(iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

*Explanation*: In this section "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916, or in Schedules to the Indian Medical Council Act, 1933[29].

## CHAPTER III : HEALTH

### 11. Cleanliness

(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular-

(a) accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;

(c) Where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall-

(i) where they are [30][painted otherwise than with washable water-paint] or varnished, be repainted or revarnished at least once in every period of five years;

[31][(ia) Where they are painted with washable water-paint, be repainted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;]

(ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed;

(iii) in any other case, be kept whitewashed or colour washed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months;

[7][(dd) all doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every period of five years;]

(e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on [32][in a factory or class or description of factories or any part of a factory or class or description of factories], it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the State Government may by order exempt such factory or class or description of factories [7][or part] from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

### 12. Disposal of wastes and effluents

[33][(1) Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.]

(2) The State Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

### 13. Ventilation and temperature

(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom

(a) adequate ventilation by the circulation of fresh air, and

(b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health;

and in particular,-

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers there from, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that [18][proper

measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.]

[34][(3) If it appears to the Chief Inspector that excessively high temperatures in any factory can be reduced by the adoption of suitable measures, he may, without prejudice to the rules made under sub-section (2), serve on the occupier, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.]

### 14. Dust and fume

(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

### 15. Artificial humidification

(1) In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules,-

(a) prescribing standards of humidification;

(b) regulating the methods used for artificially increasing the humidity of the air;

(c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;

(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion would be adopted, and requiring them to be carried out before specified date.

## 16. Overcrowding

(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every work room of a factory in existence on the date of the commencement of this Act at least [35][9.9 cubic metres] and of a factory built after the commencement of this Act at least [36][4.2 cubic metres] or space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than [37][4.2metres] above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may, by order in writing exempt subject to such conditions, if any, as he may think fit to impose, any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

## 17. Lighting

(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workroom shall be kept clean on both the inner and outer surfaces and so far as compliance with the provisions of any rules made under sub-section (3) of section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of-

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

(4) The State Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

## 18. Drinking water

(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within [38][six metres of any

washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination] unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provisions shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the State Government may make rules for securing compliance with the provisions of sub-sections (1),(2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

### 19. Latrines and urinals

(1) In every factory-

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;

(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed-

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, up to a height of [39][ninety centimetres], of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;

(c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The State Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

### 20. Spittoons

(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The State Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the Spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

## CHAPTER IV : SAFETY

### 21. Fencing of machinery

(1) In every factory the following, namely:

(i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not;

(ii) the headrace and tailrace of every water-wheel and water turbine;

(iii) any part of a stock-bar which projects beyond the head stock of a lathe; and

(iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely,-

(a) every part of an electric generator, a motor or rotary convertor;

(b) every part of transmission machinery; and

(c) every dangerous part of any other machinery;

shall be securely fenced by safeguards of substantial construction which [40][shall be constantly maintained and kept in position] while the parts of machinery they are fencing are in motion or in use:

[41][PROVIDED that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when-

(i) it is necessary to make an examination of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out lubrication or other adjusting operation while the machinery is in motion, being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion, or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the carrying on of which shall be, or is likely to be, substantially interfered with by the stoppage of that part of the machinery), it is necessary to make an examination of

such part of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts or lubrication or other adjusting operation while the machinery is in motion, and such examination or operation is made or carried out in accordance with the provisions of sub-section (1) of section 22.]

(2) The State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

### 22. Work on or near machinery in motion

(1) [42][Where in any factory it becomes necessary to examine any part of machinery referred to in section 21, while the machinery is in motion, or, as a result of such examination, to carry out-

(a) in a case referred to in clause (i) of the proviso to sub-section (1) of section 21, lubrication or other adjusting operation; or

(b) in a case referred to in clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation,

while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf and who has been furnished with a certificate of this appointment, and while he is so engaged-

(a) such worker shall not handle a belt at a moving pulley unless-

(i) the belt is not more than fifteen centimetres in width;

(ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);

(iii) the belt joint is either laced or flush with the belt;

(iv) the belt, including the joint and the pulley rim, are in good repair;

(v) there is reasonable clearance between the pulley and any fixed plant or structure;

(vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and

(vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person.]

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

[43][(2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or

to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.]

(3) The State Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

### 23. Employment of young persons on dangerous machines

(1) No young person [44][shall be required or allowed to work] at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and-

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a through knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

### 24. Striking gear and devices for cutting off power

(1) In every factory-

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every workroom:

PROVIDED that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to workrooms in which electricity is used as power.

[45][(3) When a device, which can inadvertently shift from "off " to "on" position, is provided in a factory to cut off power, arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other machines to which the device is fitted.]

### 25. Self-acting machines

No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of [46][forty-five centimetres] from any fixed structure which is not part of the machine:
PROVIDED that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

### 26. Casing of new machinery

(1) In all machinery driven by power and installed in any factory after the commencement of this Act,-

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of [47][sub-section (1) or any rules made under sub-section (3)], shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

[48][(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.]

### 27. Prohibition of employment of women and children near cotton-openers

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work:
PROVIDED that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

### 28. Hoists and lifts

(1) In every factory-

(a) every hoist and lift shall be-

(i) of good mechanical construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely:

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The State Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct such requirement shall not apply to such class or description of hoist or lift.

[4][*Explanation*: For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.]

**[6][29. Lifting machines, chains, ropes and lifting tackles**

(1) In any factory the following provisions shall be complied with in respect of every lifting machine (other than a hoist and lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:

(a) all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be-

(i) of good construction, sound material and adequate strength and free from defects;

(ii) properly maintained; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing; and a register shall be kept containing the prescribed particulars of every such examination;

(b) no lifting machine and no chain, rope or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register; and where this is not practicable, a table showing the safe working loads of every kind and size of lifting machine or, chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within [49][six metres] of that place.

(2) The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories-

(a) prescribing further requirements to be complied with in addition to those set out in this section;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this section a lifting machine or a chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined.

*Explanation*: In this sections,

(a) "lifting machine" means a crane, crab, winch, teagle, pulley block, gin wheel, transporter or runway;

[50][(b) "lifting tackle" means any chain, sling, rope sling, hook, shackle, swivel, coupling, socket, clamp, tray or similar appliance, whether fixed or movable, used in connection with the raising or lowering of persons, or loads by use of lifting machines.]

### 30. Revolving machinery

(1) [51][In every factory] in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted,

and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, fly-wheel, pulley, disc or similar appliance driven by power is not exceeded.

### 31. Pressure plant

[52][(1) If in any factory, any plant or machinery or any part thereof is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such plant or machinery or part is not exceeded.]

(2) The State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

[53][(3) The State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.]

### 32. Floors, stairs and means of access

In every factory-

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained [54][and shall be kept free from obstructions and substances likely to cause persons to slip], and where it is necessary to ensure safety, steps, stairs, passages, and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

[55][(c) When any person has to work at a height from where he is likely to fall, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.]

### 33. Pits, sumps, opening in floors, etc.

(1) In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The State Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

### 34. Excessive weights

(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specific process.

### 35. Protection of eyes

In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves-

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light,

the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediately vicinity of, the process.

### [55][36. Precautions against dangerous fumes, gases, etc.

(1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No person shall be required or allowed to enter any confined space as is referred to in sub-section (1), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless-

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust; or

(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.]

### [56][36A. Precautions regarding the use of portable electric light

In any factory-

(a) no portable electric light or any other electric appliance of voltage exceeding twenty-four volts shall be permitted for use inside any chamber, tank, vat, pit, pipe, flue or other confined space,[57][unless adequate safety devices are provided]; and

(b) if any inflammable gas, fume or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space no lamp or light other than that of flame-proof construction shall be permitted to be used therein.]

**37. Explosive or inflammable dust, gas, etc.**

(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode to ignition, all practicable measures shall be taken to prevent any such explosion by-

(a) effective enclosure of the plant or machinery used in the process;

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour;

(c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provisions in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part of any such pipe shall be effectively stopped by a stop-valve or other means;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part of pipe until the fastening has been secured, or, as the case may be, securely replaced:

PROVIDED that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and

no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The State Government may by rules exempt, subject to such conditions as may be prescribed any factory or class or description of factories from compliance with all or any of the provisions of this section.

### [58][38. Precautions in case of fire

(1) In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain-

(a) safe means of escape for all persons in the event of a fire, and

(b) the necessary equipment and facilities for extinguishing fire.

(2) Effective measures shall be taken to ensure that in every factory all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such cases.

(3) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-sections (1) and (2).

(4) Notwithstanding anything contained in clause (a) of sub-section (1) or sub-section (2), if the Chief Inspector, having regard to the nature of the work carried on in any factory, the construction of such factory, special risk to life or safety, or any other circumstances, is of the opinion that the measures provided in the factory, whether as prescribed or not, for the purposes of clause (a) of sub-section (1) or sub-section (2), are inadequate, he may, by order in writing, require that such additional measures as he may consider reasonable and necessary, be provided in the factory before such date as is specified in the order.]

### 39. Power to require specifications of defective parts or tests of stability

If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life, he may serve on [59][the occupier or manager or both] of the factory an order in writing requiring him before a specified date-

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

### 40. Safety of building and machinery

(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may

serve on [59][the occupier or manager or both] of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on [60][the occupier or manager or both] of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

### [61][40A. Maintenance of buildings

If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.

### 40B. Safety officers

(1) In every factor,-

(i) wherein one thousand or more workers are ordinarily employed, or

(ii) wherein, the opinion of the State Government any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory,

the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

(2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.]

### 41. Power to make rules to supplement this Chapter

The State Government may make rules requiring the provision in any factory or in any class or description of factories of such further [62][devices and measures] for securing the safety of persons employed therein as it may deem necessary.

## [63][CHAPTER IV-A : PROVISIONS RELATING TO HAZARDOUS PROCESSES

### 41A. Constitution of Site Appraisal Committees

(1) The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of any such factory, appoint a Site Appraisal Committee consisting of-

(a) the Chief Inspector of the State who shall be its Chairman;

(b) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(d) a representative of the State Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(e) a representative of the State Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(f) a representative of the Department of Environment in the State;

(g) a representative of the Meteorological Department of the Government of India;

(h) an expert in the field of occupational health; and

(i) a representative of the Town Planning Department of the State Government, and not more than five other members who may be co-opted by the State Government who shall be-

(i) a scientist having specialised knowledge of the hazardous process which will be involved in the factory,

(ii) a representative of the local authority within whose jurisdiction the factory is to be established, and

(iii) not more than three other persons as deemed fit by the State Government.

(2) The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within a period of ninety days of the receipt of such application in the prescribed form.

(3) Where any process relates to a factory owned or controlled by the Central Government or to a corporation or company owned or controlled by the Central Government, the State Government shall co-opt in the Site Appraisal Committee a representative nominated by the Central Government as a member of that Committee.

(4) The Site Appraisal Committee shall have power to call for any information from the person making an application for the establishment or expansion of a factory involving a hazardous process.

(5) Where the State Government has granted approval to an application for the establishment or expansion of a factory involving a hazardous process, it shall not be necessary for an applicant to obtain a further approval from the Central Board or the State Board established under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981).

### 41B. Compulsory disclosure of information by the occupier

(1) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector, the local authority within whose jurisdiction the factory is situate and the general public in the vicinity.

(2) The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector and the local authority and, thereafter, at such intervals as may be prescribed, inform the Chief Inspector and the local authority of any change made in the said policy.

(3) The information furnished under sub-section (1) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(4) Every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(5) Every occupier of a factory shall,-

(a) if such factory engaged in a hazardous process on the commencement of the Factories (Amendment) Act, 1987, within a period of thirty days of such commencement; and

(b) if such factory proposes to engage in a hazardous process at any time after such commencement, within a period of thirty days before the commencement of such process,

inform the Chief Inspector of the nature and details of the process in such form and in such manner as may be prescribed.

(6) Where any occupier of a factory contravenes the provisions of sub-section (5), the licence issued under section 6 to such factory shall, notwithstanding any penalty to which the occupier of factory shall be subjected to under the provisions of this Act, be liable for cancellation.

(7) The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector, lay down measures for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed among the workers and the general public living in the vicinity.

### 41C. Specific responsibility of the occupier in relation to hazardous processes

Every occupier of a factory involving any hazardous process shall-

(a) maintain accurate and up-to-date health records or, as the case may be, medical records of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed;

(b) appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed :

PROVIDED that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector shall be final;

(c) provide for medical examination of every worker-

(a) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance, and

(b) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed.

### 41D. Power of Central Government to appoint Inquiry Committee

(1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected, due to such failure or neglect and for the prevention and recurrence of such extraordinary situations in future in such factory or elsewhere.

(2) The Committee appointed under sub-section (1) shall consist of a Chairman and two other members and the terms of reference of the Committee and the tenure of office of its members shall be such as may be determined by the Central Government according to the requirements of the situation.

(3) The recommendations of the Committee shall be advisory in nature.

### 41E. Emergency standards

(1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Director-General of Factory Advice Service and Labour Institute or any institutions specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Act, be enforceable and have the same effect as if they had been incorporated in the rules made under this Act.

### 41F. Permissible limits of exposure of chemical and toxic substances

(1) The maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

(2) The Central Government may, at any time, for the purpose of giving effect to any scientific proof obtained from specialised institutions or experts in the field, by notification in the Official Gazette, make changes in the said Schedule.

### 41G. Workers' participation in safety management

(1) The occupier shall, in every factory where a hazardous process takes place, or where hazardous substances are used or handled, set up a Safety Committee consisting of equal number of representatives of workers and management to promote cooperation between the workers and the management in maintaining proper safety and health at work and to review periodically the measures taken in that behalf :

PROVIDED that the State Government may, by order in writing and for reasons to be recorded, exempt the occupier of any factory or class of factories from setting up such Committee.

(2) The composition of the Safety Committee, the tenure of office of its members and their rights and duties shall be such as may be prescribed.

### 41H. Right of workers to warn about imminent danger

(1) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may bring the same to the notice of the occupier, agent, manager or any other person who is incharge of the factory or the process concerned directly or thorough their representatives in the Safety Committee and simultaneously being the same to the notice of the Inspector.

(2) It shall be the duty of such occupier, agent, manager or the person incharge of the factory or process to take immediate action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the nearest Inspector.

(3) If the occupier, agent, manager or the person incharge referred to in sub-section (2) is not satisfied about the existence of any such imminent danger as apprehended by the workers, he shall, nevertheless,

refer the matter forthwith to the nearest Inspector whose decision on the question of the existence of such imminent danger shall be final.]

## CHAPTER V : WELFARE

### 42. Washing facilities

(1) In every factory,-

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The State Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

### 43. Facilities for storing and drying clothing

The State Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

### 44. Facilities for sitting

(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The State Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

### 45. First-aid appliances

(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards, equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed [3][at any one time] in the factory.

[64][(2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard.

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person [65][who holds a certificate in first-aid treatment recognised by the State Government] and who shall always be readily available during the working hours of the factory].

[66][(4)] In every factory wherein more than five hundred workers are [67][ordinarily employed] there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed [68][and those facilities shall always be made readily available during the working hours of the factory].

### 46. Canteens

(1) The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;

[7](dd) the items of expenditure in the running of the canteen which are not to be taken in account in fixing the cost of foodstuffs and which shall be borne by the employer;]

(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

### 47. Shelters, rest rooms and lunch rooms

(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

PROVIDED that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section:

PROVIDED FURTHER that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The State Government may-

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;

(b) by notification in the Official Gazette, exempt any factory or class or description of factories from the requirements of this section.

### 48. Creches

(1) In every factory wherein more than [69][thirty women workers] are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision in any factory of free milk or refreshment or both for such children;

(d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

### 49. Welfare officers

(1) In every factory wherein five hundred or more workers are ordinarily employed, the occupier shall employ in the factory such number of welfare officers as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

### 50. Power to make rules to supplement this Chapter

The State Government may make rules-

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter;

(b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements of the workers.

## CHAPTER VI : WORKING HOURS OF ADULTS

### 51. Weekly hours

No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

### 52. Weekly holidays

(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and

(b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,-

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory:

PROVIDED that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

### 53. Compensatory holidays

(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The State Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

### 54. Daily hours

Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

[70][PROVIDED that, subject to the previous approval of the Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.]

### 55. Intervals for rest

[71][(1) [72][The periods of work] of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

[73][(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.]

### 56. Spreadover

The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day:

PROVIDED that the Chief Inspector may, for reasons to be specified in writing, increase the [74][spreadover up to twelve hours].

### 57. Night shifts

Where a worker in a factory works on a shift which extends beyond midnight,-

(a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

### 58. Prohibition of overlapping shifts

(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

[75][(2) The State Government or subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-section (1).]

### 59. Extra wages for overtime

(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

[76][(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

(3) Where any workers in a factory are paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be the ordinary rates of wages of those workers:

PROVIDED that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earning of the worker for the days on which he actually worked in the week in which the overtime work was done.

*Explanation*: For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.

[77][(4) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

*Explanation 1* : "Standard family" means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

*Explanation 2*: "Adult consumption unit" means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing-

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(6) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.]

### 60. Restriction on double employment

No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

### 61. Notice of periods of work for adults

(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54, [78][55, 56 and 58.].

(3) Where all the adult workers in a factory are required to work during the same, periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The State Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

### 62. Register of adult workers

(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing

(a) the name of each adult worker in the factory;

(b) the nature of his work;

(c) the group, if any, in which he is included;

(d) where his group works on shifts, the relay to which he is allotted; and

(e) such other particulars as may be prescribed:

PROVIDED that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this sections, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

[7][(1A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers.]

(2) The State Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

### 63. Hours of work to correspond with notice under section 61 and register under section 62

No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

### 64. Power to make exempting rules

(1) The State Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory [7][or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector, such person holds such position or is so employed], and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined [7][or declared]:

[7][PROVIDED that any person so defined or declared shall, where the ordinary rate of wages of such person [18][does not exceed the wage limits specified in sub-section (6) of section 1 of the Payment of Wages Act, 1936 (4 of 1936), as amended from time to time], be entitled to extra wages in respect of overtime work under section 59.].

(2) The State Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed-

(a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55, and 56;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56;

(d) of workers engaged in any work which for technical reasons must be carried on continuously [79][* * *] from the provisions of sections 51, 52, 54, 55, and 56;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of [80][section 51 and section 52];

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of [5][section 51, section 52 and section 54];

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55;

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of [81][section 51 and section 52];

[3][(i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of sections 51, 54 and 56.

*Explanation*: In this clause the expression "newspapers" has the meaning assigned to it in the Press and Registration of Books Act, 1867 (25 of 1867);

(j) of workers engaged in the loading or unloading of railway wagons, [7][or lorries or trucks], from the provisions of sections 51, 52, 54, 55 and 56];

[7][(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of section 51, section 52, section 54, section 55 and section 56.]

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the State Government may deem to be expedient, subject to such conditions as it may prescribe.

[6][(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime:

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the spreadover, inclusive of intervals for rest, shall not exceed twelve hours in any one day:

PROVIDED that the State Government may, in respect of any or all of the categories of workers referred to in clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by clause (i) and clause (ii) shall not apply in order to enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty;

[7][(iii) the total number of hours of work in a week, including overtime, shall not exceed sixty;]

[82][(iv)] the total number of hours of overtime shall not exceed fifty for any one quarter.

*Explanation*: "Quarter" means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October.]

(5) Rules made under this section shall remain in force for not more than [83][five years].

### 65. Power to make exempting orders

(1) Where the State Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult worker in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector may, by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or a class or description of factories from any or all of the provisions of

section 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

[84][(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely-

(i) the total number of hours of work in any day shall not exceed twelve;

(ii) the spreadover, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;

(iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

*Explanation*: In this sub-section "quarter" has the same meaning as in sub-section (4) of section 64.]

[85][* * *]

### 66. Further restrictions on employment of women

(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) no woman shall be [86][required or allowed to work in any factory] except between the hours of 6 A.M. and 7 P.M.:

PROVIDED that the State Government may, by notification in the Official Gazette, in respect of [87][any factory or group or class or description of factories,] vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.

[3][(c) there shall be no change of shifts except after a weekly holiday or any other holiday.]

(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

## CHAPTER VII : EMPLOYMENT OF YOUNG PERSONS

### 67. Prohibition of employment of young children

No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

### 68. Non-adult workers to carry tokens

A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless-

(a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

### 69. Certificates of fitness

(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew-

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work;

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year, and is fit for a full day's work in a factory:

PROVIDED that unless the certifying surgeon has a personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)-

(a) shall be valid only for a period of twelve months from the date thereof;

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

### 70. Effect of certificate of fitness granted to adolescent

(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 69, and who while at work in a factory carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapters VI and VIII.

[88][* * *]

[13][(1A) No female adolescent or a male adolescent who has not attained the age of seventeen years but who has been granted a certificate of fitness to work in a factory as an adult, shall be required or allowed to work in any factory except between 6 A.M. and 7 P.M. :

PROVIDED that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories,-

(i) vary the limits laid down in this sub-section so, however, that no such section shall authorise the employment of any female adolescent between 10 P.M. and 5 A.M.

(ii) grant exemption from the provisions of this sub-section in case of serious emergency where national interest is involved.]

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be deemed to be a child or all the purposes of this Act.

### 71. Working hours for children

(1) No child shall be employed or permitted to work in any factory

(a) for more than four and a half hours in any day;

[6][(b) during the night.

*Explanation*: For the purpose of this sub-section "night" shall mean a period of at least twelve consecutive hours which shall include the interval between 10 P.M. and 6 P.M.]

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

[4][(5) No female child shall be required or allowed to work in any factory except between 8 A.M. and 7 P.M.].

### 72. Notice of period of work for children

(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

### 73. Register of child workers

(1) The manager of every factory in which children are employed shall maintain a register of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing,-

(a) the name of each child worker in the factory,

(b) the nature of his work,

(c) the group, if any, in which he is included,

(d) where his group works on shifts, the relay to which he is allotted, and

(e) the number of his certificate of fitness granted under section 69.

[7][(1A) No child worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of child workers.]

(2) The State Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

### 74. Hours of work to correspond with notice under section 72 and register under section 73

No child shall be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory.

### 75. Power to require medical examination

Where an Inspector is of opinion-

(a) that any person working in a factory without a certificate of fitness is a young person, or

(b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,-

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

### 76. Power to make rules

The State Government may make rules-

(a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;

(b) prescribing the physical standards to be attained by children and adolescents working in factories;

(c) regulating the procedure of certifying surgeons under this Chapter;

(d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

### 77. Certain other provisions of law not barred

The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (26 of 1938).

## [6][CHAPTER VIII : ANNUAL LEAVE WITH WAGES

### 78. Application of Chapter

(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award, [89][agreement (including settlement)] or contract of service:

[90][PROVIDED that if such award, agreement (including settlement) or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract of service or matters which are provided for less favourably therein, the provisions of sections 79 to 82, so far as may be, shall apply.]

(2) The provisions of this Chapter shall not apply to workers [91][in any factory]of any railway administered by the government, who are governed by leave rules approved by the Central Government.

## 79. Annual leave with wages

(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of-

(i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;

(ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

*Explanation 1* : For the purpose of this sub-section-

(a) any days of lay-off, by agreement or contract or as permissible under the standing orders;

(b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed;

shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 240 days or more, but shall not earn leave for these days.

*Explanation 2*: The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

[90][(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1), even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave, and such payment shall be made-

(i) where the worker is discharged or dismissed or quits employment, before the expiry of the second working day from the date of such discharge, dismissal, or quitting; and

(ii) where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death.]

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

PROVIDED that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

PROVIDED FURTHER that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-section (8) and (9) [92][or in contravention of sub-section (10)] shall be entitled to carry forward the [93][leave refused] without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year:

PROVIDED that the application shall be made not less than thirty days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947):

PROVIDED FURTHER that the number of times in which leave may be taken during any year shall not exceed three.

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6); and in such a case wages as admissible under section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (14 of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of leave allowable under this section may be regulated.

(9) A scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in the factory and shall be in force for a period of twelve months from the date on which it comes into force, and may thereafter be renewed with or without modifications for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section

80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination, and where a worker who quits his employment, on or before the next pay day.

(12) The unavailed leave of a worker shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

### 80. Wages during leave period

(1) For the leave allowed to him under [94][section 78 or section 79, as the case may be] a worker [95][shall be entitled to wages] at a rate equal to the daily average of his total full time earnings for the days on which [96][he actually worked] during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles:

[97][PROVIDED that in the case of a worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the last calender month preceding his leave, in which he actually worked, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the workers of foodgrains and other articles.]

(2) The cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles shall be computed as often as may be prescribed, on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

*Explanation 1*: "Standard family" means family consisting of a worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

*Explanation 2*: "Adult consumption unit" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit.

(3) The State Government may make rules prescribing-

(a) the manner in which the cash equivalent of the advantage accruing through the confessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

### 81. Payment in advance in certain cases

A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall before his leave begins, be paid the wages due for the period of the leave allowed.

### 82. Mode of recovery of unpaid wages

Any sum required to be paid by an employer, under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the payment of Wages Act, 1936 (4 of 1936).

### 83. Power to make rules

The State Government may make rules directing managers of factories to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

### 84. Power to exempt factories

Where the State Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision, it may, by written order, exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.]

[7]*Explanation* : For the purposes of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than those for which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.]

## CHAPTER IX : SPECIAL PROVISIONS

### 85. Power to apply the Act to certain premises

(1) The State Government may, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on, notwithstanding that

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

PROVIDED that the manufacturing process is not being carried on by the owner only with the aid of his family.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

*Explanation* : For the purposes of this section, "owner" shall include a lessee or mortgagee with possession of the premises.

### 86. Power to exempt public institutions

The State Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution, maintained for the purposes of education, [98][training, research] or reformation, from all or any of the provisions of this Act:

PROVIDED that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the State Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the State Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

### 87. Dangerous operations

Where the State Government is of opinion that any [99][manufacturing process or operation] carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the [99][manufacturing process or operation] is carried on-

(a) specifying the [99][manufacturing process or operation] and declaring it to be dangerous;

(b) prohibiting or restricting the employment of women, adolescents or children in the [99][manufacturing process or operation];

(c) providing for the periodical medical examination of persons employed, or seeking to be employed in the [99][manufacturing process or operation], and prohibiting the employment of persons not certified as fit for such employment [31][and requiring the payment by the occupier of the factory of fees for such medical examination];

(d) providing for the protection of all persons employed in the [99][manufacturing process or operation] or in the vicinity of the places where it is carried on;

(e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the [99][manufacturing process or operation];

[31][(f) requiring the provision of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing, and laying down the standards thereof, having regard to the dangerous nature of the manufacturing process or operation.]

[100][* * *]

### [4][87A. Power to prohibit employment on account of serious hazard

(1) Where it appears to the Inspector that conditions in a factory or part thereof are such that they may cause serious hazard by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard is removed.

(2) Any order issued by the Inspector under sub-section (1) shall have effect for a period of three days until extended by the Chief Inspector by a subsequent order.

(3) Any person aggrieved by an order of the Inspector under sub-section (1), and the Chief Inspector under sub-section (2), shall have the right to appeal to the High Court.

(4) Any person whose employment has been affected by an order issued under sub-section (1), shall be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible and in the manner prescribed.

(5) The provisions of sub-section (4) shall be without prejudice to the rights of the parties under the Industrial Disputes Act, 1974 (14 of 1947).]

### 88. Notice of certain accidents

[101][(1) Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

[31][(2) Where a notice given under sub-section (1) relates to an accident causing death, the authority to whom the notice is sent shall make an inquiry into the occurrence within one month of the receipt of the notice or, if such authority is not the Inspector, cause the Inspector to make an inquiry within the said period.

(3) The State Government may make rules for regulating the procedure at inquiries under this section.]

### [102][88A. Notice of certain dangerous occurrences

Where in a factory any dangerous occurrence of such nature as may be prescribed occurs, whether causing any bodily injury or disability or not, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.]

### 89. Notice of certain diseases

(1) Where any worker in a factory contracts any disease specified in [103][the Third Schedule], the manager of the factory shall send notice thereof to such authorities and in such form and within such time, as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be, suffering from any disease specified in [103][the Third Schedule], the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector stating-

(a) the name and full postal address of the patient,

(b) the disease from which he believes the patient to be suffering, and

(c) the name and address of the factory in which the patient is, or was, last employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of a Certifying surgeon or otherwise, that the person is suffering from a disease specified in [104][the Third Schedule], he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to [105][one thousand rupees].

[106][(5) The Central Government may, by notification in the Official Gazette, add to or alter the Third Schedule and any such addition or alteration shall have effect as if it had been made by this Act.]

### 90. Power to direct enquiry into cases of accident or disease

(1) The State Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in [104][the Third Schedule] has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act;

and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (45 of 1860).

(3) The person holding an inquiry under this section shall make a report to the State Government stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The State Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The State Government may make rules for regulating the procedure as inquiries under this section.

### 91. Power to take samples

(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of the factory, take in the manner hereinafter provided a sufficient sample of any substance used or intended to be used in the factory, such use being-

(a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall-

(a) forthwith give one portion of the sample to the person informed under sub-section (1);

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon;

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

### [107][91A. Safety and occupational health surveys

(1) The Chief Inspector, or the Director-General of Factory Advice Service and Labour Institutes, or the Director-General of Health Services, to the Government of India, or such other officer as may be authorised in this behalf by the State Government or the Chief Inspector or the Director General of Factory Advice Service and Labour Institutes or the Director General of Health Services may, at any time during the normal working hours of a factory, or at any other time as is found by him to be necessary, after giving notice in writing to the occupier or manager of the factory or any other person who for the time being purports to be in charge of the factory, undertake safety and occupational health surveys, and such occupier or manager or other person shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examinations as may be considered necessary by such person and furnish all information in his possession and relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such worker worked in the factory.]

[4][*Explanation*: For the purposes of this section, the report, if any, submitted to the State Government by the person conducting the survey under sub-section (1) shall be deemed to be a report submitted by an Inspector under this Act.]

## CHAPTER X : PENALTIES AND PROCEDURE

### 92. General penalty for offences

Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to [108][two years] or with fine which may extend to [109][one lakh rupees] or with both and if the contravention is continued after conviction, with a further fine which may extend to [110][one thousand rupees] for each day on which the contravention is so continued:

[7][PROVIDED that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than [111][twenty-five thousand rupees] in the case of an accident causing death, and [112][five thousand rupees] in the case of an accident causing serious bodily injury.

*Explanation* : In this section and in section 94 "serious bodily injury" means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.]

**[6][93. Liability of owner of premises in certain circumstances**

(1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent or self contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of-

(i) latrines, urinals and washing facilities insofar as the maintenance of the common supply of water for these purposes is concerned;

(ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of occupier;

(iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;

(iv) precautions in case of fire;

(v) maintenance of hoists and lifts; and

(vi) maintenance of any other common facilities approved in the premises.

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories:

PROVIDED that the owner shall be responsible also for complying with the requirements relating to the provisions and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 46 or section 48.

(7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of-

(i) Chapter III, except sections 14 and 15;

(ii)Chapter IV, except sections 22, 23, 27, 34, 35 and 36 :

PROVIDED that in respect of the provisions of sections 21, 24 and 32 the owner's liability shall be only in so far as such provisions relate to things under his control:

PROVIDED FURTHER that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

(iii) section 42.

(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be single factory.]

### 94. Enhanced penalty after previous conviction

[113][(1)] If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to [114][three years] or with fine [5][which shall not be less than [115][ten thousand rupees] but which may extend to [116][two lakh rupees] or with both:

[117][PROVIDED that the court may, for any adequate and special reasons to be mentioned in the judgement, impose a fine of less than [118][ten thousand rupees]:

PROVIDED FURTHER that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than [119][thirty-five thousand rupees] in the case of an accident causing death and [120][ten thousand rupees] in the case of an accident causing serious bodily injury].

[7][(2) For the purposes of sub-section (1), no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted.]

### 95. Penalty for obstructing Inspector

Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to [121][Six months] or with fine which may extend to [122][ten thousand rupees] or with both.

### 96. Penalty for wrongfully disclosing results of analysis under section 91

Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to [123][six months] or with fine which may extend to [124][ten thousand rupees] or with both.

### [13][96A. Penalty for contravention of the provisions of sections 41B, 41C and 41H

(1) Whoever fails to comply with or contravenes any of the provisions of sections 41B, 41C or 41H or the rules made thereunder, shall, in respect of such failure or contravention, be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to two lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to ten years.]

### 97. Offences by workers

(1) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provisions of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to [125][five hundred rupees].

(2) Where a worker is convicted of an offence punishable under sub-section (1), the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

### 98. Penalty for using false certificate of fitness

Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to [126][two months] or with fine which may extend to [126][one thousand rupees] or with both.

### 99. Penalty for permitting double employment of child

If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to [126][one thousand rupees], unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

[14][****]

### 101. Exemption of occupier or manager from liability in certain cases

Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the court-

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence:

PROVIDED that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

PROVIDED FURTHER that, if the person charged as the actual offender by the occupier or manager cannot be brought before the Court at the time appointed for hearing the charge, the Court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

### 102. Power of Court to make orders

(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act the Court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order (which the Court may, if it thinks fit and on application in such behalf, from time to

time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

### 103. Presumption as to employment

If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purpose of this Act and the rules made thereunder to have been at that time employed in the factory.

### 104. Onus as to age

(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court prima facie under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

### [128][104A. Onus of providing limits of what is practicable, etc.

In any proceeding for an offence for the contravention of any provision of this Act or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or, as the case may be, all practicable measures were taken to satisfy the duty or requirement.]

### 105. Cognizance of offences

(1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate, or of a Magistrate of the first class shall try any offence punishable under this Act.

### 106. Limitation of prosecutions

No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:
PROVIDED that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.
[7][*Explanation*: For the purposes of this section,-

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.]

### [4][106A. Jurisdiction of a court for entertaining proceedings, etc., for offence

For the purposes of conferring jurisdiction on any court in relation to an offence under this Act or the rules made thereunder in connection with the operation of any plant, the place where the plant is for the time being situate shall be deemed to be the place where such offence has been committed.]

## CHAPTER XI : SUPPLEMENTAL

### 107. Appeals

(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the State Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the State Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed:

PROVIDED that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the State Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

### 108. Display of notices

(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

### 109. Service of notice

The State Government may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

### 110. Returns

The State Government may make rules requiring owners, occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

### 111. Obligations of workers

(1) No worker in a factory-

(a) shall wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;

(b) shall wilfully and without reasonable cause do anything likely to endanger himself or others; and

(c) shall wilfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

### [129][111A. Right of workers, etc.

Every worker shall have the right to-

(i) obtain from the occupier, information relating to workers' health and safety at work,

(ii) get trained within the factory wherever possible, or, to get himself sponsored by the occupier for getting trained at a training centre or institute, duly approved by the Chief Inspector, where training is imparted for workers' health and safety at work;

(iii) represent to the Inspector directly or through his representative in the matter of inadequate provision for protection of his health or safety in the factory.]

### 112. General power to make rules

The State Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

### 113. Powers of Centre to give direction

The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

### 114. No charge for facilities and conveniences

Subject to the provisions of section 46, no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided, or any equipments or appliances to be supplied by the occupier under the provisions of this Act.

### 115. Publication of rules

[130][(1) All rules made under this Act shall be published in the Official Gazette, and shall be subject to the condition of previous publication; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), shall be not less than [131][forty-five days] from the date on which the draft of the proposed rule was published.

[13][(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

### 116. Application of Act to government factories

Unless otherwise provided this Act shall apply to factories belonging to the Central or any State Government.

### 117. Protection to persons acting under this Act

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

### 118. Restriction on disclosure of information

(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes, of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purpose of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with the fine which may extend to one thousand rupees, or with both.

### [4][118A. Restriction on disclosure of information

(1) Every Inspector shall treat as confidential the source of any complaint brought to his notice on the breach of any provision of this Act.

(2) No Inspector shall, while making an inspection under this Act, disclose to the occupier, manager or his representative that the inspection is made in pursuance of the receipt of a complaint:

PROVIDED that nothing in this sub-section shall apply to any case in which the person who has made the complaint has consented to disclose his name.]

### [132][119. Act to have effect notwithstanding anything contained in Act 37 of 1970

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Contract Labour (Regulation and Abolition) Act, 1970, [4][or any other law for the time being in force].]

### 120. Repeal and saving

The enactments set out in the Table appended to this section are hereby repealed:
PROVIDED that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act.
*TABLE-[Enactments repealed. [Rep. by the Repealing and Amending Act, 1950 (35 of 1950), s. 2 and Sch.I.*

## [133][SCHEDULE I: LIST OF INDUSTRIES INVOLVING HAZARDOUS PROCESSES

*[Section 2(cb)]*

1. Ferrous Metallurgical Industries
   Integrated Iron and Steel
   Ferro-alloys
   Special Steels.
2. Non-ferrous Metallurgical Industries
   Primary Metallurgical Industries, namely zinc, lead, copper, manganese and aluminium
3. Foundries (ferrous and non-ferrous)
   Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting.
4. Coal (including coke) Industries
   Coal, Lignite, Coke, etc.
   Fuel Cases (including Coal Gas, Producer Gas, Water Gas).
5. Power Generating Industries.
6. Pulp and paper (including paper products) Industries.
7. Fertiliser Industries
   Nitrogenous
   Phosphatic
   Mixed.
8. Cement Industries
   Portland Cement (including slag cement, puzzolona cement and their products).
9. Petroleum Industries
   Oil Refining
   Lubricating Oils and Greases
10. Petro-chemical Industries

11. Drugs and Pharmaceutical Industries

Narcotics, Drugs and Pharmaceuticals.

12. Fermentation Industries (Distilleries and Breweries).

13. Rubber (Synthetic Industries)

14. Paints and Pigment Industries.

15. Leather Tanning Industries.

16. Electro-plating Industries.

17. Chemical Industries

Coke Oven By-products and Coaltar Distillation products

Industrial Gases (nitrogen, oxygen, acetylene, argon, carbondioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, etc.

Industrial Carbon

Alkalies and Acids

Chromates and dichromates

Lead and its compounds

Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides)

Electrothermal produces (artificial abrasive, calcium carbide)

Nitrogenous compounds (cyanides, cyanamides, and other nitrogenous compounds)

Phosphorus and its compounds

Halogens and Halogenated compounds (chlorine, flourine, bromine and iodine)

Explosives (including industrial explosives and detonators and fuses)

18. Insecticides, Fungicides, Herbicides and other Pesticides Industries.

19. Synthetic Resin and Plastics

20. Man-made Fibre (Cellulosic and non-cellulosic) industry.

21. Manufacture and repair of electrical accumulators.

22. Glass and Ceramics.

23. Grinding or glazing of metals.

24. Manufacture, handling and processing of asbestos and its products.

25. Extraction of oils and fats from vegetable and animal sources.

26. Manufacture, handling and use of benzene and substances containing benzene.

27. Manufacturing processes and operations involving carbon disulphide

28. Dyes and dyestuff including their intermediates.

29. Highly flammable liquids and gases.]

## [134][SCHEDULE II : PERMISSIBLE LEVELS OF CERTAIN CHEMICAL SUBSTANCES IN WORK ENVIRONMENT

*[Section 41F]*

| *S. No* | *Substance* | *Permissible limits of exposure* | | | |
|---|---|---|---|---|---|
| | | *Time-weighted average Concentration (8hrs)* | | *Short-term exposure limit (15min)** | |
| | | *ppm* | *mg/m$^3$*** | *ppm* | *mg/m$^3$*** |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1. | Acetaldehyde | 100 | 180 | 150 | 270 |
| 2. | Acetic acid | 10 | 25 | 15 | 37 |

| | | | | | |
|---|---|---|---|---|---|
| 3. | Acetone | 750 | 1780 | 1000 | 2375 |
| 4. | Acrolein | 0.1 | 0.25 | 0.3 | 0.8 |
| 5. | Acrylonitrile-Skin | 2 | 4.5 | - | - |
| 6. | Aldrin-skin | - | 0.25 | - | - |
| 7. | Allylchloride | 1 | 3 | 2 | 6 |
| 8. | Ammonia | 25 | 18 | 35 | 27 |
| 9. | Aniline-Skin | 2 | 10 | - | - |
| 10. | Anisidine (o-p-isomers) Skin | 0.1 | 0.5 | - | - |
| 11. | Arsenic and Soluble com- pounds (as As) | - | 0.2 | - | - |
| 12. | Benzene(S.C.) | 10 | 30 | - | - |
| 13. | Beryllium and Compound (as Be) (S.C.) | - | 0.002 | - | - |
| 14. | Boron trifluoride-C | 1 | 3 | - | - |
| 15. | Bromine | 0.1 | 0.7 | 0.3 | 2 |
| 16. | Butane | 800 | 1900 | - | - |
| 17. | 2-Butane (methylethyl Ketone-MEK) | 200 | 590 | 300 | 835 |
| 18. | n-Butyl acetate | 150 | 710 | 200 | 950 |
| 19. | n-Butyl alcohol-Skin-C | 50 | 150 | - | - |
| 20. | Sec./tert.Butyl acetate | 200 | 950 | - | - |
| 21. | Butyl mercaptan | 0.5 | 1.5 | - | - |
| 22 | Cadmium dusts and salts (as Cd) | - | 0.05 | - | - |
| 23. | Calcium oxide | - | 2 | - | - |
| 24. | Carbaryl (Sevin) | - | 5 | - | - |
| 25. | Carbofuran (Furadan) | - | 0.1 | - | - |

| | | | | | |
|---|---|---|---|---|---|
| 26. | Carbon disulphide-Skin | 10 | 30 | - | - |
| 27. | Carbon monoxide | 50 | 55 | 400 | 440 |
| 28. | Carbon tetrachloride – Skin (S.C) | 5 | 30 | - | - |
| 29. | Chlordene-Skin | - | 0.5 | - | 2 |
| 30. | Chlorine | 1 | 3 | 3 | 9 |
| 31. | Chlorobenzene (Monochloro benzene) | 75 | 350 | - | - |
| 32. | Chloroform (S.C.) | 10 | 50 | - | - |
| 33. | bis (Chloromethyl) ether (H.C.) | 0.001 | 0.005 | - | - |
| 34. | Chromic acid and chromates (as Cr.) | - | 0.05 | - | - |
| 35. | Chromous salts (as Cr) | - | 0.5 | - | - |
| 36. | Copper Fume | - | 0.2 | - | |
| 37. | Cotton dust, raw* | - | 0.2* | - | - |
| 38 | Creosol, all isomers - Skin | 5 | 22 | - | - |
| 39. | Cyanides (as CN)-Skin | - | 5 | - | - |
| 40. | Cyanogen | - | 10 | 20 | - |
| 41. | DDT (Dichlorodi phenyl trichloroethane) | - | 1 | - | - |
| 42. | Demeton-Skin | 0.01 | 0.1 | - | - |
| 43. | Diazinon-Skin | - | 0.1 | - | - |
| 44. | Dibutyl phthalate | - | 5 | - | - |
| 45. | Dicholorvos (DDVP)-Skin | 0.1 | 1 | - | - |
| 46. | Dieldrin-Skin | - | 0.25 | - | - |
| 47. | Dinitrobenzene (all isomers)-Skin | 0.15 | 1 | - | - |
| 48. | Dinitrotoluene-Skin | - | 1.5 | - | - |
| 49. | Diphenyl-(Biphenyl) | 0.2 | 1.5 | - | - |
| 50. | Endosulfan (Thiodan)-Skin | - | 0.1 | - | - |
| 51. | Endrin-Skin | - | 0.1 | - | - |
| 52. | Ethylacetate | 400 | 1400 | - | - |
| 53. | Ethyl alcohol | 1000 | 1900 | - | - |
| 54. | Ethylamine | 10 | 18 | - | - |
| 55. | Fluorides (as F) | - | 2.5 | - | - |
| 56. | Fluorine | 1 | 2 | 2 | 4 |
| 57. | Formaldehyde (S.C.) | 1.0 | 1.5 | 2 | 3 |
| 58. | Formic acid | 5 | 9 | - | - |
| 59. | Gasoline | 300 | 900 | 500 | 1500 |
| 60. | Hydrazine-Skin (S.C.) | 0.1 | 0.1 | - | - |
| 61. | Hydrogen Chloride-C | 5 | 7 | - | - |

| | | | | | |
|---|---|---|---|---|---|
| 62. | Hydrogen Cyanide-Skin-C | 10 | 10 | - | - |
| 63. | Hydrogen flouride (as F)-C | 3 | 2.5 | - | - |
| 64. | Hydrogen peroxide | 1 | 1.5 | - | - |
| 65. | Hydrogen sulphide | 10 | 14 | 15 | 21 |
| 66. | Iodine -C | 0.1 | 1 | - | - |
| 67. | Iron oxide fume ($Fe_2O_3$)(as Fe) | - | 5 | - | - |
| 68. | Isoamyl acetate | 100 | 525 | - | - |
| 69. | Isomyl alcohol | 100 | 360 | 125 | 4500 |
| 70. | Isobutyl alcohol | 50 | 150 | - | - |
| 71. | Lead, inorg Dusts,dusts and fumes (as Pb). | - | 0.15 | - | - |
| 72. | Lindane-Skin | - | 0.5 | - | - |
| 73. | Malathion Skin | - | 10 | - | - |
| 74. | Manganese (as Mn ) dust and compounds-C | - | 5 | - | - |
| 75. | Manganese fume (as Mn) | - | 1 | - | 3 |
| 76. | Mercury (as Hg)-Skin-<br>(i) Alkyl compounds<br>(ii) All forms except alkyl vapour | -<br>- | 0.01<br>0.05 | -<br>- | 0.03<br>- |
| 77. | Aryl and inorganic compounds | - | 0.1 | - | - |
| 78. | Methyl alcohol (Methanol)-Skin | 200 | 260 | 250 | 310 |
| 79. | Methyl Cellosolve (2-Methoxy ethanol)-Skin | 5 | 16 | - | - |
| 80. | Methyl isobutyl ketone | 50 | 205 | 75 | 300 |
| 81. | Methyl isocyanate ketone | 0.02 | 0.05 | - | - |
| 82. | Naphthalene | 10 | 50 | 15 | 75 |
| 83. | Nickel carbonyl (as Ni) | 0.05 | 0.35 | - | - |
| 84. | Nitric acid | 2 | 5 | 4 | 10 |
| 85. | Nitric oxide | 25 | 30 | - | - |
| 86. | Nitrobenzene-Skin | 1 | 5 | - | - |
| 87. | Nitrogen dioxide | 3 | 6 | 5 | 10 |
| 88. | Oil mist-mineral | - | 5 | - | 10 |
| 89. | Ozone | 0.1 | 0.2 | 0.3 | 0.6 |
| 90. | Parathion-Skin | - | 0.1 | - | - |
| 91. | Phenol-Skin | 5 | 19 | - | - |
| 92. | Phorate (Thimet)-Skin | - | 0.05 | - | 0.2 |
| 93. | Phosgene (Carbonyl chloride) | 0.1 | 0.4 | - | - |
| 94. | Phosphine | 0.3 | 0.4 | 1 | 1 |
| 95. | Phosphoric acid | - | 1 | - | 3 |

| | | | | | |
|---|---|---|---|---|---|
| 96. | Phosphorus (yellow) | - | 0.1 | - | - |
| 97. | Phosphorus pentachloride | 0.1 | 1 | - | - |
| 98. | Phosphorus trichloride | 0.2 | 1.5 | 0.5 | 3 |
| 99. | Picric acid - Skin | - | 0.1 | - | 0.3 |
| 100. | Pyridine | 5 | 15 | - | - |
| 101. | Silane (Silicon tetrahydride) | 5 | 7 | - | - |
| 102. | Sodium Hydroxide-C | - | 2 | - | - |
| 103. | Styrene, monomer (Phenyl-ethylene) | 50 | 215 | 100 | 425 |
| 104. | Sulphur dioxide | 2 | 5 | 5 | 10 |
| 105. | Sulphur hexaflouride | 1000 | 6000 | - | - |
| 106. | Sulphuric acid | - | 1 | - | - |
| 107. | Tetraethyl lead (as Pb)-Skin | - | 0.1 | - | - |
| 108. | Toluene (Toluol) | 100 | 375 | 150 | 560 |
| 109. | o-Toluidine-Skin(S.C) | 2 | 9 | - | - |
| 110. | Tributyl phosphate | 0.2 | 2.5 | - | - |
| 111. | Trichloro-ethylene | 50 | 270 | 200 | 1080 |
| 112. | Uranium, natural (as U) | - | 0.2 | - | 0.6 |
| 113. | Vinyl chloride (H.C.) | 5 | 10 | - | - |
| 114. | Welding fumes | - | 5 | - | - |
| 115. | Xylene (o,m,p-isomers) | 100 | 435 | 150 | 655 |
| 116. | Zinc oxide<br>(i) Fume<br>(ii) Dust<br>(Total dust) | -<br>- | 5<br>10 | -<br>- | 10<br>- |
| 117. | Zirconium compounds (as Zr) | - | 5 | - | 10 |

ppm [3] Parts of vapour or gas per million parts of contaminated air by volume at 25°C and 760 torr. (mm of mercury)

Mg/ $m^2$ milligrams of substance per cubic metre of air.

* Not more than 4 times a day with at least 60 min. interval between successive exposures.

** mg/ $m^3$ = $\frac{\text{Molecular weight}}{24.45}$ * ppm

C Denotes ceiling limit.

Skin denotes potential contribution to the overall exposure by the cutaneous route including mucous membranes and eye.

S.C. denotes suspected human carcinogens.

H.C. denotes confirmed human carcinogens.

| *Substances* | *Permissible time-weighted average concentration (TWA) (8 hours)* |
|---|---|
| Silica, $SiO_2$ | |
| (a) Crystalline | |
| (i) Quartz | |
| (1) In terms of dusts count | $\frac{10600}{\%\ Quartz + 10}$ mppcm |
| (2) In terms of respirable dust | $\frac{10}{respirable\ Quartz + 2}$ $mg/m^2$ |
| (3) In terms of total dust | $\frac{30}{\%\ Quartz + 3}$ $mg/m^2$ |
| (ii) Cristobalite | Half the limits given against quartz |
| (iii) Tridymite | Half the limits given against quartz |
| (iv) Silica,fused | Same limits as for quartz. |
| (v) Tripoli | Same limit as in formula in item (2) given against quartz |
| (b) Amorphous silicate | $10mg/m^3$, total dust |
| Asbestos (H.C.) | *2 fibres/ ml, greater than 5 um in length and less than 3 um in breadth. |
| Portland cement | 10 $mg/m^3$, total dust containing less than 1% quartz. |
| Coal dust | 2 $mg/m^3$, respirable dust fraction containing less than 5% quartz |

mppcm = Million particles per cubic metre of air, based on impinger samples counted by light-field techniques. *As determined by the membrane filter method at 400 - 450 x magnification (4 mm objective ) phase contrast illumination.

Respirable Dust:

Fraction passing a size-selector with the following characteristics:

| Aerodynamic Diameter (um)<br><br>(Unit density sphere) | % passing selector |
|---|---|
| < 2 | 90 |
| 2.5 | 75 |
| 3.5 | 50 |
| 5.0 | 25 |
| 10 | 0 |

# [135][SCHEDULE III ]

*[Sections 89 & 90]*

LIST OF NOTIFIABLE DISEASES

1. Lead poisoning including poisoning by any preparation or compound of lead or their sequelae.

2. Lead-tetra-ethlye poisoning.

3. Phosphorus poisoning or its sequelae.

4. Mercury poisoning or its sequelae.

5. Manganese poisoning or its sequelae.

6. Arsenic poisoning or its sequelae.

7. Poisoning by nitrous fumes.

8. Carbon bisulphide poisoning.

9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amide derivatives or its sequelae.

10. Chrome ulceration or its sequelae.

11. Anthrax.

12. Silicosis.

13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.

14. Pathological manifestations due to-

(a) radium or other radioactive substances;

(b) X-rays.

15. Primary epitheliomatous cancer of the skin.

16. Toxic anaemia.

17. Toxic jaundice due to poisonous substances.

[136][18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.

19. Byssionosis.

20. Asbestosis.

21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.

22. Noise induced hearing loss (exposures to high noise levels).]

[137][23. Beryllium poisoning.

24. Carbon monoxide.

25. Coal miner's pneumoconiosis.

26. Phosgene poisoning.

27. Occupational cancer.

28. Isocyanates poisoning.

29. Toxic nephritis.]

## Foot Notes

1 Substituted by A.O. 1950, for the former sub-section.
2 The words "except the State of Jammu and Kashmir" omitted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.
3 Inserted by Act No. 25 of 1954.
4 Inserted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.
5 Substituted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.
6 Substituted by Act No. 25 of 1954.
7 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.
8 Substituted by section 2, ibid, w.e.f. 26th. October, 1976.
9 Substituted by Act No. 25 of 1954, for the words, brackets and figures "the Indian Mines Act, 1923 (4 of 1923)".
10 Substituted by Act No. 94 of 1976, for the words "a railway running shed" w.e.f. 26th. October, 1976.
11 Explanation numbered as Explanation I by Act No. 20 of 1987, w.e.f. 1st. December, 1987.
12 Substituted, ibid, for the words "different relays" w.e.f. 1st. December, 1987.
13 Inserted, ibid, w.e.f. 1st. December, 1987.
14 Omitted, ibid, w.e.f. 1st. December, 1987.
15 Substituted, ibid, for the words "PROVIDED that" w.e.f. 1st. December, 1987.
16 Clause (o) omitted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.
17 Clause (q) omitted by A.O. 1950.
18 Substituted by Act No. 20 of 1987, for the word "relay", w.e.f. 1st. December, 1987.
19 Inserted by Act No. 20 of 1984, w.e.f. 1st. December, 1987.
20 Inserted by A.O. 1950.
21 Clause (a) renamed as clause (aa) by section 4, ibid.
22 Substituted by Act No. 94 of 1976, for clause (a) w.e.f. 26th. October, 1976.
23 Inserted by Act No. 25 of 1954.
24 Substituted by Act No. 40 of 1949, for the words "within thirty days".
25 Substituted by Act No. 25 of 1954, for the words "Chief inspector a written notice".
26 Inserted by Act No. 20 of 1987, w.e.f. 1st. December, 1987 except new section 7B which came into force w.e.f. 1st. June, 1988.
27 Substituted, ibid, for the words "Every Chief Inspector or Inspector" w.e.f. 26th. October, 1976.
28 Substituted, ibid, for clauses (b) and (c) w.e.f. 1st. December, 1987.
29 See now the Indian Medical Council Act, 1956.
30 Substituted by Act No. 94 of 1976, for the word "painted" w.e.f. 26th. October, 1976.

31 Inserted, ibid, w.e.f. 26th. October, 1976.

32 Substituted, ibid, for the words "in a factory" w.e.f. 26th. October, 1976.

33 Substituted by Act No. 94 of 1976, for sub-section (1) w.e.f. 26th. October, 1976.

34 Substituted, ibid, for sub-section (3) w.e.f. 1st. December, 1987.

35 Substituted by Act No. 20 of 1987, for the words "three hundred and fifty cubic feet" w.e.f. 1st. December, 1987.

36 Substituted, ibid, for the words "five hundred cubic feet" w.e.f. 1st. December, 1987.

37 Substituted, ibid, for the words "fourteen feet" w.e.f. 1st. December, 1987.

38 Substituted by Act No. 20 of 1987 w.e.f. 1st. December, 1987.

39 Substituted by Act No. 20 of 1987, for the words "three feet" w.e.f. 1st. December, 1987.

40 Substituted by Act No. 94 of 1976, for the words "shall be kept in position" w.e.f. 26th. October, 1976.

41 Substituted, ibid, for the proviso w.e.f. 26th. October, 1976.

42 Substituted, ibid, for the opening paragraph and clause (a) w.e.f. 26th. October, 1976.

43 Substituted by Act No. 25 of 1954, for sub-section (2).

44 Substituted by Act No. 20 of 1987, for the words "shall work" w.e.f. 1st. December, 1987.

45 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

46 Substituted by Act No. 20 of 1987, for the words "eighteen inches" w.e.f. 1st. December, 1987.

47 Substituted by Act No. 25 of 1954, for the word, bracket and figure "sub-section (1)".

48 Substituted by section 7, ibid, for sub-section (3).

49 Substituted by Act No. 20 of 1987, for the words "twenty feet" w.e.f. 1st. December, 1987.

50 Substituted by Act No. 20 of 1987, for clause (b) w.e.f. 1st. December, 1987.

51 Substituted by section 14 ibid, for the words "In every room in a factory" w.e.f. 1st. December, 1987.

52 Substituted by section 15 ibid, for sub-section (1) w.e.f. 1st. December, 1987.

53 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

54 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

55 Substituted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.

56 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

57 Inserted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.

58 Substituted by Act No. 20 of 1987, for section 38 w.e.f. 1st. December, 1987.

59 Substituted by Act No. 94 of 1976, for the words "the manager" w.e.f. 26th. October, 1976.

60 Substituted for the word "manager" by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

61 Secsection 40A and 40B inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

62 Substituted by section 20, ibid, for the word "devices" w.e.f. 26th. October, 1976.

63 Inserted by Act No. 20 of 1987 w.e.f. 1st. December, 1987 except new section 41F including the Schedule referred to therein which came into force w.e.f. 1st. June, 1988.

64 Substituted ibid, for sub-section (2).

65 Substituted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

66 Sub-section (3) renumbered as sub-section (4) of Act No. 25 of 1954.

67 Substituted by Act No. 94 of 1976, for the word "employed" w.e.f. 26th. October, 1976.

68 Inserted, ibid, w.e.f. 26th. October, 1976.

69 Substituted by Act No. 94 of 1976, for the words "fifty women workers" w.e.f. 26th. October, 1976.

70 Inserted by Act No. 25 of 1954.

71 Section 55 renumbered as sub-section (1) thereof by Act No. 25 of 1954.

72 Substituted by Act 40 of 1949 for the words "The period".

73 Inserted by Act No. 25 of 1954.

74 Substituted by Act No. 94 of 1976, for the words "spread over to twelve hours" w.e.f. 26th. October, 1976.

75 Substituted by Act No. 25 of 1954, for sub-section (2).

76 Substituted by Act No. 94 of 1976, for sub-sections (2) and (3) w.e.f. 26th. October, 1976.

77 Substituted by Act No. 25 of 1954 for sub-section (4).

78 Substituted by Act No. 25 of 1954, for the word and figures "55 and 56".

79 The words "throughout the day" omitted by Act No. 25 of 1954.

80 Substituted by Act No. 94 of 1976, for the word and figure "section 52" w.e.f. 26th. October, 1976.

81 Substituted for the word and figure "section 52", ibid.

82 Clause (iii) renumbered as clause (iv) by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

83 Substituted by Act No. 94 of 1976 for the words "three years" w.e.f. 26th. October, 1976.

84 Substituted by section 28, ibid for sub-section (3) w.e.f. 26th. October, 1976.

85 Sub-section (4) omitted by section 28, ibid, w.e.f. 26th. October, 1976.

86 Substituted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

87 Substituted for the words "any class or description of factories", ibid.

88 Proviso and the Explanation omitted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.

89 Substituted by Act No. 94 of 1976, for the word "agreement" w.e.f. 26th. October, 1976.

90 Substituted ibid, w.e.f. 26th. October, 1976.

91 Substituted by Act No. 94 of 1976, for the words "in any workshop" w.e.f 26th. October, 1976.

92 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

93 Substituted ibid, fear "unavailed leave" w.e.f. 26th. October, 1976.

94 Substituted by Act No. 94 of 1976, for the word and figure "section 79" w.e.f. 26th. October, 1976.

95 Substituted by Act No. 20 of 1987, for the words "shall be paid" w.e.f. 1st. December, 1987.

96 Substituted by Act No. 94 of 1976, for the words "he worked" w.e f. 26th. October, 1976.

97 Inserted by Act No. 20 of 1987 section 24, w.e.f. 1st. December, 1987.

98 Substituted by Act No. 94 of 1976, for the word "training" w.e.f. 26th. October, 1976.

99 Substituted, ibid. for the word "operation" w.e.f. 26th. October, 1976.

100 Clause (g) omitted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.

101 Section 88 renumbered as sub-section (1) thereof by Act No. 94 of 1976 w.e.f. 26th. October, 1976.

102 Inserted by section 38 ibid, w.e.f. 26th. October, 1976.
103 Substituted by Act No. 20 of the 1987, for the words "the Schedule" w.e.f. 1st. December, 1987.
104 Substituted by Act No. 20 of the 1987 for the words "the Schedule" w.e.f. 1st. December, 1987.
105 Substituted, ibid, for the words "fifty rupees" w.e.f. 1st. December, 1987.
106 Inserted, ibid, w.e.f. 1st. December, 1987.
107 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.
108 Substituted by Act No. 20 of 1987, for the words "three months" w.e.f. 1st. December, 1987.
109 Substituted ibid, for the words "two thousand rupees" w.e.f. 1st. December, 1987.
110 Substituted ibid, for the words "seventy-five rupees" w.e.f. 1st. December, 1987.
111 Substituted by Act No. 20 of 1987, for the words "one thousand rupees" w.e.f. 1st. December, 1987.
112 Substituted ibid, for the words "five hundred rupees" w.e.f. 1st. December, 1987.
113 Section 94 renumbered as sub-section (1) thereof by Act No. 94 of 1976, w.e.f. 26th. October, 1976.
114 Substituted by Act No. 20 of 1987, for the words "six months" w.e.f. 1st. December, 1987.
115 Substituted by Act No. 20 of 1987, for the words "two hundred rupees" w.e.f. 1st. December, 1987.
116 Substituted, ibid, for the words "five thousand rupees" w.e.f. 1st. December, 1987.
117 Substituted by Act No. 94 of 1976, for the proviso w.e.f. 26th. October, 1976.
118 Substituted by Act No. 20 of 1987, for the words "two thousand rupees" w.e.f. 1st. December, 1987.
119 Substituted for the words "two thousand rupees", ibid, w.e.f. 1st. December, 1987.
120 Substituted, ibid, for the words "one thousand rupees" w.e.f. 1st. December, 1987.
121 Substituted by Act No. 20 of 1987, for the words "three months" w.e.f. 1st. December, 1987.
122 Substituted, ibid, for the words "five thousand rupees" w.e.f. 1st. December, 1987.
"3" face="Times New Roman">123 Substituted, ibid, for the words "three months" w.e.f. 1st. December, 1987.
124 Substituted, ibid, for the words "five thousand rupees" w.e.f. 1st. December, 1987.
125 Substituted by Act No. 20 of 1987, for the words "twenty rupees" w.e.f. 1st. December, 1987.
126 Substituted, ibid, for the words "one month" w.e.f. 1st. December, 1987.
127 Substituted, ibid, for the words "fifty rupees" w.e.f. 1st. December, 1987.
128 Inserted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.
129 Inserted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.
130 Section 115 renumbered as sub-section (1) thereof by Act No. 20 of 1987, w.e.f. 1st. December, 1987.
131 Substituted, ibid, for the words "three months" w.e.f. 1st. December, 1987.
132 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976. The original section 119 was repealed by Act 35 of 1950.
133 Inserted by Act No. 20 of 1987, w.e.f. 1st. December, 1987, except the Second Schedule which comes into force w.e.f. 1st. June, 1988.

134 Substituted by S.O. 720(E) dated 22nd. July, 1998, published in part II, s. 3(ii), Gazette of India former Second Schedule.

135 The existing Schedule re-numbered as the Third Schedule w.e.f. 26th. October, 1976 by Act No. 20 of 1987, w.e.f. 1st. December, 1987.

136 Inserted by Act No. 94 of 1976, w.e.f. 26th. October, 1976.

137 Inserted by Act No. 20 of 1987, w.e.f. 1st. December, 1987.

# GENERAL CLAUSES ACT, 1897

[Act No. 10 of Year 1897, dated 11th. March, 1897]

*An Act to consolidate and extend the General Clauses Acts, 1868 and 1887*

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 (1 of 1868) and 1887 (1 of 1887), it is hereby enacted as follows: -

## PRELIMINARY

### 1. Short title

This Act may be called the General Clauses Act,1897; [1][***]

### 2. Repeal

[Repealed by the Repealing and Amending Act, 1903 (1 of 1903)]

## GENERAL DEFINITIONS

### [2][3. Definitions

In this Act, and in all Central Acts and regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context-

(1) "abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code (45 of 1860);

(2) "act", used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done, extend also to illegal omissions;

(3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(4) "barrister" shall mean, a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;

(5) "British India" shall mean, as respects the period before the commencement of Part III of Government of India Act, 1935, all territories and places within His Majesty's dominions which were for the time being governed by His Majesty through the Governor-General of India or through any Governor or Officer subordinate to the Governor-General of India, and as respects any period after that date and before the date of establishment of the Dominion of India means all territories for the time being comprised within the Governors' Provinces and the Chief Commissioners' Provinces, except that a reference to British India in an Indian law passed or made before the commencement of Part III of the Government of India Act, 1935, shall not include a reference to Berar;

(6) "British possession" shall mean any part of Her Majesty's dominions exclusive of the United Kingdom, and where parts of those dominions are under both a Central and a Local Legislature, all parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one British possession;

(7) "Central Act" shall mean an Act of Parliament, and shall include-

(a) an Act of the Dominion Legislature or of the Indian Legislature passed before the commencement of the Constitution, and

(b) an Act made before such commencement by the Governor-General in Council or the Governor-General, acting in a legislative capacity;

(8) "Central Government" shall-

(a) in relation to anything done before the commencement of the Constitution, means the Governor-General or the Governor General in Council, as the case may be; and shall include-

(i) in relation to functions entrusted under sub-section (1) of section 124 of the Government of India Act, 1935, to the Government of a Province, the Provincial Government acting within the scope of the authority given to it under that sub-section; and

(ii) in relation to the administration of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of the authority given to him under sub-section (3) of section 94 of the said Act; and

(b) in relation to anything done or to be done after the commencement of the Constitution, means the President; and shall include-

(i) in relation to functions entrusted under clause (1) of article 258 of the Constitution, to the Government of a State, the State Government acting within the scope of the authority given to it under that clause; [3][* * *]

(ii) in relation to the administration of a Part C State [4][before the commencement of the Constitution (Seventh Amendment) Act, 1956], the Chief Commissioner or the Lieutenant-Governor or the Government of a neighbouring State or other authority acting within the scope of the authority given to him or it under article 239 or article 243 of the Constitution, as the case may be; [4][and

(iii) in relation to the administration of a Union Territory, the administrator thereof acting within the scope of the authority given to him under article 239 of the Constitution];

(9) "Chapter" shall mean a Chapter of the Act or regulation in which the word occurs;

(10) "Chief Controlling Revenue Authority" or "Chief Revenue Authority" shall mean-

(a) in a State where there is a Board of Revenue, that Board;

(b) in a State where there is a Revenue Commissioner, that Commissioner;

(c) in Punjab, the Financial Commissioner; and

(d) else where, such authority as, in relation to matters enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and in relation to other matters, the State Government, may by notification in the Official Gazette, appoint;

(11) "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere the chief officer-in-charge of the revenue-administration of a district;

(12) "Colony"-

(a) in any Central Act passed after the commencement of Part III of the Government of India Act, 1935, shall mean any part of His Majesty's dominions exclusive of the British Islands, the Dominions of India and Pakistan (and before the establishment of those Dominions, British India), any Dominions as defined in the Statute of Westminster, 1931, any Province or State forming part of any of the said Dominions, and British Burma; and

(b) in any Central Act passed before the commencement of Part III of the said Act, means any part of His Majesty's dominions exclusive of the British Islands and of British India;

and in the either case where parts of those dominions are under both a Central and Local Legislature, all parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one colony.

(13) "commencement" used with reference to an Act or regulation, shall mean the day on which the Act or regulation comes into force;

(14) "Commissioner" shall mean the chief officer-in-charge of the revenue administration of a division;

(15) "Constitution" shall mean the Constitution of India;

(16) "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;

(17) "District Judge" shall mean the Judge of a principal civil court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

(18) "document" shall include any matter Written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means which is intended to be used, or which may be used, for the purpose of recording that matter;

(19) "enactment" shall include a regulation (as hereinafter defined) and any regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such regulation as aforesaid;

(20) "father", in the case of any one whose personal law permits adoption, shall include an adoptive father;

(21) "financial year" shall mean the year commencing on the first day of April;

(22) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;

(23) "Government" or "the Government" shall include both the Central Government and any State Government;

(24) "Government securities" shall mean securities of the Central Government or of any State Government, but in any Act or regulation made before the commencement of the Constitution shall not include securities of the government of any Part B State;

(25) "High Court", used with reference to civil proceedings, shall mean the highest civil court of appeal (not including the Supreme Court) in the part of India in which the Act or regulation containing the expression operates;

(26) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;

(27) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

(28) "India" shall mean-

(a) as respects any period before the establishment of the Dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler, and the tribal areas;

(b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion; and

(c) as respects any period after the commencement of the Constitution, all territories for the time being comprised in the territory of India;

(29) "Indian law" shall mean any Act, ordinance, regulation, rule, [5][order, bye-law or other instrument] which before the commencement of the Constitution had the force of law in any Province of India or part thereof, or thereafter has the force of law in any Part A State or Part C State or Part thereof, but does not include any Act of Parliament of the United Kingdom or any Order in Council, rule or other instrument made under such Act;

(30) "Indian State" shall mean any territory which the Central Government recognised as such a State before the commencement of the Constitution, whether described as a State, an Estate, a Jagir or otherwise;

(31) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the government with the control or management of a municipal or local fund;

(32) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force;

(33) "master", used with reference to a ship, shall mean, any person (except a pilot or harbour-master) having for the time being control or charge of the ship;

(34) "merged territories" shall mean the territories which by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before the commencement of the Constitution being administered as if they formed part of a Governor's Province or as if they were a Chief Commissioner's Province;

(35) "month" shall mean a month reckoned according to the British calendar;

(36) "movable property" shall mean property of every description, except immovable property;

(37) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(38) "offence" shall mean any act or omission made punishable by any law for the time being in force;

(39) "Official Gazette" or "Gazette" shall mean the Gazette of India or the Official Gazette of a State;

(40) "Part" shall mean a part of the Act or regulation in which the word occurs;

(41) "Part A State" shall mean a State for the time being specified in Part A of Schedule I to the Constitution, [4][as in force before the Constitution (Seventh Amendment) Act, 1956,] "Part B State" shall mean a State for the time being specified in Part B of that Schedule and "Part C State" shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provisions of article 243 of the Constitution;

(42) "person" shall include any company or association or body of individuals, whether incorporated or not;

(43) "Political Agent" shall mean,-

(a) in relation to any territory outside India, the Principal Officer, by whatever name called, representing the Central Government in such territory; and

(b) in relation to any territory within India to which the Act or regulation containing the expression does not extend, any officer appointed by the Central Government to exercise all or any of the powers of a Political Agent under that Act or regulation;

(44) "Presidency-town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Calcutta, Madras or Bombay, as the case may be;

(45) "Province" shall mean a Presidency, a Governor's Province, a Lieutenant Governor's Province or a Chief Commissioner's Province;

(46) "Provincial Act" shall mean an Act made by the Governor in Council, Lieutenant Governor in Council or Chief Commissioner in Council of a Province under any of the Indian Councils Acts or the Government of India Act, 1915, or an Act made by the Local Legislature or

the Governor of a Province under the Government of India Act, or an Act made by the Provincial Legislature or Governor of a Province or the Coorg Legislative Council under the Government of India Act, 1935;

(47) "Provincial Government" shall mean, as respects anything done before the commencement of the Constitution, the authority or person authorised at the relevant date to administer executive government in the Province in question;

(48) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code;

(49) "registered", used with reference to a document, shall mean registered in [6][India] under the law for the time being in force for the registration of documents;

(50) "Regulation" shall mean a Regulation made by the President [7][under article 240 of the Constitution and shall include a Regulation made by the President under article 243 thereof and] a regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935;

(51) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a Regulation made as a rule under any enactment;

(52) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs;

(53) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled District Act, 1874;

(54) "section" shall mean a section of the Act or Regulation in which the word occurs;

(55) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars;

(56) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions;

(57) "son", in the case of any one whose personal law permits adoption, shall include an adopted son;

[8][(58) "State"-

(a) as respects any period before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean a Part A State, a Part B State or a Part C State; and

(b) as respects any period after such commencement, shall mean a State specified in Schedule I to the Constitution and shall include a Union Territory;]

(59) "State Act" shall mean an Act passed by the Legislature of a State established or continued by the Constitution;

(60) "State Government"-

(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province, in a Part B State, the authority or person authorised at the relevant date to exercise executive government in the corresponding Acceding State, and in a Part C State, the Central Government; [3][* * *]

(b) as respects anything done [9][after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956], shall mean, in a Part A State, the Governor in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;

[4][(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union Territory, the Central Government;

and shall, in relation to functions entrusted under article 258A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that article];

(61) "sub-section" shall mean a sub-section of the section in which the word occurs;

(62) "swear", with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

[3][(62A) "Union Territory" shall mean any Union Territory specified in Schedule I to the Constitution and shall include any other territory comprised within the territory of India but not specified in that Schedule;]

(63) "vessel" shall include any ship or boat or any other description of vessel used in navigation;

(64) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

(65) expression referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and

(66) "year" shall mean a year reckoned according to the British calendar.]

**4. Application of foregoing definitions to previous enactment**

(1) The definitions in section 3 of the following words and expressions, that is to say, "affidavit", "barrister", [10][* * *] "District Judge", "father", [3][* * *] [11][* * *] [3][* * *] "immovable property", "imprisonment", [3][* * *] "Magistrate", "month", "movable property", "oath", "person", "section", "son", "swear", "will", and "year" apply also, unless there is anything repugnant in the subject or context, to all [12][Central Acts] made after the third day of January, 1868, and to all regulations made on or after the fourteenth day of January, 1887.

(2) The definitions in the said section of the following words and expressions, that is to say, "abet", "chapter", "commencement", "financial year", "local authority", "master", "offence", "part", "public nuisance", "registered", "schedule", "ship", "sign", "sub-section" and "writing" apply also, unless there is anything repugnant in the subject or context, to all [13][Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

**[14][4A. Application of certain definitions to Indian laws**

(1) The definitions in section 3 of the expressions "British India", "Central Act", "Central Government", "Chief Controlling Revenue Authority", "Chief Revenue Authority", "Constitution", "Gazette", "Government", "Government securities", "High Court", "India", "Indian law", "Indian State", "merged territories", "Official Gazette", "Part A State", "Part B State", "Part C State", "Provincial Government", "State", and "State Government" shall apply, unless there is anything repugnant in the subject or context, to all Indian laws.

(2) In any Indian law, references, by whatever form of words, to revenues of the Central Government or to any State Government shall, on and from the first day of April, 1950, be construed as references to the Consolidated Fund of India or the Consolidated Fund of the State, as the case may be.]

## GENERAL RULES OF CONSTRUCTION

### 5. Coming into operation of enactment

[15][(1) Where any Central Act is not expressed to come into operation on particular day, then it shall come into operation on the day on which it receives the assent-

(a) in the case of a Central Act made before the commencement of the Constitution, of the Governor-General, and

(b) in the case of an Act of Parliament, of the President].

[16][* * * ]

(3) Unless the contrary is expressed, a [13][Central Act] or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

### [17][5A. Coming into operation of Governor–General's Act

*[Rep. by the AO, 1947]*

### 6. Effect of repeal

Where this Act, or any [13][Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not-

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

### [18][6A. Repeal of Act making textual amendment in Act or Regulation

Where any [13][Central Act] or Regulation made after the commencement of this Act repeals any enactment by which the text of any [13][Central Act] or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.

### 7. Revival of repealed enactment

(1) In any [13][Central Act] or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all [18][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

**8. Construction of references to repealed enactment**

[19][(1) Where this Act, or any [13][Central Act] or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

[20][(2)] [21][Where before the fifteenth day of August, 1947, any Act of Parliament of the United Kingdom repealed and re-enacted, with or without modification, any provision of a former enactment, then references in any [13][Central Act] or in any Regulation or instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted

**9. Commencement and termination of time**

(1) In any [13][Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word "from", and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

(2) This section applies also to all [12][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

**10. Computation of time**

(1) Where, by any [12][Central Act ] or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceedings shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

PROVIDED that nothing in this section shall apply to any act or proceeding to which the [22][Indian Limitation Act, 1877 (15 of 1877)], applies.

(2) This section applies also to all [12][Central Acts] or Regulations made on or after the fourteenth day of January, 1887.

**11. Measurement of distances**

In the measurement of any distance, for the purpose of any [12][Central Act] or Regulation. made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

**12. Duty to be taken pro rata in enactments**

Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

**13. Gender and number**

In all [12][Central Acts] or Regulations, unless there is anything repugnant in the subject or context-

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

[23][13A. References to the Sovereign

[Rep. by the AO, 1950]

## POWERS AND FUNCTIONARIES

### 14. Powers conferred to be exercisable from time to time

(1) Where, by any [12][Central Act] or Regulation made after the commencement of this Act, any power is conferred, [24][* * *], then [20][unless a different intention appears] that power may be exercised from time to time as occasion requires.

(2) This section applies also to all [12][Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

### 15. Power to appoint to include power to appoint ex officio

Where, by any [12][Central Act] or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

### 16. Power to appoint to include power to suspend or dismiss

Where, by any [12][Central Act] or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having [25][for the time being] power to make the appointment shall also have power to suspend or dismiss any person appointed [25][whether by itself or any other authority] in exercise of that power.

### 17. Substitution of functionaries

(1) In any [12][Central Act] or Regulation, made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the function of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all [12][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

### 18. Successors

(1) In any [12][Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all [12][Central Acts] made after the third day of January, 1868,.and to all Regulations made on or after the fourteenth day of January, 1887.

### 19. Officials chiefs and sub-ordinates

(1) In any [12][Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office

shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.
man" size="3"> (2) This section applies also to all [12][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

## PROVISIONS AS TO ORDERS, RULES, ETC. MADE UNDER ENACTMENTS

### 20. Construction of notifications, etc., issued under enactments

Where, by any [12][Central Act] or Regulation, a power to issue any [26][notification], order, scheme, rule, form, or bye-law is conferred, then expressions used in the [26][notification], order, scheme, rule, form or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.

### 21. Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws

Where, by any [13][Central Act] or Regulation, a power to [27][issue notifications],orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any [26][notifications], orders, rules or bye-laws so [28][issued].

### 22. Making of rules or bye-laws and issuing of orders between passing and commencement of enactment

Where, by any [13][Central Act] or Regulation which is not to come into force immediately, on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

### 23. Provisions applicable to making of rules or bye-laws after previous publication

Where, by any [13][Central Act] or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely,-

(1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the [29][government concerned] prescribes;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(4) the authority having power to make the rules or bye-laws, and, where the rules, or bye-laws are to be made with the sanction, approval or concurrence of another authority, that

authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(5) the publication in the [30][Official Gazette] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

**24. Continuation of orders, etc. issued under enactments repealed and re-enacted**

Where any [13][Central Act] or Regulation, is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided any [26][appointment, notification], order, scheme, rule, form or bye-law, [26][made or] issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been [26][made or] issued under the provisions so re-enacted, unless and until it is superseded by any [31][appointment, notification], order, scheme, rule, form or bye-law, [26][made or] issued under the provisions so re-enacted [31][and when any [13][Central Act] or Regulation, which, by a notification under section 5 or 5A of the [32][Scheduled Districts Act, 1874, (14 of 1874) or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section].

**MISCELLANEOUS**

**25. Recovery of fines**

Sections 63 to 70 of the Indian Penal Code (45 of 1860) and the provisions of the [33][Code of Criminal Procedure (5 of 1898)] for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains and express provision to the contrary.

**26. Provision as to offences punishable under two or more enactments**

Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

**27. Meaning of service by post**

Where any [13][Central Act] or Regulation made after the commencement of this Act authorises or requires any document to be served by post, where the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

**28. Citation of enactments**

(1) In any [41][Central Act] or Regulation, and in any rule, bye-law, instrument or document, made under, or with reference to any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in any [13][Central Act] or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

**29. Saving for previous enactments, rules and bye-laws**

The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law made after the commencement of this Act.

**30. Application of Act to Ordinances**

In this Act the expression [13][Central Act], wherever it occurs, except in section 5 and the word "Act" in [34][clauses (9), (13), (25), (40), (43), (52) and (54) of section 3 and in section 25] shall be deemed to include an Ordinance made and promulgated by the Governor General under section 23 of the Indian Councils Act, 1861 (24 and 25 Vict., c. 67) [35][or section 72 of the Government of India Act 1915,] [36][or section 42] [37][* * *] of the Government of India Act, 1935] [38][and an Ordinance promulgated by the President under article 123 of the Constitution].

[39][30A. Application of Act to Acts made by the Governor -General

*[Rep. by the AO, 1937.]*

[40][31. Construction of references to Local Government of a Province

*[Rep. by the AO, 1937.]*

**THE SCHEDULE - Enactments repealed**

*[Rep. by the Repealing and Amending Act, 1903 (1 of 1903) s. 4 and Sch. III ].*

Foot Notes

1 The word "and" in sub-s. (1) and the sub-s. (2) rep. by Act No. 10 of 1914.

2 Substituted by the AO 1950, for the former section.

3 The word "and" omitted by the Adaptation of Laws (No. 1) Order, 1956.

4 Inserted by the Adaptation of Laws (No. 1) Order, 1956.

5 Substituted by the Adaptation of Laws (Amendment) Order, 1950, for the words "order or bye–law".

6 Substituted by the Adaptation of Laws (No. 1) Order, 1956 for the words "a Part A State or a Part C State".

7 Substituted by the Adaptation of Laws (No. 1) Order, 1956, for the words and figures "under article 243 of the Constitution, and shall include".

8 Substituted by Adaptation of Laws (No. 1) Order, 1956 for the former clause (58).

9 Substituted by the Adaptation of Laws (No. 1) Order, 1956, for the words "or to be done after the commencement of the Constitution".

10 The words "British India", "Government of India", "High Court", and "Local Government" rep. by the AO 1937.
11 The words "Her Majesty" or "the Queen" rep. by Act No. 18 of 1919.
12 Substituted by the AO 1937, for words "Acts of the Governor General in Council".
13 Substituted by, the AO 1937, for "Act of the Governor General in Council".
14 Substituted by the AO 1950, for the former section which was inserted by the AO, 1937.
15 Substituted by the AO 1950 for the former sub-s.
16 Sub-s. (2) omitted by the AO 1950.
17 Inserted by the AO 1937.
18 Inserted by Act No. 19 of 1936.
19 The original s. 8 was renumbered as sub-s. (1) of that section by Act No. 18 of 1919.
20 Inserted by Act No. 18 of 1919.
21 Substituted by the AO 1950 for the words "Where any Act of Parliament repeals and re-enacts".
22 See, the Limitation Act, 1963 (Act No. 36 of 1963).
23 Inserted by Act No. 18 of 1928.
24 The words "on the Government" omitted by Act No. 18 of 1919.
25 Substituted by Act No. 18 of 1928.
26 Inserted by Act No. 1 of 1903.
27 Substituted by Act No. 1 of 1903 for the word "make".
28 Substituted by Act No. 1 of 1903 for the word "made".
29 Substituted by the AO 1950, for the words "Central Government or the Provincial Government".
30 Substituted by the AO 1937, for the word "Gazette".
31 Inserted by Act No. 17 of 1914.
32 Rep. by the AO 1937.
33 Refer to the Code of Criminal Procedure, 1973 (2 of 1974).
34 Substituted for "clauses (9), (12), (38) and (5)" by the AO 1950.
35 Inserted by Act No. 24 of 1917.
36 Inserted by the AO, 1937.
37 Words and figures "or s. 43" omitted by the AO 1947.
38 Added by the AO, 1950.
39 Inserted by Act No. 11 of 1923.
40 Inserted by Act No. 31 of 1920.

# THE MAHARASHTRA WORKMEN'S MINIMUM HOUSE RENT ALLOWANCE ACT,1983.

## (MAHARASHTRA ACT NO.XXIII OF 1988)

**Areas (Received the assent of the President on 5th October, 1988)**

An Act to provide for payment of minimum house-rent allowance to workmen employed in industries in Maharashtra.

Whereas it is expedient to provide for payment of minimum house rent allowance to workmen employed in industries in Maharashtra and to provide for matters connected therewith, it is hereby enacted in the Thirty fourth Year of the Republic of India as follows;

**1. Short title, extent, commencement and application.**-(1) This Act may be called the **Maharashtra Workmen's Minimum House rent Allowance Act, 1983.**

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different areas in the State for different industries or classes of industries.

(4) It shall apply in the area in which it is in force to every factory or establishment in an industry, in respect of which a notification is issued under Sub-section (3), where, in relation to any industrial dispute concerning such industry, the State Government is the appropriate authority under sub-clause (ii) of Clause (a) of Section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), or to which the provisions of the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), apply, and in which factory or establishment fifty or such higher number of workmen as may be specified by the State Government by notification in the Official Gazette, are employed.

(5) Notwithstanding anything jcontained in sub-sections (3) and (4), the State Government may, after giving not less than two months' notice of its intention to do so, by notification in the Official Gazette, and after considering any objections and suggestions which may be received, by like notification, apply from a specified date the provisions of this Act to any factory or establishment in any industry or industries specified in the notification, wherein less than fifty workmen but not less than such number of workmen as may be specified in the notification, are employed.

(6) Once the provisions of this Act apply or are applied to any factory or establishment in any industry under this section, they shall continue to apply to such factory or establishment, notwithstanding jthat the number of workmen employed therein falls below fifty or such higher or lesser number of workmen as may be specified under the notification issued under sub-section (4) or (5), as the case may be.

Explanation.- For computing the number of workmen employed in any industry for the purposes of this section, the number of workmen employed in all the branches and units of the factories and establishments in the industry in the State of Maharashtra shall be taken into consideration, and if there is any doubt or dispute, the matter shall be referred to, and decided by, the State Government or any officer authorized by it in this behalf, and its or his decision, as the case may be, shall be final.

**2. Definitions.-** In this Act, unless the context otherwise requires,-

(a) "Controlling Authority" means the Authority appointed by the State Government under section 3;

(b)"employer" in relation to any factory or establishment in any industry, means the person or authority, who has the ultimate control over the affairs of the industry, and includes the Manager, Managing Director or any other person (by whatever name called) who is responsible to the owner for the supervision and control of the workmen employed therein;

(a) "establishment" means an establishment as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXX-IX of 1948);

(d) "factory" means a factory as defined in the Factories Act, 1948 (LXIII of 1948);

(e) "industry" means an industry as defined in the Industrial Disputes Act, 1947 (XIV of 1947).

(f) "month" means a month as defined in the Bombay General Clauses Act, 1904 (I of 1904);

(g) "prescribed" means prescribed by rules made under this Act;

(h) "wages" means basic wages and dearness allowance;

(i) "workman" means a workman as defined in the Industrial Disputes Act, 1947 (XIV of 1947) or an employee as defined in the Bombay; Industrial Relations Act, 1946 (Bom.XI of 1947) as the case may require;

(j) words and expressions used in this Act, but not defined herein, shall have the meanings assigned to them in the Industrial Disputes Act, 1947 (XIV of 1947) or the Bombay Industrial Relations Act, 1946, (Bom. XI of 1947) as the case may require.

**3. Appointment of Controlling Authority.-** The State Government may, be notification in the Official Gazette, appoint an officer, not below the rank of Assistant Commissioner of Labour, to be the Controlling Authority for the administration of this Act and for carrying out the purposes of this Act, and different Controlling Authorities may be appointed for different areas or for different industries, or in the same areas for different industries or for the same industry in different areas.

**4. Responsibility for payment of house-rent allowance.-** (1) Every employer shall pay to every workman employed by him a house rent allowance which shall not be less that five per cent of the wages payable to the workman for his services during a month or twenty rupees, whichever is higher.

Provided that in case a workman renders service for less than a month, the house rent allowance shall be payable to him pro-rata:

Provided further that the service during a month shall include the days on which-

(a) the workman has been laid off under an agreement or as permitted by the Standing Orders made under the Industrial Employment (Standing Orders) Act, 1946, (XX of 1946) or the Industrial Disputes Act, 1947 9XIV of 1947), or the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947)or under any other law for the time being in force;

(b) he was unable to work due to lock-out or cessation of work for which the employer pays wages;

(c) he has been absent due to his temporary disablement, because of accident arising out of and in the course of his employment;

(d) he has been on any authorized leave including weekly or other declared holiday, sick leave or permissible casual or optional leave;

(e) he has been on any kind of leave with wages;

(f) in the case of a female workman, she has been on maternity leave, so however, that the total period of such leave, including sick leave, weekly offs etc., does not exceed twelve weeks.

(2) The house rent allowance payable to a workman under sub-section (1) shall be paid to him, in cash, along with his wages for the month.

(3) Notwithstanding anything contained in sub-section (1), a workman who is entitled to draw under the terms of his service or under any agreement, settlement or award, a house-

rent allowance at a higher rate than that provided in sub-section (1), shall continue to draw the same at such higher rate.

(4) Where a workman is provided residential accommodation by the employer and a deduction is made therefore from his wages, then -

(a) if the amount deducted for such accommodation is higher than the house rent allowance admissible under sub-section (1), the deduction shall be reduced by the amount mentioned in that sub-section, and no house rent allowance shall be payable to such workman; and

(b) if the amount deducted is less than the house-rent allowance admissible under sub-section (1), the said allowance shall be reduced by the amount deducted, and the balance shall be paid to the workman.

**5. House-rent allowance when not payable.-** Where a workman is provided with residential accommodation by the employer and no deduction is made therefore from his wages, the employer shall not be required to pay house-rent allowance to such workman as required by section 4.

**6. Recovery of house-rent allowance as fine.-** (1) If the house rent allowance payable under this Act is not paid by the employer within the prescribed period, the workman or any person authorized by him in writing in this behalf, or, in case of his death, his heir or legal representative, may, without prejudice to any other mode of recovery, make an application, in such form and in such manner as may be prescribed, to the Controlling Authority having jurisdiction, for recovery of the amount of the house-rent allowance due to him from the employer;

Provided that such application shall be made within a period one year from the date of the house rent allowance became due.

Provided further that such application may be entertained, after expiry of the said period of one year, if the Controlling Authority is satisfied that the workman had sufficient cause for not making the application in time.

(2) The Controlling Authority to whom an application under sub-section (1) is made may, after giving the applicant and the employer concerned a reasonable opportunity of being heard and after making such further inquiry as may be considered necessary, determine the amount of house rent allowance due to the applicant and may, by order, direct, without prejudice to any other action which may be taken under this Act or any other law for the time being in force against the employer, the payment to the applicant of the amount of house rent allowance as so determined.

(3) An appeal shall lie, in the prescribed manner and within the prescribed period, from an order of the Controlling Authority dismissing any application made under sub-section (1) or giving any direction under sub-section (2), to such Appellate Authority, not below the rank of Deputy Commissioner of Labour, as the State Government may, by notification in the Official Gazette, appoint in this behalf, and different Appellate Authorities may be appointed for the same or different industries or for the same or different areas.

(4) Any order made by the Controlling Authority under this section, subject to an appeal to the Appellate Authority, and any order made by the Appellate Authority on any such appeal, shall be final.

(5) Any amount of the house-rent allowance found due and directed to be paid by any order made under this section, which has become final may be recovered by any Judicial Magistrate to whom the Controlling Authority makes an application in this behalf, as if it were a fine imposed by such Magistrate and shall be paid to the applicant concerned or his heir or legal representative, as the case may be.

**7. Reference of a dispute under this Act.-** Where any dispute arises between an employer and any workman or workmen with respect to the house-rent allowance payable under this Act or with respect to the application of this Act to any factory or establishment in any industry or to any workmen employed therein, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947) or the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947) as the case may require, and the provisions of the relevant Act, shall mutates mutandis, apply for investigation and settlement of such dispute.

**8. Maintenance of registers, accounts and records.-** Every employer to whom the provisions of this Act apply shall maintain such registers, account books and records giving such particulars of workmen employed by him, the wages and house-rent paid to them, the receipts given by them and such other particulars and in such manner and form as may be prescribed.

**9. Appointment of Inspectors.-** (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions under the supervision of the Controlling Authority concerned.

(2) For the purpose of ascertaining whether any provisions of this Act are being complied with or not, an Inspector may, within the local limits for which he is appointed,-

(a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority, as he thinks fit, any premises or place of a factory or establishment in an industry for the purpose of examining any registers, account books and other records required to be kept under this Act or the rules made thereunder and require any one found in charge thereof to produce before him for examination any registers, account books and other records relating to the employment of the workmen and the payment of wages and house-rent allowance to them;

(b) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person in charge of the factory or establishment or the records or any person whom the Inspector has reason to believe to be or to have been a workman in that factory or establishment;

(c) seize or take copies of such registers, account books or other records or portions thereof as he may consider relevant in respect of any offence under this Act, which he has reason to believe has been committed by any employer or other person;

(d) require the employer or his agent or servant or any workman to furnish such further information as he thinks fit;

(e) exercise such other powers and discharge such other functions as may be prescribed.

(3) any person required to produce any registers, account books or other records or to give any information, which is in his power to produce or give, to an Inspector as required by him under sub-section (2), shall be legally bound to do so.

**10. Penalties for offences.-** (1) Whoever, for the purposes of avoiding any payment to be made by himself under this Act, or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation or false entry in any register, account book or other record, shall, on conviction be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) Any person who contravenes, or makes default in compliance with, any other provision of this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**11. Cognizance of offences.-** (1) No Court shall take cognizance of an offence punishable under this Act, except on a complaint made by the Controlling Authority or an Inspector or by any Officer of the State Government authorized by it in this behalf.

(2) No Court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

**12. Protection of action taken under the Act.-** No suit, prosecution or other legal proceeding shall lie against the Controlling Authority, any Inspector or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

**13. Power to exempt in special cases.-** (1) notwithstanding anything contained in this Act, the State Government may, by order published in the Official Gazette, and subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the order, direct that the provisions of this Act shall not apply to any specified factory or establishment or to any specified class of factories or establishments in any industry, if it is satisfied that it is just and proper so to do in the public interest or for any special reasons having regard to the more favourable conditions of employment in such factory or factories or establishment or establishments or to the financial position and other relevant circumstances of such factory or factories or establishments, as the case may be.

(2) Any order made under this section may be made so as to be retrospective to any date not earlier than the date on which the Act became applicable to that factory or factories or establishment or establishments, as the case may be.

**14. Power to make rules.-** (1) The power to make all rules under this Act shall be exercisable by the State Government by notification in the Official Gazette, subject to the condition of previous publication.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act. Such rules may provide for payment of fees for any of the purposes of this Act, for which no provision is made in this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, without prejudice to the validity of anything previously done or omitted to be done under that rule.

**15. Protection of rights under other laws or agreements.-** Nothing contained in this Act shall adversely affect any rights of the workmen or their representatives to demand or to get or to raise an industrial dispute under any agreement or any other law for the time being in force, for better service conditions, relating to housing accommodation or house-rent allowance, in addition to those provided under this Act.

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# THE MAHARASHTRA WORKMEN'S MINIMUM HOUSE RENT ALLOWANCE RULES,1990

No.HRA.3088/9498/Lab-2- In exercise of the powers conferred by sub-sections (1) and (3) of section 6, section 8 and sub-sections (1) and (2) of section 14 of the Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 (Mah. XXIII of 1988) (hereinafter referred to as "the said Act") and of all other powers enabling it in this behalf, Government of Maharashtra makes the following rules the same having been previously published as required by section 14(1) of the said Act.

**1. Short title and commencement.-** (1) These rules may be called the **Maharashtra Workmen's Minimum House Rent Allowance Rules, 1990.**

(2) They shall come into force on and from the Ist day of January 1991.

**2. Definitions.-** (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Maharashtra Workmen's House Rent Allowance Act, 1983 (Mah. XXIII of 1988);

(b) "Appellate Authority" means such authority as may be appointed by the State Government in this behalf under sub-section (3) of section 6.;

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

(d) "Inspector" means any person appointed as Inspector under sub-section (1) of section 9; and

(e) "Section" means a section of the Act.

(2) All words and expression used in these rules, unless otherwise defined, shall have the same meaning as assigned to them in the Act.

**3. Manner and time of payment of house rent allowance.-** The house rent allowance payable to a workman under section 6 for any month shall be paid within ten days of the month next following.

**4. Maintenance of register of house rent allowance.-** Every employer shall maintain a register of house rent allowance in Form "A".

Provided that, it will be sufficient compliance with the provision of this rule if the employer maintains record of payment of house rent allowance in any other register relating to payment of wages which he is required to maintain under any other law for the time being in force and the fact of maintenance of such register is intimated to the Controlling Authority concerned.

**5. Application for recovery of house rent allowance.-** (1) The application under sub-section (1) of section 6 for recovery of unpaid house rent allowance shall be in "Form B", and each workman shall submit a separate application;

Provided that where a large number of workmen are involved, a single application may be made by a person authorized by different workmen or their legal representatives.

(2) The application in "Form B" shall be served on the Controlling Authority concerned in triplicate either by personal service with receipt thereof or by registered post with acknowledgement due.

**6. Procedure for dealing with application for recovery of house rent allowance.-** (1) On receipt of an application under rule 5 the Controlling Authority shall, by issuing a notice in "Form C" and call upon the applicant as well as the employer concerned to appear before him on a date specified in the notice, not being less than 14 days after the date of service of the notice, either personally or through his authorized representative together with all relevant documents and witnesses if any;

Provided that, the date fixed for hearing may be extended by the Controlling Authority either suo-motu or on an application made by either of the parties.

(2) Any person desiring to act on behalf of an employer of a workman, his authorized representative or legal representative, as the case may be, shall, present to the

Controlling Authority a letter of Authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act, together with a Written Statement, explaining his interest in the matter and praying for permission so to act on behalf of such person, and the Controlling Authority, shall record thereon an order either according to his approval or specifying in the case of refusal to grant the permission prayed for, the reasons for the refusal.

(3) After completion of hearing on the date fixed under sub-rule (1), or after such further evidence, examination of documents or witnesses and hearing, as may be deemed necessary, the Controlling Authority shall record his finding as to whether any amount is payable to the applicant under the Act and a copy of the finding shall be given to each of the parties.

(4) If the employer concerned fails to appear on the specified date of hearing without sufficient ground, the Controlling Authority may proceed to hear the application ex-parte and if the applicant fails to appear on the specified date of hearing without sufficient ground, the Controlling Authority may dismiss the application;

Provided that, an order under this sub-rule may, on good cause being shown within thirty days of the said order, be reviewed and the application be reheard after giving 14 days' notice to the opposite party of the date fixed for rehearing of the application.

**7. Direction for payment of house-rent allowance.-** If a finding is recorded under sub-rule (3) of rule 6 that the applicant is entitled to payment of house rent allowance under the Act, the Controlling Authority shall issue a notice to the employer concerned in "Form D" specifying the amount payable and directing payment thereof to the applicant under intimation to the Controlling Authority within thirty days from the date of receipt of the notice and a copy of the notice shall be endorsed to the applicant, workman, his authorized representative or his legal representative, as the case may be.

**8. Appeal from the order of Controlling Authojrity.-** (1) The appeal under sub-section (3) of section 6 shall be in the form of a memorandum setting forth concisely the facts of the case, grounds of objection to the order or direction against which the appeal is preferred and the relief sought for, and every such memorandum of appeal shall be accompanied by a certified copy of the order or direction of the Controlling Authority which is the subject matter of the appeal.

(2) A copy of the memorandum of appeal under sub-rule (1) shall be served by the appellant on all the opposite parties including the Controlling Authority, either by personal service after obtaining receipt or by registered post with acknowledgement due.

(3) Within fourteen days of the receipt of a copy of the memorandum of appeal.

(a) the Controlling Authority shall forward all the records of the case against which the appeal has been preferred, to the Appellate Authority; and

(b) the opposite party shall submit his Written Statement containing comments on each paragraph of the memorandum of appeal and additional pleas, if any, to the Appellate Authority and the opposite party shall serve a copy of his Written Statement on the appellant either by personal service after obtaining receipt or by registered post with acknowledgement due.

(4) The Appellate Authority shall record its decision after giving the parties to the appeal a reasonable opportunity of being heard and shall forward a copy of the decision to the parties concerned and the Controlling Authority and the records of the Controlling Authority received under sub-rule (3) shall be returned to him by the Appellate Authority while forwarding a copy of the decision to him under this rule;

Provided that, if the appeal is disposed of a ex-parte or struck out or dismissed for default, the Appellate Authority may, within 30 days from the date of the order, restore it,

to file if sufficient cause be shown for non-appearance on the date of the hearing of the appeal of the respondent or of the appellant, as the case may be.

(5) On receipt of the decision of the Appellate Authority, the Controlling Authority shall, if required under that decision, modified his direction under rule 7 and issue a notice in Form 'E' specifying the amount payable and directing payment thereof to the applicant, under intimation to the Appellate Authority within fifteen days from receipt of the notice by the employer and a copy of the notice shall be endorsed to the applicant workman, his authorized person or legal representative, as the case may be, and to the Appellate Authority.

**9. Maintenance of records of cases by the Controlling Authority.- (1)** The controlling Authority shall record the particulars of each case in Form 'F' and at the time of passing order shall sign and date the particulars so recorded.

(2) The Controlling Authority shall, while passing order in each case, also record the substance of the evidence adduced in the case as an appendix to the order.

(3) Any record, other than a record of and order or direction which is required by these rules to be signed by the Controlling Authority, may be signed on his behalf and under his direction by any subordinate officer appointed in writing for this purpose by the Controlling Authority.

**10. Inspection and copies of decisions, records and documents.-** (1) A workman, or a Trade Union or an employer shall be entitled to have inspection of any document filed with the Controlling Authority.

(2) An application for inspection of a document with the Controlling Authority shall be accompanied with a fee of two rupees.

(3) A workman, Trade Union or an employer desiring to have a copy of any document with the Controlling Authority shall make an application accompanies with a fee of two rupees.

(4) Certified copies of documents shall be given to the applicant on payment of one rupee for document containing 100 words or fraction thereof.

**11. Register of application for copies.-** Application for copies shall be numbered consecutively and entered in a register maintained for the purpose is Form 'H'.

**12. Register of Workmen.-** Every employer shall maintain a Register of Workmen in "Form I" showing therein the names of all his workmen and the days of the months on which such workmen were in service or for which such workmen earned wages;

Provided that, it will be sufficient compliance with the provision of this rule if the information under this rule is maintained in any other register that the employer is required to maintain under any other law for the time being in force and the fact of maintenance of such register is intimated to the controlling Authojrity.

**13. Visit Book**.- (1) Every employer shall maintain a visit book in which an Inspector visiting the industry may record his remarks regarding any defect that may come to his notice at the time of his visit, regarding any documents required to be maintained or produced under the provisions of the Act or these rules. If the Inspector has no remarks to pass he may simply sign the visit book mentioning the date and time of his visit.

(2) The visit book shall be a bound book the pages of which shall be consecutively numbered;

Provided that no separate visit book shall be necessary in the case of an employer who is required to maintain a visit book under the provisions of the Maharashtra Minimum Wages Rules, 1963 or Maharashtra Shops and Establishments Rules, 1961.

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# INDUSTRIAL DISPUTES ACT, 1947

[Act No. 14 of Year 1947 dated 11th. March, 1947]

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes

WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing:

It is hereby enacted as follows: -

## CHAPTER I: PRELIMINARY

### 1. Short title, extent and commencement

(1) This Act may be called the Industrial Disputes Act, 1947.

[1][(2) It extends to the whole of India]

[2][* * *]

(3) It shall come into force on the first day of April, 1947.

### 2. Definitions

In this Act, unless there is anything repugnant in the subject or context,-

(a) "appropriate government" means-

(i) in relation to any industrial disputes concerning [3][* * *] any industry carried on by or under the authority of the Central Government, [4][ *** ]or by a railway company [5][or concerning any such controlled industry as may be specified in this behalf by the Central Government] [6][* * *] or in relation to an industrial dispute concerning [7][8 [9][[10][a Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), or the [11][the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956], or the Employees' State Insurance Corporation established under section 3 of the Employees' State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and Section 5B, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), [12][***], or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or [13][the Oil and Natural Gas Corporation Limited registered under the Companies Act. 19561, or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporations Act. 1961 (47 of 1961), or the Central Warehousing Corporation established

under section 3 of the Warehousing Corporation Act, 1962 (58 of 1962), or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporation of India established under section 3, or a Board of Management established for two or more contiguous States under section 16 of the Food Corporation Act, 1964 (37 of 1964), or [14][the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994], or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Corporation of India Limited, [15][the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or the Banking Service Commission established under section3 of the Banking Service Commission Act, 1975 or [16][[17][an air transport service, or a banking or an insurance company], a mine, an oil-field.] [18][a Cantonment Board,] or a major port, the Central Government, and]

(ii) in relation to any other industrial dispute, the State Government;

18[ (aa) "arbitrator" includes an umpire;]

[19][[20][(aaa) "average pay" means the average of the wages payable to a workman-

(i) in the case of monthly paid workman, in the three complete calendar months,

(ii) in the case of weekly paid workman, in the four complete weeks,

(iii) in the case of daily paid workman, in the twelve full working days,

preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked;]

[21][(b) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under section 10A;]

[22][(bb) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949, [23][(10 of 1949) having branches or other establishments in more than one State, and includes [24][the Export-Import Bank of India], [25][the Industrial Reconstruction Bank of India,] [26][the Industrial Development Bank of India,] the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989, the Reserve Bank of India, the State Bank of India, [27][a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, [28][a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, and any subsidiary bank], as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(c) "Board" means a Board of Conciliation constituted under this Act;

[29][(cc) "closure" means the permanent closing down of a place of employment or part thereof;]

(d) "conciliation office" means a conciliation officer appointed under this Act;

(e) "conciliation proceeding" means any proceeding held by a conciliation officer or Board under this Act;

[5][(ee) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;] [30][***]

(f) "Court" means a Court of Inquiry constituted under this Act;

(g) "employer" means-

(i) in relation to an industry carried on by or under the authority of any department of [31][the Central Government or a State Government,] the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

[32][(gg) "executive", in relation to a trade union, means the body, by whatever name called, to which the management of the affairs of the trade union is entrusted;]

33[** *]

(i) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute:

[34][PROVIDED that no person shall cease to be independent by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by, such industrial dispute; but in such a case, he shall disclose to the appropriate government the nature and extent of the shares held by him in such company;]

[35][(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or a vocation of workmen;

(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

[29][(ka) "Industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on:

PROVIDED that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,-

(a) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking, such unit shall be deemed to be a separate industrial establishment or undertaking;

(b) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire

establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking;]

[36][(kk) "insurance company" means an insurance company as defined in section 2 of the Insurance Act 1938 (4 of 1938), having branches or other establishments in more than one State;]

[37][(kka) "Khadi" has the meaning assigned to it in clause (d) of section 2 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956);]

[37][[38][(kkb) "Labour Court" means a Labour Court constituted under section 7;]

[19][(kkk) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery [39][or natural calamity or for any other connected reason] to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched;

*Explanation :* Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

PROVIDED that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

PROVIDED FURTHER that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;]

(l)"lock-out" means the [39][ temporary dosing of a place of employment], or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

[18][(1a) "major port" means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(1b) "mine" means a mine as defined in clause (j) of sub-section (1) of section 2 of the mines Act, 1952 (35 of 1952);]

[38][(ll) "National Tribunal" means a National Industrial Tribunal constituted under section 7B;]

[32][(lll) "office bearer", in relation to a trade union, includes any member of the executive thereof, but does not include an auditor;]

(m) "prescribed" means prescribed by rules made under this Act;

(n) "public utility service" means-

(i) any railway service [40][or any transport service for the carriage of passengers or goods by air];

[41][(ia) any service in, or in connection with the working of , any major port or dock;]

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;

(iii) any postal, telegraph or telephone service;

(iv) any industry which supplies power, light or water to the public;

(v) any system of public conservancy or sanitation;

(vi) any industry specified in the [42][First Schedule] which the appropriate government may, if satisfied that public emergency or public interest so requires, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification:

PROVIDED that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of the appropriate government public emergency or public interest requires such extension;

(o) "railway company" means a railway company as defined in section 3 of the Indian Railways Act, 1890 (9 of 1890);

[19][(oo) "retrenchments" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

[43][(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation on that behalf contained therein; or]

(c) termination of the service of a workman on the ground of continued ill-health;]

[44][(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to [45][an officer authorised in this behalf by] the appropriate government and the conciliation officer;]

(q) "strike" means a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal, under; a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment;

[46](qq) "trade union" means a trade union registered under the Trade Union Act, 1926, (16 of 1926);]

[47][(r) "Tribunal" means an Industrial Tribunal constituted under section 7A and includes an Industrial Tribunal constituted before the 10th day of March, 1957, under this Act;]

[47][(ra) "unfair labour practice" means any of the practices specified in the Fifth Schedule;

(rb) "village industries" has the meaning assigned to it in clause (h) of section 2 of the Khadi and Village Industries Commission Act, 1956 (61 of 1956);]

[48][(rr) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes-

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

(iii) any travelling concession;

[47][(iv) any commission payable on the promotion of sales or business or both;]

but does not include-

(a) any bonus;

(b)any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service;]

[49][(s) "workman" means any person (including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, function mainly of a managerial nature.]

**[50][2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute**

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

# CHAPTER II : AUTHORITIES UNDER THIS ACT

### 3. Works Committee

(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment, so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (16 of 1926).

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

### 4. Conciliation officers

(1) The appropriate. government may, by notification in the Official Gazette, appoint such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more. specified industries and either permanently or for a limited period.

### 5. Boards of Conciliation

(1) The appropriate government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a Chairman and two or four other members, as the appropriate government thinks fit.

(3) The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

PROVIDED that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the Chairman or any of its members or any vacancy in its number:

PROVIDED that, if the appropriate government notifies the Board that the services of the Chairman or of any other member have ceased to be available, the Board shall not act until a new Chairman or member, as the case may be, has been appointed.

### 6. Courts of Inquiry

(1) The appropriate government may, as occasion arises by notification in the Official Gazette, constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A court may consist of one independent person or of such number of independent persons as the appropriate government may think fit and where a court consists of two or more members, one of them shall be appointed as the Chairman.

(3) A court, having the prescribed quorum, may act not with standing the absence of the Chairman or any of its members or any vacancy in its number:

PROVIDED that, if the appropriate government notifies the court that the services of the Chairman have ceased to be available, the court shall not act until a new Chairman has been appointed.

### [51][7. Labour Courts

(1) The appropriate government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

(2) A Labour Court shall consist of one person only to be appointed by the appropriate government.

(3) A person shall not be, qualified for appointment as the presiding officer of a Labour Court, unless-

[52][(a) he is, or has been, a judge of a High Court; or

(b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or]

[53][* * *]

[54][(d) he has held any judicial office in India for not less than seven years; or

[54][(e)] he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

### 7A. Tribunals

(1) The appropriate government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule [55][and for performing such other functions as may be assigned to them under this Act].

(2) A Tribunal shall consist of one person only to be appointed by the appropriate government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless-

(a) he is, or has been, a Judge of a High Court; or

[56][(aa) he has, for a period of not less than three-years, been a District judge or an Additional District Judge; [57][* * *]

(4) The appropriate government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

### 7B. National Tribunals

(1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(2) A National Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal [58][unless he is, or has been, a Judge of a High Court.

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

### 7C. Disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals

No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if-

(a) he is not an independent person; or

(b) he has attained the age of sixty-five years.]

### [59][8. Filling of vacancies

If, for any reason a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Labour Court, Tribunal or National Tribunal or in the office of the Chairman or any other member of a Board or court, then, in the case of a National Tribunal, the Central Government and in any other case, the appropriate government shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be continued before the Labour Court, Tribunal, National Tribunal, Board or court, as the case may be, from the stage at which the vacancy is filled.

### 9. Finality of orders constituting Boards, etc.

(1) No order of the appropriate government or of the Central Government appointing any person as the Chairman or any other member of a Board or court or as the presiding officer of a Labour Court, Tribunal or National Tribunal shall be called in question in any manner; and no act or proceeding before any Board or court shall be called in question in any manner on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Board or court.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 12 or sub-section (5) of section 13, as the case may be.

(3) Where the report of any settlement arrived at in the course of conciliation proceeding before a Board is signed by the Chairman and all the other members of the Board, no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members (including the Chairman) of the Board during any stage of the proceeding.]

## [60][CHAPTER II-A : NOTICE OF CHANGE

### 9A. Notice of change

No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,-

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:

PROVIDED that no notice shall be required for effecting any such change-

(a) where the change is effected in pursuance of any [61][ settlement or award]; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.]

### 9B. Power of government to exempt

Where the appropriate government is of opinion that the application of the provisions of section 9A to any class of industrial establishments or to any class of workmen employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious

repercussion on the industry concerned and that public interest so requires, the appropriate government may, by notification in the Official Gazette, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workmen employed in any industrial establishment.

[62][* * *]

## CHAPTER III : REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS

### 10. Reference of disputes to Boards, courts or Tribunals

(1) [63][Where the appropriate government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing-

(a) refer the dispute to a Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a court for inquiry; or

[64][(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute , whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:

PROVIDED that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate government may, if it so thinks fit, make the reference to a Labour Court under clause (c):]

[65][PROVIDED FURTHER that] where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do. make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced:

[66][PROVIDED ALSO that where the dispute in relation to which the Central Government is the appropriate government, it shall be competent for that government to refer the dispute to a Labour Court or an Industrial Tribunal, as the case may be, constituted by the State Government]

[67][(1A) Where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it

relates to any matter specified in the Second Schedule or the Third Schedule to a National Tribunal for adjudication.]

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, court, [68][Labour Court, Tribunal or National Tribunal], the appropriate government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

[29][(2A) An order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section shall specify the period within which such Labour Court, Tribunal or National Tribunal shall submit its award on such dispute to the appropriate government:

PROVIDED that where such industrial dispute is connected with an individual workman, no such period shall exceed three months:

PROVIDED FURTHER that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, to the Labour Court, Tribunal or National Tribunal for extension of such period or for any other reason, and the presiding officer of such Labour Court, Tribunal or National Tribunal considers it necessary or expedient to extend such period, he may for reasons to be recorded in writing, extend such period by such further period as he may think fit:

PROVIDED ALSO that in computing any period specified in this sub-section, the period, if any, for which the proceedings before the Labour Court, Tribunal or National Tribunal had been stayed by any injunction or order of a civil court shall be excluded:

PROVIDED ALSO that no proceedings before a Labour Court, Tribunal or National Tribunal shall lapse merely on the ground that any period specified under this sub-section had expired without such proceedings being completed.]

(3) Where an industrial dispute has been referred to a Board,[68][Labour Court, Tribunal or National Tribunal] under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

[34][ (4) Where in an order referring an industrial dispute to [68][a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate government has specified the points of dispute for adjudication, [68][the Labour Court or the Tribunal or the National Tribunal, as the case may be,] shall confine its adjudication to those points and matters incidental thereto.

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a [69][Labour Court, Tribunal or National Tribunal] under this section and the appropriate government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of, such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.]

[70][ (6) Where any reference has been made under sub-section (1A) to a National Tribunal, then notwithstanding anything contained in this Act, no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly-

(a) if the matter under adjudication before the National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before the Labour Court or the Tribunal, as the case may be, insofar as it relates to such matter, shall be deemed to have been quashed on such reference to the National Tribunal; and

(b) it shall not be lawful for the appropriate government to refer the matter under adjudication before the National Tribunal to any Labour Court or Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.

[18]*[Explanation:* In this sub-section "Labour Court" or "Tribunal" includes any court or Tribunal or other authority constituted under any law relating to investigation and settlement of industrial disputes in force in any State.]

(7) Where any industrial dispute, in relation to which the Central Government is not the appropriate government, is referred to a National Tribunal, then, notwithstanding anything contained in this Act, any reference in section 15, section 17, section 19, section 33A, section 33B and section 36A to the appropriate government in relation to such dispute shall be construed as a reference to the Central Government but, save as aforesaid and as otherwise expressly provided in this Act, any reference in any other provision of this Act to the appropriate government in relation to that dispute shall mean a reference to the State Government.]

[29][(8) No proceedings pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceedings and submit its award to the appropriate government.]

### [70][10A. Voluntary reference of disputes to arbitration

(1) Where any industrial dispute exists or is apprehended and the employer and the workman agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal, or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

[71][(1A) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Act.]

(2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(3) A copy of the arbitration agreement shall be forwarded to the appropriate government and the conciliation officer and the appropriate government shall, within [72][one month] from the date of the receipt of such copy, publish the same in the Official Gazette.

[71][(3A) Where an industrial dispute has been referred to arbitration and the appropriate government is satisfied that the persons making the reference represent the majority of each party, the appropriate government may, within the time referred to in sub-section (3), issue a notification in such manner as maybe prescribed; and when any such notification is issued, the employers and workmen who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators.]

(4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

[71][(4A) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (3A), the appropriate government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which maybe in existence on the date of the reference.]

(5) Nothing in the Arbitration Act, 1940 (10 of 1940), shall apply to arbitrations under this section.]

## CHAPTER IV : PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

### 11. Procedure and powers of conciliation officers, Board, courts and Tribunals and National Tribunals

[73][(1) Subject to any rules that may be made in this behalf, an arbitrator, a Board, court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.]

(2) A conciliation officer or a member of a board [74][or court or the presiding officer of a Labour Court, Tribunal or National Tribunal] may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, court, [75][Labour Court, Tribunal and National Tribunal] shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure,1908 (5 or 1908), when trying a suit, in respect of the following matters, namely:-

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and material objects;

(c) issuing commissions for the examination of witnesses;

(d) in respect of such other matters as may be prescribed,

and every inquiry or investigation by a Board, court, [76][Labour Court, Tribunal or National Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 to 1860).

(4) A conciliation officer [77][may enforce the attendance of any person for the purpose of examination of such person or call for] and inspect any document which he has ground for considering to be relevant to the industrial dispute [78][or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), [77][in respect of enforcing the attendance of any person and examining him or of compelling the production of documents]] .

[79][(5) A court, Labour Court, Tribunal or National Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as an assessor or assessors to advise it in the proceeding before it.

(6) All conciliation officers, members of a Board or court and the presiding officers of a Labour Court, Tribunal or National Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(7) Subject to any rules made under this Act the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal, and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and. subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate government by the person entitled, be recovered by that government in the same manner as an arrear of land revenue.]

[80][ (8) Every [81][Labour Court, Tribunal or National Tribunal] shall be deemed to be civil court for the purposes of [82][sections 345, 346, and 348 of the Code of Criminal Procedure, 1973 (2 of 1974).]

### [83][11A. Powers of Labour Court Tribunal, and National Tribunal to give appropriate relief in case of discharge or dismissal of workmen

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

PROVIDED that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.]

### 12. Duties of conciliation officers

(1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate government [84][or an officer authorised in this behalf by the appropriate government] together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at , the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate government is satisfied that there is a case for reference to a Board, [85][Labour Court, Tribunal or National Tribunal], it may make such reference. Where the appropriate government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate government:

[38][PROVIDED that, [18][subject to the approval of the conciliation officer,] the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.]

### 13. Duties of Board

(1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merit and the right

settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matter in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate government does not make a reference to a [86][Labour Court, Tribunal or National Tribunal] under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date [87][on which the dispute was referred to it] or within such shorter period as may be fixed by the appropriate government:

PROVIDED that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:

PROVIDED FURTHER that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

### 14. Duties of courts

A court shall inquire into the matters referred to it and report thereon to the appropriate government ordinarily within a period of six months from the commencement of its inquiry.

### Foot Notes

1 Substituted by Act No. 36 of 1956, for the former sub-section w.e.f. 29th. August, 1956.
2 Proviso omitted by Act No. 51 of 1970, section 2 and Schedule w.e.f. 1st. September, 1971.
3 Certain words and figures inserted by Act No. 10 of 1963, section 47 and Schedule II, have been omitted by Act No. 36 of 1964, w.e.f. 19th. December, 1964.
4 The words "by the Federal Railway Authority" omitted by A.O. 1948.
5 Inserted by Act No. 65 of 1951.
6 The words "operating a Federal Railway" omitted by A.O. 1950.
7 Inserted by Act of 1961, w.e.f. 1st. January, 1962.

8 Substituted by Act No. 36 of 1964, for the words "the Deposit Insurance Corporation established" w.e.f. 19th. December, 1964.
9 Substituted by Act No. 45 of 1971, w.e.f. 15th. December, 1971.
10 Substituted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.
11 Substituted for the words "Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948" by the Industrial Disputes (Amendment) Act, 1996, w.r.e.f. 11-10-1995.
12 The words and figures "or the Indian Airlines and Air India Corporations established under section 3 of the Air Corporations Act, 1953" omitted by Industrial Disputes (Amendment) Act, 1996, w.e.f. 11-10-1995.
13 Substituted forwards and figures 'the Oil and Natural Gas Commission established under section 3 of the Oil and Natural Gas Commission Act, 1959", ibid.
14 Substituted for the words and figures 'the International Airports Authority of India constituted under section 3 of the International Airports Authority Act, 1971 ", ibid.
15 Inserted by Act No. 53 of 1987, w.e.f. 9-7-1988.
16 Substituted by Act No. 54 of 1959, for the words "a mine, oil-field".
17 Substituted for the words "a banking or an insurance company" by the Industrial Disputes (Amendment) Act, 1996, w.e.f. 11-10-1995.
18 Inserted by Act No. 36 of 1964, w.e.f 19th. December, 1964.
19 Inserted by Act No. 43 of 1953,w.e.f. 24-10-1953.
20 Clause (aa) re-lettered as clause (aaa) by Act No. 36 of 1964, w.e.f. 19th. December, 1964.
21 Substituted by Act No. 36 of 1956, section 3, w.e.f. 10th. August, 1957.
22 Substituted by Act No. 38,1959, section 64 and Schedule III, Pat.II, for clause (bb), which was inserted by Act No. 54 of 1949, section 3.
23 See now the Banking Regulation Act, 1949.
24 Inserted by Act No. 28 of 1981, w.e.f. 1-1 -1982.
25 Inserted by Act No. 62 of 1984, w.e.f. 20th. August, 1985.
26 Inserted by Act No. 18 of 1964, w.e.f. 1st. July, 1964.
27 Substituted by Act No. 5 of 1970, for the words "and any subsidiary bank" w.e.f. 19th. July, 1969.
28 Substituted by Act No. 40 of 1980, w.e.f. 15th. April, 1980.
29 Inserted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.
30 Clause (eee) omitted by Act No. 36 of 1964, w.e.f. 19th. December, 1964.
31 Substituted by Act of 1948, for the words "a Government in British India".
32 Inserted by the Act No. 45 of 1971, w.e.f. 15th. December, 1971.
33 Clause (h) omitted by the Act of 1950.
34 Inserted by Act No. 18 of 1952.
**35 On the enforcement of clause (c) of section 2 of Act No. 46 of 1982, clause (j) of section 2 shall stand substituted as directed in clause (c) of that Act, as reproduced below:**

(j) "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, and includes-

(a) any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1949);

(b) any activity relating to the promotion of sales or business or both carried on by an establishment;

but does not include-

(1) any agricultural operation except where. such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one.

*Explanation:* For the purposes of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951); or

(2) hospitals or dispensaries; or

(3) educational, scientific, research or training institutions; or

(4) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(5) Khadi or village industries; or

(6) any activity of the government reliable to the sovereign functions of the government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or

(7) any domestic service; or

(8) any activity, being a profession practised by an individual or body of individuals, if the number of persons employed by the individuals or body of individuals in relation to such profession is less than ten; or

(9) any activity, being an activity carried on by a co-operative society or a club or any other like body of individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten;

36 Inserted by Act No. 54 of 1949.

37 Clause (kka) re-lettered as clause (kkb) and clause (kka) inserted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

38 Inserted by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

39 Substituted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

40 Inserted by Act No. 36 of 1964, w.e.f. 19th. December, 1964.

41 Inserted by Amendment Act of 1971, w.e.f. 15th. December, 1971.

42 Substituted by Act No. 36 of 1964, for the word "Schedule" w.e.f. 19th. December, 1964.

43 Inserted by Act No. 49 of 1984, w.e.f. 18th. August, 1984.

44 Substituted by Act No. 36 of 1956 w.e.f. 7th. October, 1956.

45 Inserted by Act No. 35 of 1965, w.e.f. 1st. December, 1965.

46 Inserted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

47 Substituted by Act No. 18 of 1957, for clause (r) w.e.f. 10th. August, 1957.

48 Inserted by Act No. 43 of 1953, w.e.f. 24th. October, 1953.

49 Substituted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

50 Inserted by Act No. 35 of 1965, w.e.f. 1st. December, 1965.

51 Substituted by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

52 Inserted by Act No. 36 of 1964, w.e.f. 19th. December, 1964.

53 Clause (c) omitted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

54 Clause (a) and (b) relettered as (d) and (e) respectively by Act No. 36 of 1964, w.e.f 15th. December, 1964.

55 Inserted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

56 Inserted by Act No. 36 of 1964, w.e.f. 19th. December, 1964.

57 The word "or" and clause (b) omitted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

58 Substituted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

59 Substituted by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

60 Inserted by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

61 Substituted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

**62 On the enforcement of section 7of Act No. 46 of 1982, a new Chapter IIB shall stand inserted as directed in section 7 of that Act, as reproduced below:**

**"CHAPTER II B : REFERENCE OF CERTAIN INDIVIDUAL DISPUTES TO GRIEVANCE SETTLEMENT AUTHORITIES**

**9C. Setting up of Grievance Settlement Authorities and reference of certain individual disputes to such authorities**

**(1) The employer in relation to every industrial establishment in which fifty or more workmen are employed or have been employed on any day in the preceding twelve months, shall provide for, in accordance with the rules made in that behalf under this Act, a Grievance Settlement Authority for the settlement of industrial disputes connected with an individual workman employed in the establishment.**

**(2) Where an industrial dispute connected with an individual workman arises in an establishment referred to in sub-section (1), a workman or any trade union of workmen of which such workman is a**

member, refer, in such manner as may be prescribed, such dispute to the Grievance Settlement Authority provided for by the employer under that sub-section for settlement.

(3)The Grievance Settlement Authority referred to in sub-section (1) shall follow such procedure and complete its proceedings within such period as may be prescribed.

(4) No reference shall be made under Chapter III with respect to any dispute referred to in this section unless such dispute has been referred to the Grievance Settlement Authority concerned and the decision of the Grievance Settlement Authority is not acceptable to any of the parties to the dispute."

63 Substituted by Act No. 18 of 1952, for the words "if any industrial dispute exists or is apprehended, the appropriate government may".

64 Substituted by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

65 Substituted by Act No. 36 of 1956, for the words "Provided that" w.e.f. 10th. August, 1957.

66 Inserted by Act No. 46 of 1982, w.e.f. 21st. August, 1984.

67 Inserted by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

68 Substituted for the words 'or Tribunal' by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

69 Substituted by Act No. 36 of 1956, for 'Tribunal' w.e.f. 10th. August, 1957.

70 Inserted by Act No. 36 of l956, w.e.f.10th. August, 1957.

71 Inserted by Act No. 36 of 1964, w.e.f. 15th. December, 1964.

72 Substituted, ibid, "fourteen days" w.e.f. 19th. December, 1964.

73 Substituted by Act No. 36 of 1956, for sub-section (1) w.e.f 10th. August, 1957.

74 Substituted, ibid, for the words "Court or Tribunal" w.e.f. 10th. August, 1957.

75 Substituted by Act No. 36 of 1956, for the words "and Tribunal" w.e.f. 10th. August, 1957.

76 Substituted, ibid, for the words "or Tribunal" w.e.f. 10th. August, 1957.

77 Substituted by Act No. 46 of 1982, for certain words w.e.f. 21st. August, 1984.

78 Inserted by Act No. 36 of 1956, w.e.f. 17th. September, 1956.

79 Substituted by Act No. 36 of 1956, w.e.f. 10th. August, 1957.

80 Inserted by Act No. 48 of 1950.

81 Substituted by Act No. 36 of 1956, for the words "Tribunal" w.e.f. 10th. August, 1957.

82 Substituted by Act No. 46 of 1982, for certain words and figures w.e.f. 21st. August, 1984.

83 Inserted by Act No. 45 of 1971, w.e.f. 15th. December, 1971.

84 Inserted by Act No. 35 of 1965, w.e.f. 1st. December, 1965.

85 Substituted by Act No. 36 of 1956, for the words "or Tribunal" w.e.f. 10th. August, 1957.

86 Substituted by Act No. 36 of 1956, for the words "Tribunal" w.e.f. 10th. August, 1957.

87 Substituted by Act No. 40 of 1951, for the words "of the notice under section 22".

### 15. Duties of Labour Courts Tribunals and National Tribunals

Where an industrial dispute has been referred to a Labour Court Tribunal or National Tribunal for adjudication it shall hold its proceedings expeditiously and shall within the period specified in the order referring such industrial dispute or the further period extended under the second proviso to sub-section (2A) of section 10 submit its award to the appropriate government.

### 16. Form of report or award

(1) The report of a Board or court shall be in writing and shall be signed by all the members of the Board or court as the case may be :

Provided that nothing in this section shall be deemed to prevent any member of the Board or court from recording any minute of dissent from a report or from any recommendation made therein.

(2) The award of a Labour Court or Tribunal or National Tribunal shall be in writing and shall be signed by its presiding officer.

### 17. Publication of report and award

(1) Every report of a Board or court together with any minute of dissent recorded therewith every arbitration award and every award of a Labour Court Tribunal or National Tribunal shall within a period of thirty days from the date of its receipt by the appropriate government be published in such manner as the appropriate government thinks fit.

(2) Subject to the provisions of section 17A the award published under sub-section (1) shall be final and shall not be called in question by any court in any manner whatsoever.

### 17A. Commencement of the award

(1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that -

(a) if the appropriate government is of opinion in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion in any case where the award has been given by a National Tribunal

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award the appropriate government or as the case may be the Central Government may by notification in the Official Gazette declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (l) the appropriate government or the Central Government may within ninety days from the date of publication of the award under section 17 make an order rejecting or modifying the awards and shall on the first available opportunity lay the award together with a copy of the order before the Legislature of the State if the order has been made by a State Government or before Parliament if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (l) the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (l) and sub-section (3) regarding the enforceability of an award the award shall come into operation with effect from such dates as may be specified therein but where no date is so specified it shall come into operation on the date when the award becomes enforceable under sub-section (i) of sub-section (3) as the case may be.

**17B. Payment of full wages to workman pending proceedings in higher courts**

Where in any case a Labour Court Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court the employer shall be liable to pay such workman during the period of pendency of such proceedings in the High Court or the Supreme Court full wages last drawn by him inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such court :

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been receiving adequate remuneration during any such period or part thereof the court shall order that no wages shall be payable under this section for such period or part as the case may be.

### 18. Persons on whom settlements and awards are binding

(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) Subject to the provisions of sub-section (3) an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(3) A settlement arrived at in the course of conciliation proceedings under this Act or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A or an award of a Labour Court Tribunal or National Tribunal which has become enforceable shall be binding on -

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute unless the Board arbitrator Labour Court Tribunal or National Tribunal as the case may be records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is composed of workmen all persons who were employed in the establishment or part of the establishment as the case may be to which the dispute relates on the date of the dispute and all person who subsequently become employed in that establishment or part.

### 19. Period of operation of settlements and awards

(1) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute and if no date is agreed upon on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties and if no such period is agreed upon for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute and shall continue to be binding on the parties after the expiry of the period aforesaid until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award shall subject to the provisions of this section remain in operation for a period of one year from the date on which the award becomes enforceable under section 17A :

Provided that the appropriate government may reduce the said period and fix such period as it thinks fit :

Provided further that the appropriate government may before expiry of the said period extend the period of operation by any period not exceeding one year at a time as it thinks fit so however that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate government whether of its own motion or on the application of any party bound by the award considers that since the award was made there has been a material change in the circumstances on which it was based the appropriate government may refer the award or part of it to a Labour Court if the award was that of a Labour Court or to a Tribunal if the award was that of a Tribunal or of a National Tribunal for decision whether the period of operation should not by reason of such change be shortened and the decision of Labour Court or the Tribunal as the case native on such reference shall be final.

(5) Nothing contained in sub-section (3) shall apply to any award which by its nature terms or other circumstances does not impose after it has been given effect to any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3) the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(7) No notice given under sub-section (2) or sub-section (6) shall have effect unless it is given by a party representing the majority of persons bound by the settlement or award as the case may be.

### 20. Commencement and conclusion of proceedings

(1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded -

(a) where a settlement is arrived at when a memorandum of the settlement is signed by the parties to the dispute

(b) where no settlement is arrived at when the report of the conciliation officer is received by the appropriate government or when the report of the Board is published under section 17 as the case may be; or

(c) when a reference is made to a court Labour Court Tribunal or National Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before an arbitrator under section 10A or before a Labour Court Tribunal or National Tribunal shall be deemed to have commenced on the date of the reference of the dispute for arbitration or adjudication as the case may be and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable under section 17A.

### 21. Certain matters to be kept confidential

There shall not be included in any report or award under this Act any information obtained by a Conciliation Officer Board court Labour court Tribunal National Tribunal or an arbitrator in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person firm or company) which is not available otherwise than through the evidence given before such officer Board court Labour Court Tribunal National Tribunal or arbitrator if the trade union person firm or company in question has made a request in writing to the conciliation officer Board court Labour Court Tribunal National Tribunal or arbitrator as the case may be that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board or court or the presiding officer of the Labour Court Tribunal or National Tribunal or the arbitrator or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person firm or company in question as the case may be :

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code (45 of 1860).

## V. STRIKES AND LOCK-OUTS

### 22. Prohibition of strike and lock-out

(1) No person employed in a public utility service shall go on strike in breach of contract -

(a) without giving to the employer notice of strike as hereinafter provided within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workman -

(a) without giving them notice of lock-out as hereinafter provided within six weeks before locking-out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or as the case may be lock-out in the public utility service but the employer shall send intimation of such lock-out or strike on the day on which it is declared to such authority as may be specified by the appropriate government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such such numbers of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any person employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notice as are referred to in sub-section (2) he shall within five days thereof report to the appropriate government or to such authority as that government may prescribe the number of such notice received or given on that day.

**23. General prohibition of strikes and lock-outs**

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out -

(a) during the pendency of conciliation proceeding before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before a Labour Court Tribunal or National Tribunal and two months after the conclusion of such proceedings;

(bb) during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings where a notification has been issued under sub-section (3A) of section 10A; or

(c) during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award.

**24. Illegal strikes and lock-outs**

(1) A strike or lock-out shall be illegal if -

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10 or sub-section (4A) of Section 10A.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board an arbitrator a Labour Court Tribunal or National Tribunal the continuance of such strike or lock-out shall not be deemed to be illegal provided that such strike lock out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10 or sub-section (4A) of section 10A.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

25. Prohibition of financial aid to illegal strikes and lock-outs

No person shall knowing expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

## V-A. LAY-OFF AND RETRENCHMENT

25A. Application of sections 25C to 25E

(1) Sections 25C to 25E inclusive shall not apply to Industrial Establishments to which Chapter VB applies or

(a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month; or

(b) to industrial establishments which are of a seasonal character or in which work is performed only intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently the decision of the appropriate government thereon shall be final.

Explanation : In this section and in sections 25C, 25D, and 25E industrial establishment means -

(i) a factory as defined in clause (m) of section 2 of the Factories Act 1948 (63 of 1948); or

(ii) a mine as defined in clause (j) of section 2 of the Mines Act 1952 (35 of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act 1951 (69 of 1951).

**25B.** Definition of continuous service

For the purpose of this Chapter

(1) a workman shall be said to be in continuous service for a period if he is for that period in uninterrupted service including service which may be interrupted on account of sickness or authorised leave or an accident or as strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months he shall be deemed to be in continuous service under an employer -

(a) for a period of one year if the workman during a period of twelve calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than -

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty day in any other case;

(b) for a period of six months if the workman during a period of six calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than -

(i) ninety-five days in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days in any other case

Explanation : For the purposes of clause (2) the number of days on which workman has actually worked under an employer shall include the days on which -

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing orders) Act 1946 (20 of 1946) or under the Act or under any other law applicable to the industrial establishment;

(ii) he has been on leave with full wages earned in the previous years;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female she has been on maternity leave; so however that the total period of such maternity leave does not exceed twelve weeks.

### 25C. Right of workmen laid-off for compensation

Whenever a workmen (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off whether continuously or intermittently he shall be paid by the employer for all days during which he is so laid-off except for such weekly holidays as may intervene compensation which shall be equal to fifty per cent of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off :

Provided that if during any period of twelve months a workman is so laid-off for more than forty-five days no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days if there is an agreement to that effect between the workman and the employer :

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the workman in accordance with the provisions contained in section 25F at any time after the expiry of the first forty five days of the lay off and when he does so any compensation paid to the workman for having been laid off during the preceding twelve months may be set off against the compensation payable for retrenchment.

Explanation : "Badli workman" means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment but shall cease to be regarded as such for the purposes of this section if he has completed one year of continuous service in the establishment

**25D. Duty of an employer to maintain muster rolls of workmen**

Notwithstanding that workmen in any industrial establishment have been laid-off it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll and to provide for the making of entries therein by workmen who may present themselves for work at the establishment at the appointed time during normal working hours.

**25E. Workmen not entitled to compensation in certain cases**

No compensation shall be paid to a workman who has been laid-off -

(i) if he refuses to accept any alternative employment in the same establishment from which he has been laid off or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs if in the opinion of the employer such alternative employment does not call for any special skill or previous experience and can be done by the workman provided that the wages which would normally have been paid to the workman are offered for the alternative employment also;

(ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

(iii) if such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment.

**25F. Conditions precedent to retrenchment of workmen**

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until -

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of the notice;

(b) the workman has been paid at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate government for such authority as may be specified by the appropriate government by notification in the Official Gazette.

**25FF. Compensation to workmen in case of transfer of undertakings**

Where the ownership or management of an undertaking is transferred whether by agreement or by operation of law from the employer in relation to or that undertaking to a new employer every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 25F as if the workman had been retrenched :

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer if

(a) the service of the workman has not been interrupted by such transfer;

(b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and

(c) the new employer is under the terms of such transfer or otherwise legally liable to pay to the workman in the event of his retrenchment compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

**25FFA. Sixty days' notice to be given of intention to close down any undertaking**

(1) An employer who intends to close down an undertaking shall serve at least sixty days before the date on which the intended closure is to become effective a notice in the prescribed manner on the appropriate government stating clearly the reasons for the intended closure of the undertaking :

Provided that nothing in this section shall apply to -

(a) an undertaking in which -

(i) less than fifty workmen are employed or

(ii) less than fifty workmen were employed on an average per working day in the preceding twelve months.

(b) an undertaking set up for the construction of building bridges roads canals dams or for other construction work or project.

(2) Notwithstanding anything contained in sub-section (1) the appropriate government may if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do by order direct that provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

**25FFF. Compensation to workmen in case of closing down of undertakings**

(1) Where an undertaking is closed down for any reason whatsoever every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall subject to the provisions of sub-section (2) be entitled to notice and compensation in accordance with the provisions of section 25F as if the workman had been retrenched :

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer the compensation to be paid to the workman under clause (b) of section 25F shall not exceed his average pay of for three months :

Explanation : An undertaking which is closed down by reason merely of -

(i) financial difficulties (including financial losses); or

(ii) accumulation of undisposed of stocks; or

(iii) the expiry of the period of the lease or licence granted to it; or

(iv) in case where the undertaking is engaged in mining operation exhaustion of the minerals in the area in which operations are carried on shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

(1A) Notwithstanding anything contained in sub-section (l) where an undertaking engaged in mining operations is closed down by reason merely of exhaustion of the minerals in the area in which such operations are carried on no workman referred to in that sub-section shall be entitled to any notice or compensation in accordance with the provisions of section 25F if -

(a) the employer provides the workman with alternative employment with effect from the date of closure at the same remuneration as he was entitled to receive and on the same terms and conditions of service as were applicable to him immediately before the closure;

(b) the service of the workman has not been interrupted by such alternative employment; and

(c) the employer is under the terms of such alternative employment or otherwise legally liable to pay to the workman in the event of his retrenchment compensation on the basis that his service has been continuous and has not been interrupted by such alternative employment.

(1B) For the purposes of sub-section (l) and (1A) the expressions "minerals" and "mining operations" shall have the meanings respectively assigned to them in clauses (a) and (b) of section 3 of the Mines and Minerals (Regulation and Development) Act 1957 (67 of 1957).

(2) Where any undertaking set up for the construction of buildings bridges roads canals dams or other construction work is closed down on account of the completion of the work within two years from the date on which the undertaking had been set up no workman employed therein shall be entitled to any compensation under clause (b) of section 25F but if the construction work is not so completed within two years he shall be entitled to notice and compensation under that section for every completed year of continuous service or any part thereof in excess of six months.

### 25G. Procedure for retrenchment

Where any workman in an industrial establishment who is a citizen of India is to be retrenched and he belongs to a particular category of workmen in that establishment in the absence of any agreement between the employer and the workman in this behalf the employer shall ordinarily retrench the workman who was the last person to be employed in that category unless for reasons to be recorded the employer retrenches any other workman.

### 25H. Re-employment of retrenched workmen

Where any workmen are retrenched and the employer proposes to taken into his employ any persons he shall in such manner as may be prescribed give an opportunity to the retrenched workmen who are

citizens of India to offer themselves for re-employment and such retrenched workmen who offer themselves for re-employment shall have preference over other persons.

### 25-I. Recovery of moneys due from employers under this Chapter

Repealed by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act 1956 (36 of 1956) s. 19 w.e.f. 10-3-1957.

### 25J. Effect of laws inconsistent with this Chapter

(1) The provisions of this Chapter shall have effect notwithstanding anything in consistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing Orders) Act 1946 (20 of 1946)

Provided that where under the provisions of any other Act or Rules orders or notifications issued thereunder or under any standing orders or any award contract of service or otherwise a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act; the workman shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) For the removal of doubts it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes but the right and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter

## V-B. SPECIAL PROVISIONS RELATING TO LAY-OFF RETRENCHMENT

### Notification of delegation of powers

### 25K. Application of Chapter V-B

(1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently the decision of the appropriate government thereon shall be final.

(These powers are delegated to col) **notification to be quoted**

**25L. Definitions**

For the purposes of this Chapter

(a) "industrial establishment" means -

(i) a factory as defined in clause (m) of section 2 of the Factories Act 1948 (63 of 1948)

(ii) a mine as defined in clause (j) of sub-section (l) of section 2 of the Mines Act 1952 (35 of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act 1951 (69 of 1951) :

(b) notwithstanding anything contained in sub-clause (ii) of clause (a) of section 2,

(i) in relation to any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government or

(ii) in relation to any corporation not being a corporation referred to in sub-clause (i) of clause (a) of section 2 established by or under any law made by Parliament.

the Central Government shall be appropriate government.

**25M. Prohibition of lay-off**

(1) No workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except with the prior permission of the appropriate government or such authority as may be specified by that government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) obtained on an application made in this behalf unless such lay-off is due to shortage of power or to natural calamity and in the case of a mine such lay-off is due also to fire flood excess of inflammable gas or explosion.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workman (other than badli workmen or casual workman) of industrial establishment being a mine have been laid-off under sub-section (1) for reasons of fire flood or excess of inflammable gas or explosion the employer in relation to such establishment shall within a period of thirty days from the date of commencement of such lay-off apply in the prescribed manner to the appropriate government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) of sub-section (3) has been made the appropriate government or the specified authority after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer the workmen concerned and the persons interested in such lay-off may having regard to the genuineness and adequacy of the reasons for such lay-off the interests of the workmen and all other relevant factors by order and for reasons to be recorded in writing grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and appropriate government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(6) An order of the appropriate government or the specified authority granting or refusing to grant permission shall subject to the provisions of sub-section (7) be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate government or the specified authority may either on its own motion or on the application made by the employer or any workman review its order granting or refusing to grant permission under sub-section (4) or refer the matter or as the case may be cause it to be referred to a Tribunal for adjudication :

Provided that where a reference has been made to a Tribunal under this sub-section it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made or where no application for permission under sub-section (3) is made within the period specified therein or where the permission for

any lay-off has been refused such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section the appropriate government may if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like it is necessary so to do by order direct that the provisions of sub-section (1) or as the case may be sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.

(10) The provisions of section 25C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

Explanation : For the purposes of this section a workman shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the workman) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer situate in the same town or village or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the workman having regard to the facts and circumstances of his case provided that the wages which would normally have been paid to the workman are offered for the alternative appointment also.

**25N. Conditions precedent to retrenchment of workmen**

(1) No workman employed in any industrial establishment to which this Chapter applies who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of the notice; and

(b) the prior permission of the appropriate government or such authority as may be specified by that government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made the appropriate government or the specified authority after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer the workmen concerned and the person interested in such retrenchment may having regard to the genuineness and adequacy of the reasons stated by the employer the interests of the workmen and all other relevant factors by order and for reasons to be recorded in writing grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate government or the specified authority granting or refusing to grant permission shall subject to the provisions of sub-section (6) be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate government or the specified authority may either on its own motion or on the application made by the employer or any workman review its order granting or refusing to grant permission under sub-section (3) or refer the matter or as the case may be cause it to be referred to a Tribunal for adjudication :

Provided that where a reference has been made to a Tribunal under this sub-section it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made or where the permission for any retrenchment has been refused such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section the appropriate government may if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like it is necessary so to do by order direct that the

provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4) every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive at the time of retrenchment compensation which shall be equivalent to fifteen day average pay for every completed year of continuous service or any part thereof in excess of six months.

### 25-O. Procedure for closing down an undertaking

(1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall in the prescribed manner apply for prior permission at least ninety days before the date on which the intended closure is to become effective to the appropriate government stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner :

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings bridges roads canals dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1) the appropriate government after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer the workmen and the persons interested in such closure may having regards to the genuineness and adequacy of the reasons stated by the employer the interests of the general public and all other relevant factors by order and for reasons to be recorded in writing grant or refused to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the appropriate government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the appropriate government granting or refusing to grant permission shall subject to the provisions of sub-section (5) be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate government may either on its own motion or on the application made by the employer or any workman review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication :

Provided that where a reference has been made to a Tribunal under this sub-section it shall pass an award within a a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein or where the permission for closure has been refused the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section the appropriate government may if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do by order direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3) every workman who is employed in that undertaking immediately before the date of application for permission under this section shall be entitled to receive compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

**25P. Special provision as to restarting of undertakings**

If the appropriate government is of opinion in respect of any undertaking of an industrial establishment to which this Chapter applies and which closed down before the commencement of the Industrial Disputes (Amendment) Act 1976 (32 of 1976) -

(a) that such undertaking was closed down otherwise than on account of unavoidable circumstances beyond the control of the employer;

(b) that there are possibilities of restarting the undertaking;

(c) that is necessary for the rehabilitation of the workmen employed in such undertaking before its closure or for the maintenance of supplies and services essential to the life of the community to restart the undertaking or both; and

(d) that the restarting of the undertaking will not result in hardship to the employer in relation to the undertaking

it may after giving an opportunity to such employer and workmen direct by order published in the Official Gazette that the undertaking shall be restarted within such time (not being less than one month from the date of the order) as may be specified in the order.

### 25Q. Penalty for lay-off and retrenchment without previous permission

Any employer who contravenes the provisions of section 25M or of section 25N shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees or with both.

### 25R. Penalty for closure

(1) Any employer who closes down an undertaking without complying with the provisions of sub-section (1) of section 25-O shall be punishable with imprisonment for term which may extend to six months or with fine which may extend to five thousand rupees or with both.

(2) Any employer who contravenes an order refusing to grant permission to close down an undertaking under sub-section (2) of section 25-O or a direction given under section 25P shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both and where the contravention is a continuing one with a further fine which may extend to two thousand rupees for every day during which the contravention continues after the conviction.

### 25S. Certain provisions of Chapter V-A to apply to an industrial establishment to which this Chapter applies

The provisions of sections 25B, 25D, 25FF, 25G, 25H and 25J in Chapter V-A shall so far as may be apply also in relation to an industrial establishment to which the provisions of this Chapter apply.

## V-C UNFAIR LABOUR PRACTICES

### 25T. Prohibition of unfair labour practice

No employer or workman or a trade union whether registered under the Trade Unions Act 1926 (16 of 1926) or not shall commit any unfair labour practice.

### 25U. Penalty for committing unfair labour practices

Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

## VI PENALTIES

### 26. Penalty for illegal strikes and lock-outs

(1) Any workman who commences continues or otherwise acts in furtherance of a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

(2) Any employer who commences continues or otherwise acts in furtherance of a lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees or with both.

### 27. Penalty for instigation etc

Any person who instigates or incites others to take part in or otherwise acts in furtherance of a strike or lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

### 28. Penalty for giving financial aid to illegal strikes and lock-outs

Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

### 29. Penalty for breach of settlement or award

Any person who commits a breach of any term of any settlement or award which is binding on him under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine or with both and where the breach is a continuing one with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first and the Court trying the offence if it fines the offender may direct that the whole or any part of the fine realised from him shall be paid by way of compensation to any person who in its opinion has been injured by such breach.

### 30. Penalty for disclosing confidential information

Any person who willfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall on complaint made by or on behalf of the trade union or individual business affected be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

### 30A. Penalty for closure without notice

Any employer who closes down any undertaking without complying with the provisions of section 25FFA shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

### 31. Penalty for other offences

(1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to **six months or with fine which may extend to one thousand rupees or with both.**

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall if no other penalty is elsewhere provided by or under this Act for such contravention be punishable with fine which may extend to one hundred rupees

### 32. Offence by companies etc

Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not) every director manager secretary agent or other officer or person concerned with the management thereof shall unless he proves that the offence was committed without his knowledge or consent be deemed to be guilty of such offence.

### 33. Conditions of service etc. to remain unchanged under certain circumstances during pendency of proceedings

(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute no employer shall -

(a) in regard to any matter connected with the dispute alter to the prejudice of the workmen concerned in such dispute the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct connected with the dispute discharge or punish whether by dismissal or otherwise any workmen concerned in such dispute save with the express permission in writing of the authority before which the proceeding is pending;

(2) During the pendency of any such proceeding in respect of an industrial dispute the employer may in accordance with standing orders applicable to a workman concerned in such dispute or where there are no such standing orders in accordance with the terms of the contract whether express or implied between him and the workman -

(a) after in regard to any matter not connected with the dispute the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute discharge or punish whether by dismissal or otherwise that workman :

Provided that no such workman shall be discharged or dismissed unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2) no employer shall during the pendency of any such proceeding in respect of an industrial dispute take any action against any protected workman concerned in such dispute -

(a) by altering to the prejudice of such protected workman the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing whether by dismissal or otherwise such protected workman save with the express permission in writing of the authority before which the proceeding is pending.

Explanation : For the purposes of this sub-section a "protected workman" in relation to an establishment means a workman who being a member of the executive or other office bearer of a registered trade union connected with the establishment is recognised as such in accordance with rules made in this behalf.

(4) In every establishment the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein

subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose the appropriate government may make rules providing for the distribution of such protected workmen among various trade unions if any connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer Board an arbitrator a Labour Court Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him the authority concerned shall without delay hear such application and pass within a period of three months from the date of receipt of such application such order in relation thereto as it deems fit :

Provided that where any such authority considers it necessary or expedient so to do it may for reasons to be recorded in writing extend such period by such further periods as it may think fit:

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

### 33A. Special provision for adjudication as to whether conditions of service etc. changed during pendency of proceedings

Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a conciliation officer Board an arbitrator Labour Court Tribunal or National Tribunal any employee aggrieved by such contravention may make a complaint in writing in the prescribed manner -

(a) to such conciliation officer or Board and the conciliation officer or Board shall take such complaint into account in mediating in and promoting the settlement of such industrial dispute; and

(b) to such arbitrator Labour Court Tribunal or National Tribunal and on receipt of such complaint the arbitrator Labour Court Tribunal or National Tribunal as the case may be shall adjudicate upon the complaint as if it were a dispute referred to or pending before it in accordance with the provisions of this Act and shall submit his or its award to the appropriate government and the provisions of this Act shall apply accordingly.

### 33B. Power to transfer certain proceedings

(1) The appropriate government may by order in writing and for reasons to be stated therein withdraw any proceeding under this Act pending before a Labour Court Tribunal or National Tribunal and transfer the

same to another Labour Court Tribunal or National Tribunal as the case may be for the disposal of the proceeding and the Labour Court Tribunal or National Tribunal to which the proceedings is so transferred may subject to special directions in the order of transfer proceed either de novo or from the stage at which it was so transferred :

Provided that where a proceeding under section 33 or section 33A is pending before a Tribunal or National Tribunal the proceeding may also be transferred to a Labour Court.

(2) Without prejudice to the provisions of sub-section (1) any Tribunal or National Tribunal if so authorised by the appropriate government may transfer any proceeding under section 33 or section 33A pending before it to any one of the Labour Courts specified for the disposal of such proceedings by the appropriate government by notification in the Official Gazette and the Labour Court to which the proceedings is so transferred shall dispose of the same.

**33C. Recovery of money due from an employer**

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA or Chapter VB the workman himself or any other person authorised by him in writing in this behalf or in the case of the death of the workman his assignee or heirs may without prejudice to any other mode of recovery make an application to the appropriate government for the recovery of the money due to him and if the appropriate government is satisfied that any money is so due it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue :

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer :

Provided further that any such application may be entertained after the expiry of the said period of one year if the appropriate government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed then the question may subject to any rules that may be made under this Act be decided by such Labour Court as may be specified in this behalf by the appropriate government within a period not exceeding three months :

Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do he may for reasons to be recorded in writing extend such period by such further period as he may think fit.

(3) For the purposes of computing the money value of a benefit the Labour Court may if it is so thinks fit appoint a Commissioner who shall after taking such evidence as may be necessary submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(4) The decision of the Labour Court shall be forwarded by it to the appropriate government and any amount found due by the Labour Court may be recovered in the manner provided for in sub-section (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money then subject to such rules as may be made in this behalf a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation : In this section "Labour Court" includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.

### 34. Cognizance of offences

(1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence save on complaint made by or under the authority of the appropriate government.

(2) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

### 35. Protection of persons

(1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall by reason of such refusal or by reason of any action taken by him under this section be subject to expulsion from any trade union or society or to any fine or penalty or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled or be liable to be placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the union or society anything to the contrary in rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of dispute in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section and in any such proceeding the Civil Court may in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just

**36. Representation of parties**

(1) A workman who is a party to dispute shall be entitled to be represented in any proceeding under this Act by -

(a) any member of the executive or other office bearer of a registered trade union of which he is a member;

(b) any member of the executive or other office bearer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union by any member of the executive or other office bearer of any trade union connected with or by any other workman employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by -

(a) an officer of an association of employer of which he is a member

(b) an officer of a federation of association of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers by an officer of any association of employers connected with or by any other employer engaged in the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceedings before a Labour Court Tribunal or National Tribunal a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Labour Court Tribunal or National Tribunal as the case may be

### 36A. Power to remove difficulties

(1) If in the opinion of the appropriate government any difficulty or doubt arises as to the interpretation of any provision of an award or settlement it may refer the question to such Labour Court Tribunal or National Tribunal as it may think fit.

(2) The Labour Court Tribunal or National Tribunal to which such question is referred shall after giving the parties an opportunity of being heard decide such question and its decision shall be final and binding on all such parties.

### 36B. Power to exempt

Where the appropriate government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings carried on by a department of that government that adequate provisions exist for the investigation and settlement of industrial disputes in respect of workmen employed in such establishment or undertaking or class of establishments or undertakings it may by notification in the Official Gazette exempt conditionally or unconditionally such establishment or undertaking or class of establishments or undertakings from all or any of the provisions of this Act.

### 37. Protection of action taken under the Act

No suit prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

### 38. Power to make rules

(1) The appropriate government may subject to the condition of previous publication make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters namely :

(a) the powers and procedure of conciliation officer Board Court Labour Courts Tribunals and National Tribunals including rules as to the summoning of witnesses the production of documents relevant to the

subject-matter of an inquiry or investigation the number of members necessary to form a quorum and the manner of submission of reports and awards;

(aa) the form of arbitration agreement the manner in which it may be signed by the parties the manner which a notification may be issued under sub-section (3A) of section 10A the powers of the arbitrator named in the arbitration agreement and the procedure to be followed by him;

(aaa) the appointment of assessors in proceedings under this Act;

(b) the constitution and functions of and the filling of vacancies in Works Committees and the procedure to be followed by such Committees in the discharge of their duties;

(c) the allowances admissible to members of Court and Boards and presiding officers of Labour Courts Tribunals and National Tribunals and to assessors and witnesses;

(d) the ministerial establishment which may be allotted a Court Board Labour Court Tribunal or National Tribunal and the salaries and allowances payable to members of such establishment;

(e) the manner in which and the person by and to whom notice of strike or lock-out may be given and the manner in which such notice shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court Labour Court Tribunal or National Tribunal;

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

(4) All rules made under this section shall as soon as possible after they are made be laid before the State Legislature or where the appropriate government is the Central Government before both Houses of Parliament.

(5) Every rules made by the Central Government under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however that any such

modification or annulment shall be without prejudice to the validity of anything previously done under that rule

### 39. Delegation of powers

The appropriate government may by notification in the Official Gazette direct that any power exercisable by it under this Act or rules made thereunder shall in relation to such matters and subject to such conditions if any as may be specified in the direction be exercisable also

(a) where the appropriate government is the Central Government by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government as may be specified in the notification and

(b) where the appropriate government is a State Government by such officer or authority subordinate to the State Government as may be specified in the notification.

### 40. Power to amend Schedules

(1) The appropriate government may if it is of opinion that it is expedient or necessary in the public interest so to do by notification in the Official Gazette add to the First Schedule any industry and on any such notification being issued the First Schedule shall be deemed to be amended accordingly.

(2) The Central Government may by notification in the Official Gazette add to or alter or amend the Second Schedule or the Third Schedule and on any such notification being issued the Second Schedule or the Third Schedule as the case may be shall be deemed to be amended accordingly.

(3) Every such notification shall as soon as possible after it is issued be laid before the Legislature of the State if the notification has been issued by a State Government or before Parliament if the notification has been issued by the Central Government.

## THE FIRST SCHEDULE

[Section 2(n)(vi)]

## INDUSTRIES WHICH MAY BE DECLARED TO BE PUBLIC UTILITY SERVICES UNDER SUB-CLAUSE (VI) OF CLAUSE (N) OF SECTION 2

1. Transport (other than railways) for the carriage of passengers or goods by land or water.

2. Banking. 3. Cement. 4. Coal. 5. Cotton textiles 6. Foodstuffs 7. Iron and Steel

8. Defence establishments 9. Service in hospitals and dispensaries 10. Fire Brigade Service. 11. India Government Mints. 12. India Security Press. 13. Copper Mining.

14. Lead Mining. 15. Zinc Mining 16. Iron Ore Mining. 17. Service in any oilfield.

18[Omitted w.e.f. 15-12-1971] 19. Service in the Uranium Industry. 20. Pyrites Mining.

21. Security Paper Mill Hoshangabad. 22. Service in the Bank Note Press Dewas.

23. Phosphorite Mining. 24. Magnesite Mining. 25. Currency Note Press

26. Manufacture or production of mineral oil (crude oil) motor and aviation spirit diesel oil kerosene oil fuel oil diverse hydrocarbon oils and their blends including synthetic fuels lubricating oils and the like.

27. Service in the International Airports Authority of India.

## THE SECOND SCHEDULE

[Section 7]

MATTERS WITHIN THE JURISDICTION OF LABOUR COURTS

1. The propriety or legality of an order passed by an employer under the standing orders;

2. The application and interpretation of standing order;

3. Discharge or dismissal of workmen including reinstatement of or grant of relief to workmen wrongfully dismissed;

4. Withdrawal of any customary concession or privilege;

5. Illegality or otherwise of a strike or lock-out; and

6. All matters other than those specified in the Third Schedule.

## THE THIRD SCHEDULE

[Section 7A]

MATTERS WITHIN THE JURISDICTION OF INDUSTRIAL TRIBUNALS

1. Wages including the period and mode of payment;

2. Compensatory and other allowances;

3. Hours of work and rest intervals;

4. Leave with wages and holidays;

5. Bonus profit sharing provident fund and gratuity;

6. Shift working otherwise than in accordance with standing orders;

7. Classification by grades;

8. Rules of discipline;

9. Rationalisation;

10. Retrenchment of workmen and closure of establishment; and

11. Any other matter that may be prescribed.

## THE FOURTH SCHEDULE

[Section 9A]

CONDITIONS OF SERVICE FOR CHANGE OF WHICH NOTICE IS TO BE GIVEN

1. Wages including the period and mode of payment

2. Contribution paid or payable by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;

3. Compensatory and other allowances;

4. Hours of work and rest intervals;

5. Leave with wages and holidays;

6. Starting alteration or discontinuance of shift working otherwise than in accordance with standing orders;

7. Classification by grades;

8. Withdrawal of any customary concession or privilege or change in usage.

9. Introduction of new rules of discipline or alteration of existing rules except in so far as they are provided in standing orders;

10. Rationalisation standardization or improvement of plant or technique which is likely to lead to retrenchment of workmen;

11. Any increases or reduction in (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift not occasioned by circumstances over which the employer has no control.

# INDUSTRIES(DEVELOPMENT AND REGULATION)ACT,1951

[Act No. 65 of Year 1951 dated 31st. October, 1951]

*An Act to provide for the development and regulation of certain industries*

Be it enacted by Parliament as follows: -

## CHAPTER I: PRELIMINARY

### 1. Short title, extent and commencement

(1) This Act may be called the Industries (Development and Regulation) Act, 1951.

(2) It extends to the whole of India.

(3) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

### 2. Declaration as to expediency of control by the Union

It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in Schedule I.

### 3. Definitions

In this Act, unless the context otherwise requires,-

(a) "Advisory Council" means the Central Advisory Council established under section 5;

(aa) 'ancillary industrial undertaking' means an industrial undertaking which in accordance with the proviso to sub-section (1) of section 11B and the requirements specified under that sub-section, is entitled to be regarded as an ancillary industrial undertaking for the purposes of this Act;

(ab) 'current assets' means bank balances and cash and includes such other assets or reserves as are expected to be realised in cash or sold or consumed within a period of not more than twelve months in the ordinary course of business, such as stock-in-trade, amounts due from sundry debtors for sale of goods and for services rendered, advance tax payments and bills receivable, but does not include sums credited to a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the employees, maintained by a company owning an industrial undertaking;

(ac) "current liabilities" means liabilities which must be met on demand or within a period of twelve months from the date they are incurred; and includes any current liability which is suspended under section 18FB;

(b) "Development Council" means a Development Council established under section 6;

(bb) "existing industrial undertaking" means-

(a) in the case of an industrial undertaking pertaining to any of the industries specified in the Schedule I as originally enacted, an industrial undertaking which was in existence on the commencement of this Act or for the establishment of which effective steps had been taken before such commencement, and

(b) in the case of an industrial undertaking pertaining to any of the industries added to Schedule I by an amendment thereof, an industrial undertaking which is in existence on the coming into force of such amendment or for the establishment of which effective steps had been taken before the coming into force of such amendment;

(c) ‘factory’ means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried a on-

(i) with the aid of power, provided that fifty or more workers are working or were working thereon on any day of the preceding twelve months; or

(ii) without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power;

(cc) "High Court" means the High Court having jurisdiction in relation to the place at which the registered office of a company is situate;

(d) "industrial undertaking" means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including government;

(dd) "new article" in relation to an industrial undertaking which is registered or in respect of which a licence or permission has been issued under this Act, means-

(a) any article which falls under an item in Schedule I other than the item under which articles ordinarily manufactured or produced in the industrial undertaking at the date of registration or issue of the licence or permission as the case may be, fall;

(b) any article which bears a mark as defined in the Trade Marks Act, 1940[2], or which is the subject of a patent, if at the date of registration, or issue of the licence or permission, as the case may be, the industrial undertaking was not manufacturing or producing such article bearing that mark or which is the subject of the patent;

(e) "notified order" means an order notified in the Official Gazette;

(f) "owner" in relation to an industrial undertaking, means the person who, or the authority which, has the ultimate control over the affairs of the undertaking, and, where the said affairs are entrusted to a

manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the undertaking;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Schedule" means a Schedule to this Act;

(i) "scheduled industry" means any of the industries specified in the Schedule I;

(j) "small scale industrial undertaking" means an industrial undertaking which, in accordance with the requirements specified under sub-section (1) of section 11B, is entitled to be regarded as a small scale industrial undertaking for the purposes of this Act;

(k) words and expressions used herein but not defined in this Act and defined in the Companies Act, 1956 (1 of 1956), have the meanings respectively assigned to them in that Act.

### 4. Saving

[*Rep. by Industries (Development and Regulation) Amendment Act, 1953, w.e.f. 1-10-1953*]

## CHAPTER II: CENTRAL ADVISORY COUNCIL AND DEVELOPMENT COUNCILS

### 5. Establishment and constitution of Central Advisory Council and its functions

(1) For the purpose of advising it on matters concerning the development and regulation of scheduled industries, the Central Government may, by notified order, establish a Council to be called the Central Advisory Council.

(2) The Advisory Council shall consist of a Chairman and such other members not exceeding thirty in number, all of whom shall be appointed by the Central Government from among persons who are in its opinion capable of representing the interests of-

(a) owners of industrial undertakings in scheduled industries;

(b) persons employed in industrial undertakings in scheduled industries,

(c) consumers of goods manufactured or produced by scheduled industries;

(d) such other class of persons including primary producers, as in the opinion of the Central Government, ought to be represented on the Advisory Council.

(3) The term of office of, the procedure to be followed in the discharge of their functions by, and manner of filling casual vacancies among members of the Advisory Council, shall be such as may be prescribed.

(4) The Central Government shall consult the Advisory Council in regard to-

(a) the making of any rules, other than the first rules to be made under sub-section (3);

(b) [*Omitted by Act 26 of l973*]

and may consult the Advisory Council in regard to any other matter connected with the administration of this Act in respect of which the Central Government may consider it necessary to obtain the advice of the Advisory Council.

### 6. Establishment and constitution of Development Councils and their functions

(1) The Central Government may by notified order, establish for any scheduled industry or group of scheduled industries, a body of persons to be called a Development Council which shall consist of members who in the opinion of the Central Government are-

(a) persons capable of representing the interests of owners of industrial undertakings in the scheduled industry or group of scheduled industries;

(b) persons having special knowledge of matters relating to the technical or other aspects of the scheduled industry or group of scheduled industries;

(c) persons capable of representing the interests of persons employed in industrial undertakings in the scheduled industry or group of scheduled industries;

(d) persons not belonging to any of the aforesaid categories who are capable of representing the interests of consumers of goods manufactured or produced by the scheduled industry or group of scheduled industries.

(2) The number and the term of office of, and the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among members of a Development Council, shall be such as may be prescribed.

(3) Every Development Council shall be, by virtue of this Act, a body corporate by such name as may be specified in the notified order establishing it, and may hold and transfer property and shall by the said name sue and be sued.

(4) A Development Council shall perform such functions of a kind specified in the Schedule II as may be assigned to it by the Central Government and for whose exercise by the Development Council it appears to the Central Government expedient to provide in order to increase the efficiency or productivity in the scheduled industry or, group of scheduled industries for which the Development Council is established, to improve or develop the service that such industry or group of industries renders or could render to the community, or to enable such industry or group of industries to render such service more economically.

(5) A Development Council shall also perform such other functions as it may be required to perform by or under any other provision of this Act.

### 7. Reports and accounts of Development Councils

(1) A Development Council shall prepare and transmit to the Central Government and the Advisory Council, annually, a report setting out what has been done in the discharge of its functions during the financial year last completed.

(2) The report shall include a statement of the accounts of the Development Council for that year, and shall be transmitted as soon as accounts therefor have been audited, together with a copy of any report made by the auditors on the accounts.

(3) The statement of accounts shall be in such form as may be prescribed, being a form which shall conform to the best commercial standards, and the statement shall show the total of remuneration and allowances paid during the year to members and officers of the Council.

(4) A copy of each such report of a Development Council, or made by the auditors on its accounts, shall be laid before Parliament by the Central Government.

**8. Dissolution of Development Councils**

(1) The Central Government may if it is satisfied that a Development Council should cease to continue in being, by notified order, dissolve that Development Council.

(2) On the dissolution of a Development Council under sub-section (1), the assets of the Development Council, after its liabilities, if any, are met therefrom, shall vest in the Central Government for the purposes of this Act.

**9. Imposition of cess on scheduled industries in certain cases**

(1) There may be levied and collected as a cess for the purposes of this Act on all goods manufactured or produced in any such scheduled industry as may be specified in this behalf by the Central Government by notified order a duty of excise at such rate as may be specified in the notified order, and different rates may be specified for different goods or different classes of goods:

PROVIDED that no such rate shall in any case exceed 13 paise per cent of the value of the goods.

*Explanation :* In this sub-section, the expression "value" in relation to any goods shall be deemed to be the wholesale cash price for which such goods of the like kind and quality are sold or are capable of being sold for delivery at the place of manufacture and at the time of their removal there from, without any abetment or deduction whatever except trade discount and the amount of duty then payable.

(2) The cess shall be payable at such intervals, within such time and in such manner as may be prescribed, and any rules made in this behalf may provide for the grant of a rebate for prompt payment of the cess.

(3) The said cess may be recovered in the same manner as an arrear of land revenue.

(4) The Central Government may hand over the proceeds of the cess collected under this section in respect of the goods manufactured or produced by any scheduled industry or group of scheduled

industries to the Development Council established for that industry or group of industries, and where it does so, the Development Council shall utilise the said proceeds-

(a) to promote scientific and industrial research with reference to the scheduled industry or group of scheduled industries in respect of which the Development Council is established;

(b) to promote improvements in design and quality with reference to the products of such industry or group of industries;

(c) to provide for the training of technicians and labour in such industry or group of industries;

(d) to meet such expenses in the exercise of its functions and its administrative expenses as may be prescribed.

## CHAPTER III: REGULATION OF SCHEDULED INDUSTRIES

### 10. Registration of existing industrial undertakings

(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within such period as the Central Government may, by notification in the Official Gazette, fix in this behalf with respect to industrial undertakings generally or with respect to any class of them, register the undertaking in the prescribed manner.

(2) The Central Government shall also cause to be registered in the same manner every existing industrial undertaking of which it is the owner.

(3) Where an industrial undertaking is registered under this section, there shall be issued to the owner of the undertaking or the Central Government, as the case may be, a certificate of registration containing the productive capacity of the industrial undertaking and such other particulars as may be prescribed.

(4) The owner of every industrial undertaking to whom a certificate of registration has been issued under this section before the commencement of the Industries (Development and Regulation) Amendment Act, 1973, shall, if the undertaking falls within such class of undertaking as the Central Government may, by notification in the Official Gazette, specify in this behalf, produce, within such period as may be specified in such notification the certificate of registration for entering therein the productive capacity of the industrial undertaking and other prescribed particulars.

(5) In specifying the productive capacity in any certificate of registration issued under sub-section (3), the Central Government shall take into consideration the productive or installed capacity of the industrial undertaking as specified in the application for registration made under sub-section (1), the level of production immediately before the date on which the application for registration was made under sub-section (1), the level of the highest annual production during the three years immediately preceding the introduction in Parliament of the Industries (Development and Regulation) Amendment Bill, 1973, the extent to which production during the said period was utilised for export and such other factors as the

Central Government may consider relevant including the extent of under-utilisation of capacity, if any, during the relevant period due to any cause.

### 10A. Revocation of registration in certain cases

If the Central Government is satisfied that the registration of any industrial undertaking has been obtained by misrepresentation as to an essential fact or that any industrial undertaking has ceased to be registrable under this Act by reason of any exemption granted under this Act becoming applicable thereto or that for any other reason the registration has become useless or ineffective and therefore requires to be revoked, the Central Government may after giving an opportunity to the owner of the undertaking to be heard revoke the registration.

### 11. Licensing of new industrial undertakings

(1) No person or authority other than the Central Government, shall, after the commencement of this Act, establish any new industrial undertaking, except under and in accordance with a licence issued in that behalf by the Central Government:

PROVIDED that a government other than the Central Government may, with the previous permission of the Central Government, establish a new industrial undertaking.

(2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size to be provided therein as the Central Government may deem fit to impose in accordance with the rules, if any, made under section 30.

### 11A. Licence for producing or manufacturing new articles

The owner of an industrial undertaking not being the Central Government which is registered under section 10 or in respect of which a licence or permission has been issued under section 11 shall not produce or manufacture any new article unless-

(a) in the case of an industrial undertaking registered under section 10, he has obtained a licence for producing or manufacturing such new article; and

(b) in the case of an industrial; undertaking in respect of which a licence or permission has been issued under section 11, he has had the existing licence or permission amended in the prescribed manner.

### 11B. Power of Central Government to specify the requirements which shall be complied with by small scale industrial undertakings

(1) The Central Government may, with a view to ascertaining which ancillary and small scale industrial undertakings need supportive measures, exemptions or other favourable treatment under this Act to enable them to maintain their viability and strength so as to be effective in-

(a) promoting in a harmonious manner the industrial economy of the country and easing the problem of unemployment, and

(b) securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good,

specify, having regard to the factors mentioned in sub-section (2), by notified order, the requirements which shall be complied with by an industrial undertaking to enable it to be regarded, for the purposes of this Act, as an ancillary, or a small scale industrial undertaking and different requirements may be so specified for different purposes or with respect to industrial undertakings engaged in the manufacture or production of different articles:

PROVIDED that no industrial undertaking shall be regarded as an ancillary industrial undertaking unless it is, or is proposed to be, engaged in-

(i) the manufacture of parts, components, sub-assemblies, toolings or intermediates; or

(ii) rendering of services, or supplying or rendering, not more than fifty per cent of its production or its total services, as the case may be, to other units for production of other articles.

(2) The factors referred to in sub-section (1) are the following, namely:-

(a) the investment by the industrial undertaking in-

(i) plant and machinery; or

(ii) land, buildings, plant and machinery;

(b) the nature of ownership of the industrial undertaking;

(c) the smallness of the number of workers employed in the industrial undertaking;

(d) the nature, cost and quality of the product of the industrial undertaking;

(e) foreign exchange, if any, required for the import of any plant or machinery by the industrial undertaking; and

(f) such other relevant factors as may be prescribed.

(3) A copy of every notified order proposed to be made under sub-section (1) shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the proposed notified order or both Houses agree in making any modification in the proposed notified order, the notified order shall not be made or, as the case may be, shall be made only in such modified form as may be agreed upon by both the Houses.

(4) Notwithstanding anything contained in sub-section (1), an industrial undertaking which, according to the law for the time being in force, fell, immediately before the commencement of the Industries (Development and Regulation) Amendment Act, 1984, under the definition of an ancillary, or small scale,

industrial undertaking, shall, after such commencement, continue to be regarded as an ancillary, or small scale, industrial undertaking for the purposes of this Act until the definition aforesaid is altered or superseded by any notified order made under sub-section (1).

### 12. Revocation and amendment of licences in certain cases

(1) If the Central Government is satisfied, either on a reference made to it in this behalf or otherwise, that any person or authority, to whom or to which a licence has been issued under section 11, has, without reasonable cause, failed to establish or to take effective steps to establish the new industrial undertaking in respect of which the licence has been issued within the time specified therefor or Within such extended time as the Central Government may think fit to grant in any case, it may revoke the licence.

(2) Subject to any rules that may be made in this behalf, the Central Government may also vary or amend any licence issued under section 11:

PROVIDED that no such power shall be exercised after effective steps have been taken to establish the new industrial undertaking in accordance with the licence issued in this behalf.

(3) The provisions of this section shall apply in relation to a licence issued under section 11A or where a licence has been amended under that section, to the amendment thereof, as they apply in relation to a licence issued under section 11.

### 13. Further provision for licensing of industrial undertakings in special cases

(1) No owner of an industrial undertaking, other than the Central Government, shall-

(a) in the case of an industrial undertaking required to be registered under section 10, but which has not been registered within the time fixed for the purpose under that section, carry on the business of that undertaking after expiry of such period, or

(b) in the case of an industrial undertaking the registration in respect of which has been revoked under section 10A, carry on the business of the undertaking after the revocation, or

(c) in the case of an industrial undertaking to which the provisions of this Act did not originally apply but became applicable after the commencement of this Act for any reason, carry on the business of the undertaking after the expiry of three months from the date on which the provisions of this Act became so applicable, or

(d) effect any substantial expansion of an industrial undertaking which has been registered or in respect of which a licence or permission has been issued, or

(e) change the location of the whole or any part of an industrial undertaking which has been registered,

except under, and in accordance with, a licence issued in that behalf by the Central Government, and in the case of a State Government, except under and in accordance with the previous permission of the Central Government.

(2) The provisions of sub-section (2) of section 11 and of section 12 shall apply, so far as may be, in relation to the issue of licences or permissions to any industrial undertaking referred to in this section as they apply in relation to the issue of licences or permissions to a new industrial undertaking.

*Explanation:* For the purposes of this section, "substantial expansion" means the expansion of an existing industrial undertaking which substantially increases the productive capacity of the undertaking, or which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion.

**14. Procedure for the grant of licence or permission**

Before granting any licence or permission under section 11, section 11A, section 13 or section 29B the Central Government may require such officer or authority as it may appoint for the purpose, to make a complete investigation in respect of applications received in this behalf, and report to it the result of such investigation and in making any such investigation, the officer or authority shall follow such procedure as may be prescribed.

**15. Power to cause investigation to be made into scheduled industries or industrial undertakings**

Where the Central Government is of the opinion that-

(a) in respect of any scheduled industry or industrial undertaking or undertakings-

(i) there has been, or is likely to be, a substantial fall in the volume of production in respect of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, for which, having regard to the economic conditions prevailing, there is no justification; or

(ii) there has been, or is likely to be, marked deterioration in the quality of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, which could have been or can be avoided; or

(iii) there has been or is likely to be a rise in the price of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, for which there is no justification; or

(iv) it is necessary to take any such action as is provided in this Chapter for the purpose of conserving any resources of national importance which are utilised in the industry or the industrial undertaking or undertakings, as the case may be; or

(b) any industrial undertaking is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest;

the Central Government may make or cause to be made a full and complete investigation into the circumstances of the case by such person or body of persons as it may appoint for the purpose.

### 15A. Power to investigate into the affairs of a company in liquidation

(1) Where a company, owning an industrial undertaking is being wound up by or under the supervision of the High Court, and the business of such company is not being continued, the Central Government may, if it is of the opinion that it is necessary, in the interest of the general public and, in particular, in the interests of production, supply or distribution of articles or class of articles relatable to the concerned scheduled industry, to investigate into the possibility of running or restarting the industrial undertaking, make an application to the High Court praying for permission to make, or cause to be made, an investigation into such possibility by such person or body of persons as that government may appoint for the purpose.

(2) Where an application is made by the Central Government under sub-section (1), the High Court shall, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force, grant the permission prayed for.

### 16. Powers of Central Government on completion of investigation under section 15

(1) If after making or causing to be made any such investigation as is referred to in section 15 the Central Government is satisfied that action under this section is desirable, it may issue such directions to the industrial undertaking or undertakings concerned as may be appropriate in the circumstances for all or any of the following purposes, namely-

(a) regulating the production of any article or class of articles by the industrial undertaking or undertakings and fixing the standards of production;

(b) requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the development of the industry of which the undertaking or undertakings relates or relate;

(c) prohibiting the industrial undertaking or undertakings from resorting to any act or practice which might reduce its or their production, capacity or economic value;

(d) controlling the prices, or regulating the distribution, of any article or class of articles which have been the subject-matter of investigation.

(2) Where a case relating to any industry or industrial undertaking or undertakings is under investigation, the Central Government may issue at any time any direction of the nature referred to in sub-

section (1) to the industrial undertaking or undertakings concerned, and such direction shall have effect until it is varied or revoked by the Central Government.

### 17. Special provisions for direct control by Central Government in certain cases

[*Rep. by Industries (Development and Regulation) Amendment Act, 1953, w.e.f. 1-10-1953.*]

### 18. Power of person or body of persons appointed under section 15 or section 15A to call for assistance in any investigation

(1) The person or body of persons appointed to make any investigation under section 15 or section 15A may choose one or more persons possessing special knowledge of any matter relating to the investigation to assist him or it in holding the investigation.

(2) The person or body of persons so appointed shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence on oath (which he or it is hereby empowered to administer) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the person or body of persons shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898[3] (5 of 1898).

## CHAPTER III-A: DIRECT MANAGEMENT OR CONTROL OF INDUSTRIAL UNDERTAKINGS BY CENTRAL GOVERNMENT IN CERTAIN CASES

### 18A. Power of Central Government to assume management or control of an industrial undertaking in certain cases

imes New Roman"> (1) If the Central Government is of opinion that-

(a) an industrial undertaking to which directions have been issued in pursuance of section 16 has failed to comply with such directions, or

(b) an industrial undertaking in respect of which an investigation has been made under section 15 (whether or not any directions have been issued to the undertaking in pursuance of section 16), is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest,

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the undertaking or to exercise in respect of the whole or any part of the undertaking such functions of control as may be specified in the order.

(2) Any notified order under sub-section (1) shall have effect for such period not exceeding five years as may be specified in the order:

PROVIDED that if the Central Government is of opinion that it is expedient in the public interest that any such notified order should continue to have effect after the expiry of the period of five years aforesaid, it may from time to time issue direction for such continuance for such period, not exceeding two years at a time, as may be specified in the direction, so however, that the total period of such continuance (after the expiry of the said period of five years) does not exceed twelve years, and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.

*Explanation:* The power to authorise a body of persons under this section to take over the management of an industrial undertaking which is a company includes also a power to appoint any individual, firm or company to be the managing agent of the industrial undertaking on such terms and conditions as the Central Government may think fit.

**18AA. Power to take over industrial undertakings without investigation under certain circumstances**

(1) Without prejudice to any other provision of this Act, if, from the documentary or other evidence in its possession, the Central Government is satisfied, in relation to an industrial undertaking, that-

(a) the persons in charge of such industrial undertaking have, by reckless investments or creation of encumbrances on the assets of the industrial undertaking, or by diversion of funds, brought about a situation which is likely to affect the production of articles manufactured or produced in the industrial undertaking, and that immediate action is necessary to prevent such a situation; or

(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the industrial undertaking or for any other reason) and such closure is prejudicial to the concerned scheduled industry and that the financial condition of the company owning the industrial undertaking and the condition of the plant and machinery of such undertaking are such that it is possible to restart the undertaking and such restarting is necessary in the interests of the general public,

it may, by a notified order, authorise any person or body of persons (hereafter referred to as the "authorised person") to take over the management of the whole or any part of the industrial undertaking or to exercise in respect of the whole or any part of the undertaking such functions of control as may be specified in the order.

(2) The provisions of sub-section (2) of section 18A shall, as far as may be, apply to a notified order made under sub-section (1) as they apply to a notified order made under sub-section (1) of section 18A.

(3) Nothing contained in sub-section (1) and sub-section (2) shall apply to an industrial undertaking owned by a company which is being wound up by or under e supervision of the court.

(4) Where any notified order has been made under sub-section (1), the person or body of persons having, for the time being, charge of the management or control of the industrial undertaking. whether by or under the orders of any court or any contract, instrument or otherwise. shall, notwithstanding anything

contained in such order, contract, instrument or other arrangement, forthwith make over the charge of management or control, as the case may be, of the industrial undertaking to the authorised person.

(5) The provisions of section 18B to 18E (both inclusive) shall, as far as may be, apply to, or in relation to, the industrial undertaking, in respect of which a notified order has been made under sub-section (1), as they apply to an industrial undertaking in relation to which a notified order has been issued under section 18A.

**18B. Effect of notified order under section 18A**

(1) On the issue of a notified order under section l8A authorising the taking over of the management of an industrial undertaking-

(a) all persons in charge of the management, including persons holding office as managers or directors of the industrial undertaking immediately before the issue, of the notified order, shall be deemed to have vacated their offices as such;

(b) any contract of management between the industrial undertaking and any managing agent or any director thereof holding office as such immediately before the issue of the notified order shall be deemed to have been terminated;

(c) the managing agent, if any, appointed under section 18A shall be deemed to have been duly appointed as the managing agent in pursuance of the Indian Companies Act, 1913[4] (7 of 1913), and the memorandum and articles of association of the industrial undertaking, and the provisions of the said Act and of the memorandum and articles shall, subject to the other provisions contained in this Act, apply accordingly, but no such managing agent shall be removed from office except with the previous consent of the Central Government;

(d) the person or body of persons authorised under section 18A to take over the management shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the industrial undertaking is or appears to be entitled, and all the property and effects of the industrial undertaking, shall be deemed to be in the custody of the person or, as the case may be, the body of persons as from the date of the notified order; and

(e) the persons, if any, authorised under section 18A to take over the management of an industrial undertaking which is a company shall be for all purposes the direct of industrial undertaking duly constituted under the Indian Companies Act, 1913[4] (7 of 1913), and shall alone be entitled to exercise all the powers of the directors of the industrial undertaking, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrial undertaking or from any other source.

(2) Subject to the other provisions contained in this Act and to the control of the Central Government, the person or body of persons authorised to take over the management of an industrial undertaking, shall take such steps as may be necessary for the purpose of efficiently managing the business of the

industrial undertaking and shall exercise such other powers and have such other duties as may be prescribed.

(3) Where any person or body of persons has been authorised to exercise any functions of control in relation to an industrial undertaking, the undertaking shall be carried on pursuant to any directions given by the authorised person in accordance with the provisions of the notified order, and any person having any functions of management in relation to the undertaking or part thereof shall comply with all such directions.

(4) The person or body of persons authorised under section 18A shall, notwithstanding anything contained in the memorandum or articles of association of the industrial undertaking, exercise his or their functions in accordance with such directions as may be given by the Central Government, so, however, that he or they shall not have any power to give any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except insofar as may be specifically provided by the notified order.

### 18C. Contracts in bad faith, etc. may be cancelled or varied

Without prejudice to the provisions contained in section 18B, the person or body of persons authorised under section 18A to take over the management of an industrial undertaking may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 18A, between the industrial undertaking and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial undertaking, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

### 18D. No right to compensation for termination of office or contract

Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of section 18B, or whose contract of management is terminated by reason of the provisions contained in clause (b) of that section, shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management:

PROVIDED that nothing contained in this section shall affect the right of any such person to recover from the industrial undertaking moneys recoverable otherwise than by way of such compensation.

### 18E. Application of Act 7 of 1913

(1) Where the management of an industrial undertaking being a company as defined in the Indian Companies Act, 1913[4] (7 of 1913), is taken over by the Central Government, then notwithstanding anything contained in the Act, or in the memorandum or articles of association of such undertaking-

(a) it shall not be lawful for the shareholders of such undertaking or any other person to nominate or appoint any person to be a director of the undertaking;

(b) no resolution passed at any meeting of the shareholder of such undertaking shall be given effect to unless approved by the Central Government

(c) no proceeding for the winding up of such undertaking or for the appointment of the receiver in respect thereof shall lie in any court except with the consent with of the Central Government

(2) Subject to the provision contained in sub-section (1), and to the other provisions contained in this Act and subject to such other exception, restriction and limitation, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Indian Companies Act, 1913 (7 of 1913)[4], shall continue to apply to such undertaking in the same manner as it applied thereto before the issue of the notified order under section 18A.

### 18F. Power of Central Government to cancel notified order under section 18 A

If at any time it appears to the Central Government on the application of the owner of the industrial undertaking or otherwise that the purpose of the order made under section 18A has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and on the cancellation of any such order the management or the control, as the case may be, of the industrial undertaking shall vest in the owner of the undertaking.

## CHAPTER III AA: MANAGEMENT OR CONTROL OF INDUSTRIAL UNDERTAKINGS OWNED BY COMPANIES IN LIQUIDATION

### 18FA. Power of Central Government to authorise, with the permission of the High Court, persons to take over management or control of industrial undertakings

(1) If the Central Government is of opinion that there are possibilities of running or restarting an industrial undertaking, in relation to which an investigation has been made under section 15A, and that such industrial undertaking should be run or restarted, as the case may be, for maintaining or increasing the production, supply or distribution of articles or class of articles relatable to the scheduled industry, needed by the general public, that government may make an application to the High Court praying for permission to appoint any person or body of persons to take over the management of the industrial

undertaking or to exercise in respect of the whole or any part of the industrial undertaking such functions of control as may be specified in the application.

(2) Where an application is made under sub-section (1), the High Court shall make an order empowering the Central Government to authorise any person or body of persons (hereinafter referred to as the "authorised persons") to take over the management of the industrial undertaking or to exercise functions of control in relation to the whole or any part of the industrial undertaking (hereinafter referred to as the ‘concerned part’) for a period not exceeding five years:

PROVIDED that if the Central Government is of opinion that it is expedient in the interests of the general public that the authorised person should continue to manage the industrial undertaking, or continue to exercise functions of control in relation to the concerned part, as the case may be, after the expiry of the period of five years aforesaid, it may make an application to the High Court for the continuance of such management or functions of control, for such period, not exceeding two years at a time, as may be specified in the application and thereupon the High Court may make an order permitting the authorised person to continue to manage the industrial undertaking or to exercise functions of control in relation to the concerned part:

PROVIDED FURTHER that the total period of such continuance (after the expiry of the initial period of five years) shall not, in any case, be permitted to exceed twelve years.

(3) Where an order has been made by the High Court under sub-section (2) the High Court shall direct the Official Liquidator or any other person having, for the time being, charge of the management or control of the industrial undertaking, whether by or under the orders of any court, or any contract or instrument or otherwise to make over the management of such undertaking or the concerned part, as the case may be, to the authorised person and thereupon the authorised person shall be deemed to be the Official Liquidator in respect of the industrial undertaking or the concerned part, as the case may be.

(4) Before making over the possession of the industrial undertaking or the concerned part of the authorised person, the Official Liquidator shall make a complete inventory of all the assets and liabilities of the industrial undertaking or the concerned part, as the case may be, in the manner specified in section 18FG and deliver a copy of such inventory to the authorised person, who shall, after verifying the correctness thereof, sign on the duplicate copy thereof as evidence of the receipt of the inventory by him.

(5) On taking over the management of the industrial undertaking, or on the commencement of the exercise of functions of control in relation to the concerned part, the authorised person shall take immediate Steps to so run the industrial undertaking or the concerned part as to ensure the maintenance of production.

(6) The authorised person may, on such terms and conditions and subject to such limitations or restrictions as may be prescribed, raise any loans for the purpose of running the industrial undertaking or the concerned part, and may, for that purpose, create a floating charge on the current assets of the industrial undertaking or the concerned part, as the case may be,

(7) Where the authorised person is of opinion that the replacement or repair of any machinery of the industrial undertaking or the concerned part is necessary for the purpose of efficient running of the industrial undertaking or such part, he shall, on such terms and conditions and subject to such limitations or restrictions as may be prescribed, make such replacement or repair, as the case may be.

(8) The loan obtained by the authorised person shall be recovered from the assets of the industrial undertaking or the concerned part, in such manner and subject to such conditions as may be prescribed.

(9) For the purpose of running the industrial undertaking, or exercising functions of control in relation to the concerned part, the authorised person may employ such of the former employees of the industrial undertaking whose services became discharged by reason of the winding up of the company owning such undertaking and every such person employed by the authorised person shall be deemed to have entered into a fresh contract of service with the company.

(10) The proceedings in the winding up of the company, insofar as they relate to-

(a) the industrial undertaking, the management of which has been taken over by the authorised person under this section, or

(b) the concerned part in relation to which any function of control is exercised by the authorised person under this section,

shall, during the period of such management or control, remain stayed, and, in computing the period of limitation for the enforcement of any right, privilege, obligation or liability in relation to such undertaking or the concerned part, the period during which such proceedings remained stayed shall be excluded.

## CHAPTER III-AB: POWER TO PROVIDE RELIEF TO CERTAIN INDUSTRIAL UNDERTAKINGS

### 18FB. Power of Central Government to make certain declarations in relation to industrial undertakings, the management or control of which has been taken over under section 18A, section 18AA or section 18FA

(1) The Central Government, if it is satisfied, in relation to an industrial undertaking or any part thereof, the management or control of which has been taken over under section 18A. whether before or after the commencement of the Industries (Development and Regulation) Amendment Act, 1971, or under section 18AA or section 18FA, that it is necessary so to do in the interests of the general public with a view to preventing fall in the volume of production of any scheduled industry, it may, by notified order, declare that-

(a) all or any of the enactments specified in Schedule III shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not however, affect the

policy of the said enactments) to such industrial undertaking, as may be specified in such notified order, or

(b) the operation, of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such industrial undertaking or the company owning such undertaking is a party or which may be applicable to such industrial undertaking or company) immediately before the date of issue of such notified order shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notified order.

(2) The notified order made under sub-section(1) shall remain in force, in the first instance, for the period of one year, but the duration of such notified order may be extended from time to time by a further notified order by a period not exceeding one year at a time:

PROVIDED that no such notified order shall, in any case, remain in force-

(a) after the expiry of the period for which the management of the industrial undertaking was taken over under section 18A, section 18AA or section 18FA, or

(b) for more than eight years in the aggregate from the date of issue of the first notified order, whichever is earlier.

(3) Any notified order made under sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a court, Tribunal, officer or other authority or of any submission, settlement or standing order.

(4) Any remedy for the enforcement of any right, privilege, obligation or liability, referred to in clause(b) of sub-section (1) and suspended or modified by a notified order made under that sub-section shall, in accordance with the terms of the notified order, remain suspended or modified and all proceedings relating thereto pending before any court, Tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notified order ceasing to have effect-

(a) any right, privilege, obligation, or liability so remaining suspended or modified shall become revived and enforceable as if the notified order had never been made;

(b) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1), the period during which it or the remedy for the enforcement thereof remained suspended shall be excluded.

## CHAPTER III-AC: LIQUIDATION OR RECONSTRUCTION OF COMPANIES

### 18FC. Power of Central Government to call for report on the affairs and working of managed company

Where the management or control of an industrial undertaking has been taken over under section 18A, whether before or after commencement of the Industries (Development and Regulation) Amendment Act, 1971, or under section 18AA or section 18FA, the Central Government may, at any time during the continuance of such management or control, call for a report from the authorised person on the affairs and working of industrial undertaking and in submitting the report the authorised person shall take into account the inventory and the lists of members and creditors prepared under section 18FG.

### 18FD. Decision of Central Government in relation to managed company

(1) If, on receipt of the report submitted by the authorised person, the Central Government is satisfied-.

(a) in relation to the company owning the industrial undertaking, which is not being wound up by the High Court, that the financial condition and other circumstances of the company are such that it is not in a position to meet its current liabilities out of its current assets, that government may, if it considers necessary or expedient in the interests of the general public so to do, by order, decide that the industrial undertaking should be sold as a running concern as provided in section 18FE and proceedings should simultaneously be started for the winding up, by the High Court, of the company;

(b) in relation to the company, owning the industrial undertaking, which is being wound up by the High Court, that its assets and liabilities are such that in the interest of its creditors and contributories the industrial undertaking should be sold as a running concern as provided in section 18FE, it may, by order, decide accordingly.

(2) Notwithstanding anything contained in sub-section (1), if, on receipt of the report submitted by the authorised person, the Central Government is satisfied that-

(a) in the interests of the general public, or

(b) in the interests of the shareholders, or

(c) to secure the proper management of the company owning the industrial undertaking,

it is necessary so to do, the government may, by order, decide to prepare a scheme for the reconstruction of the company owning the industrial undertaking:

PROVIDED that no such scheme shall be prepared in relation to a company which is being wound up by or under the supervision of the High Court, except with the previous permission of that court.

(3) The powers exercisable by the Central Government under section 18F, in relation to an undertaking taken over under section 18A, shall also be exercisable in relation to an undertaking taken over under section 18AA or section 18FA but such powers shall not be exercised after the making of an order under sub-section (1) or, as the case may be, under sub-section (2) of the section.

### 18FE. Provisions where government decides to follow the course of action specified in section 18FD(1)

(1) The provisions hereinafter laid down shall apply where the Central Government decides that the course of action specified in sub-section (1) of section 18FD should be followed, namely

(a) the decisions of the Central Government that the course of action specified in clause (a) of sub-section (1) of section 18FD should be followed in relation to a company owning an industrial undertaking shall be deemed to be a ground specified in section 433 of the Companies Act, 1956 (1 of 1956), on which the company may be wound up by the High Court;

(b) the authorised person shall, as soon as may be, after the decision specified in clause (a) of sub-section (1) of section 18FD has been taken by the Central Government, present an application to the High Court for the winding up of the company owning the industrial undertaking;

(c) when an application is made by the authorised person under clause (b), for the winding up, the High Court, of the company owning the industrial undertaking, the High Court shall order the winding up of the company and shall, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), appoint the authorised person as the Official Liquidator in relation to such undertaking;

(d) whenever the Central Government decides under clause (b) of sub-section (1) of section 18FD that the industrial undertaking should be sold as a running concern, it shall cause a copy of its decision to be laid before the High Court;

(e) until the industrial undertaking referred to in clause (a) or clause (b) of sub-section (1) of section 18FD is sold or purchased in pursuance of this section, the authorised person shall continue to function as the Official Liquidator in relation to the said undertaking in the winding up proceedings of the company, and thereafter the Official Liquidator appointed by the Central Government under section 448 of the Companies Act, 1956 (1 of 1956), shall take over and function as the Official Liquidator in the said proceedings.

(2) The authorised person shall make a report to the Central Government as to what should be the reserve price for the sale of the industrial undertaking as a running concern.

(3) In making a report under sub-section (2), the authorised person shall have regard to-

(a) the financial condition of the company owning the industrial undertaking on the date on which the order under section 18FD is made-

(i) as disclosed in its books of account;

(ii) as disclosed in its balance sheet and profit and loss account during a period of five years immediately preceding the said date;

(b) the condition and nature of the plant, machinery, instrument and other equipment from the point of view of their suitability for profitable use in the running of the industrial undertaking;

(c) the total amount of liability on account of secured and unsecured debts including overdrafts, if any, drawn on banks, liabilities on account of terminal benefits to the employees and other borrowings, and other liabilities of the company; and

(d) other relevant factors including the factor that the industrial undertaking will be sold free from all encumbrances.

(4) Notice of the reserve price determined by the authorised person shall be given in such manner as may be prescribed to the members and creditors of the company owning such industrial undertaking to make representations within a specified time to the Central Government through the authorised person and the Central Government shall, after considering the representations received and the report of the authorised person, determine the reserve price.

(5) The authorised person shall thereafter, with the permission of the High Court, invite tenders from the public in such manner as may be determined by the High Court for the sale of the industrial undertaking as a running concern subject to the condition that it will be sold to the person offering the highest which shall not be less than the reserve price determined under sub-section(4):

PROVIDED that the High Court shall not refused to grant such permission if it is satisfied that the company is not in a position to meet its current liabilities out of its current assets.

(6) The industrial undertaking shall be sold to the highest bidder as a running concern, only if the price offered by him therefor is not lass than the reserve price.

(7) Where no offer of price is equal to, or more than, the reserve price, the industrial undertaking shall be purchased by the Central Government at the reserve price.

(8) (a) The amount realised from the sale of the industrial undertaking as a running concern together with any other sum which may be realised from any contributory, purchaser or any other person from whom any money is due to the company shall be utilised in accordance with the provisions of the Companies Act, 1956 (1 of 1956), in discharging the liabilities of the company and distributing the balance, if any, amongst the members of the company.

(b) In other respects the provisions of the Companies Act, 1956 (1 of 1956), relating to the winding up of a company by the High Court shall, as far as may be, apply.

(9) When an industrial undertaking is sold to any person under sub-section (6), or purchased by the Central Government under sub-section (7), there shall be transferred to and vested in the purchaser, free from all encumbrances, all such assets relating to the industrial undertaking as are referred to in sub-clause (i) of clause (a) of section 18FG and existing at the time of the sale or purchase.

### 18FF. Provisions where government decides to follow the course of action specified in section 18FD(2)

(1) Where in any case the Central Government decides that the course of action specified in sub-section (2) of section 18FD should be followed, it shall, subject to the provisions of that sub-section, cause to be prepared, by the authorised person, a scheme for the reconstruction of the company, owning the industrial undertaking, in accordance with the provisions hereinafter contained and the authorised person shall submit the same for the approval of the government.

(2) The scheme for the reconstruction of the company owning the industrial undertaking may contain provisions for all or any of the following matters, namely,-

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the company on its reconstruction;

(b) any change in the Board of Directors, or the appointment of a new Board of Directors of the company on its reconstruction and the authority by whom, the manner in which and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made;

(c) the vesting of controlling interest, in the reconstructed company, in the Central Government either by the appointment of additional directors or by the allotment of additional shares;

(d) the alteration of the memorandum and articles of association of the company, on its reconstruction, to give effect to such reconstruction;

(e) subject to the provisions of the scheme, the continuation by, or against the company, on its reconstruction, of any action or proceedings pending against the company immediately before the date of its reconstruction;

(f) the reduction of the interest or rights which the members and creditors have in or against the company before its reconstruction to such extent as the Central Government may consider necessary in the interests of general public or in the interests of the members and creditors or for the maintenance of the business of the company:

PROVIDED that nothing contained in this clause shall be deemed to authorise the reduction of the interest or rights of any creditor (including government) in respect of any loan or advance made by that creditor to the company after the date on which the management of the industrial undertaking of the company has been taken over under section 18A, section 18AA, or section 18FA;

(g) the payment in cash or otherwise to the creditors in full satisfaction of their claim-

(i) in respect of their interest or rights in or against the company before its reconstruction; or

(ii) where their interest or rights in or against the company has or have been reduced under clause (f), in respect of such interest, or rights as so reduced;

(h) the allotment to the members of the company for shares held by them therein before its reconstruction whether their interest in such shares has been reduced under clause (f) or not, of shares in the company on its reconstruction and where it is not possible to allot shares to any members, the payment in cash to those members in full satisfaction of their claim-

(1) in respect of their interest in shares in the company before its reconstruction; or

(2) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

(i) the offer by the Central Government to acquire by negotiations with the members of the company their respective shares on payment in cash to those members who may volunteer to sell their shares to the Central Government in full satisfaction of their claim-

(1) in respect of their interest in shares in the company before its reconstruction; or

(2) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

(j) the conversion of any debentures issued by the company after the taking over of the management of the company under section 18A or section 18AA or section 18FA or of any loans obtained by the company after that date or of any part of such debentures or loans, into shares in the company and the allotment of those shares to such debenture-holders or creditors, as the case may be;

(k) the increase of the capital of the company by the issue of new shares and the allotment of such new shares to the Central Government;

(l) the continuance of the services of such of the employees of the company as the Central Government may specify in the scheme in the company itself, on its reconstruction, on such terms and conditions as the Central Government thinks fit;

(m) notwithstanding anything contained in clause (1), where any employees of the company whose services have been continued under clause (1) have, by notice in writing given to the company at any time before the expiry of one month next following the date on which the scheme is sanctioned by the High Court, intimated their intention of not becoming employees of the company, on its reconstruction, the payment to such employees and to other employees whose services have not been continued on the reconstruction of the company, of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947 (14 of 1947), and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the company immediately before the date of its reconstruction;

(n) any other terms and conditions for the reconstruction of the company;

(o) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction of the company shall be fully and effectively carried out.

(3) (a) A copy of the scheme, as approved by the Central Government, shall be sent in draft to the company, to the registered trade unions, if any, of which the employees of the company are members and to the creditors thereof for suggestions and objections, if any, within such period as the Central Government may specify for this purpose.

(b) The Central Government may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the company, from the registered trade unions of which the employees of the company are members and from any members or creditors of the company.

(4) The scheme shall thereafter be placed before the High Court for its sanction and the High Court, if satisfied that the scheme is in the interests of the general public or in the interests of the shareholders or for securing the proper management of the company and that the scheme is designed to be fair and reasonable to the members and creditors of the company, may, after giving a reasonable opportunity to the company and to its members and creditors of showing cause, sanction the scheme without any modification or without modification as it may consider necessary.

(5) The scheme, as so sanctioned by the High Court, shall come into force on such date as that court may specify in this behalf:

PROVIDED that different dates may be specified for different provisions of the scheme.

(6) The sanction accorded by the High Court under sub-section (4) shall be conclusive evidence that all the requirements that of this section relating to the reconstruction of the company have been compiled with, and the copy of the sanctioned scheme certified by the High Court to be a true copy thereof, shall, in legal proceedings (whether original or in appeal or otherwise), be admitted as evidence to the same extent as the original scheme.

(7) On and from date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the company and also on all the members and other creditors and employees of the company and on any other person having any right or liability in relation to the company.

(8) On the coming into operation of the scheme or any provision thereof, the authorised person shall cease to function, and the management of the reconstructed company shall be assumed by the Board of Directors as provided in the scheme.

(9) Copies of the scheme shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the court.

(10) The provisions of this section and of any scheme made thereunder shall have effect notwithstanding anything contained in sections 391 to 394A (both inclusive) of the Companies Act, 1956 (1 of 1956).

**18FG. Preparation of inventory of assets and liabilities and list of members and creditors of managed company**

For the purposes of this Act, the authorised person shall, as soon as may be, after taking over the management of the industrial undertaking of a company under section 18A or section 18AA or section 18FA-

(a) prepare a complete inventory of-

(i) all properties, movable and immovable, including lands, buildings, works, workshops, stores, instruments, plant, machinery, automobiles and other vehicles, stocks of materials in the course of production, storage or transit, raw materials, cash balances, cash in hand, deposits in bank or with any other person or body or on loan, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the date of taking over of the industrial under taking in the ownership, possession, power or control of the company, whether within or without India; and all books of account, registers, maps, plants, sections, drawings, records, documents or titles of ownership of property, and all other documents of whatever nature relating thereto; and

(ii) all borrowings, liabilities and obligations of whatever kind of the company including liability on account of terminal benefits to its employees subsisting immediately before the said date;

(b) prepare separately a list of members, and a list of creditors, of such company as on the date of taking over of the management of the industrial undertaking showing separately in the list of creditors, the secured creditors and the unsecured creditors:

PROVIDED that where the management of the industrial undertaking of a company has been taken over under the said section 18A before the commencement of the Industries (Development and Regulation) Amendment Act, 1971 (72 of 1971), the aforesaid functions shall be performed by the authorised person within six months from r such commencement.

### 18FH. Stay of suits and other proceedings

In the case of a company in respect of which an order under section 18FD has been made, no suit or other legal proceeding shall be instituted or continued against the company except with the previous permission of the Central Government or any officer or authority authorised by that government in this behalf.

## CHAPTER III B: CONTROL OF SUPPLY, DISTRIBUTION, PRICE, ETC. OF CERTAIN ARTICLES

### 18G. Power to control supply, distribution, price, etc. of certain articles

(1) The Central Government, so far as it appears to it to be necessary or expedient for securing the equitable distribution and availability at fair prices of any article or class of articles relatable to any scheduled industry, may, notwithstanding anything contained in any other provision of this Act, by notified order, provide for regulating the supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), a notified order made thereunder may provide-

(a) for controlling the prices at which any such article or class of articles thereof may be bought or sold;

(b) for regulating by licences, permits or otherwise the distribution, transport, disposal, acquisition possession, use or consumption of any such article or class of articles thereof;

(c) for prohibiting the withholding from sale of any such article or class of articles thereof ordinarily kept for sale;

(d) for requiring any person manufacturing, producing or holding in stock such article or class of articles thereof to sell the whole or part of the any articles so manufactured or produced during a specified

period or to sell the whole or a part of the article so held in stock to such person or class of persons and in such circumstances as may be specified in the order;

(e) for regulating or prohibiting any class of commercial or financial transactions relating to such article or class of articles thereof which in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental to public interest;

(f) for requiring persons engaged in the distribution and trade and commerce in any such article or class of articles thereof to mark the articles exposed or intended for sale with the sale price or to exhibit at some easily accessible place on the premises the price-lists of articles held for sale and also to similarly exhibit on the first day of every month, at such other time as may be prescribed, a statement of the total quantities of any such articles in stock;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters; and

(h) for any incidental or supplementary matters, including, in particular, the grant of issue of licences, permits, or other documents and charging of fees therefor.

(3) Where in pursuance of any order made with reference to clause (d) of sub-section (2), any person sells any article, there shall be paid to him the price therefor-

(a) where the price can consistently with the controlled price, if any, be fixed by agreement, the price so agreed upon;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any, fixed under this section;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market-rate prevailing in the locality at the date of sale.

(4) No order made in exercise of any power conferred by this section shall be called in question in any court.

(5) Where an order purports to have been made and signed by an authority in exercise of any power conferred by this section, a court shall, within the meaning of the Indian Evidence Act, 1872 (1 of 1872), presume that such order was so made by that authority.

*Explanation :* In this section, the expression "article or class of articles" relatable to any scheduled industry includes any article or class of articles imported into India which is of the same nature or description as the article or class of articles manufactured or produced in the scheduled industry.

## CHAPTER IV: MISCELLANEOUS

### 19. Powers of inspection

(1) For the purpose of ascertaining the position of working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right-

(a) to enter and inspect any premises;

(b) to order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and

(c) to examine any person having the control of, or employed in connection with, any industrial undertaking.

(2) Any person unauthorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

### 20. General prohibition of taking over management or control of industrial undertakings

After the commencement of this Act, it shall not be competent for any State Government or a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorises any such government or local authority so to do.

### 21. Certain administrative expenses of Development Councils to be paid from moneys provided by Parliament

Such administrative expenses as relate to the emoluments of officers of a Development Council who are appointed by or with the approval of the Central Government, shall be defrayed out of moneys provided by Parliament.

### 22. Power of the Central Government to issue directions to Development Councils

In the exercise of its function under his act, every development council shall be guided by the such instructions as may be given to it by the Central Government and such instructions may include direction relating to the manner in which, and the purpose for which, any proceeds of the cess levied under section 9 which may have been handed over to it, shall be expended.

### 23. Decision of Central Government final respecting in certain matters

If, for the purposes of this Act, any question arises as to whether-

(a) there has been a substantial expansion of an industrial undertaking, or

(b) an industrial undertaking is producing or manufacturing any new article, the decision of the Central Government thereon shall be final.

## 24. Penalties

(1) If any person contravenes or attempts to contravene or abets the contravention of-

(i) the provisions of sub-section (1) or sub-section (4) of section 10, or of sub-section (1) of section 11 or of section 11A or of sub-section (1) of section 13 or of sub-sections (2), (2A), (2D), (2F) and (2G) of section 29B, or

(ii) any direction issued under section 16 or sub-section (3) of section 18B, or

(iii) any order made under section 18G, or

(iv) any rule the contravention of which is made punishable under this section, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both, and, in the case of continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If the person contravening any of the said provisions is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation:* For the purposes of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

## 24A. Penalty for false statements

If any person-

(a) when required by this Act or by any order under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true; or

(b) makes any such statement as aforesaid in any book, account, record, declaration, return, or other document which he is required by any other direction or order made under this Act to maintain or furnish;

he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

### 25. Delegation of powers

(1) The Central Government may by notified order, direct that any power exercisable by it under this Act (other than the power given to it by sections 16, 18A, 18AA and 18FA) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority (including in the said expressions any Development Council, State Government or officer or authority subordinate to the Central Government) as may be specified in the direction.

(2)Any power exercisable by a State Government by virtue of a direction under sub-section (1) may, unless otherwise provided in such direction, be exercised also by such officer or authority subordinate to that State Government as it may, by notified order, specify in this behalf

### 26. Power to issue directions

The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any order or direction made thereunder.

### 27. Cognizance of offences

No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (45 of 1860).

### 28. Burden of proof in certain cases

Where any person is prosecuted for contravening any order made under section 18G which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

### 29. jurisdiction of courts

(1) Subject to the provisions of sub-section (2), no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

(2) Any Magistrate or bench of Magistrates empowered, for the time being, to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898[3] (5 of 1898), may, on application in this behalf being made by the prosecution, try, in accordance with the provisions

contained in sections 262 to 265 of the said Code, any offence which consists of a contravention of an order made under section 18G.

### 29A. Special provision regarding fines

Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898[3] (5 of 1898), it shall be lawful for any Magistrate of the first class and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of any offence under this Act.

### 29B. Power to exempt in special cases

(1) If the Central Government is of opinion, having regard to the smallness of the number of workers employed or to the amount invested in any industrial undertaking or to the desirability of encouraging small undertakings generally or to the stage of development of any scheduled industry, that it would not be in public interest to apply all or any of the provisions of the Act thereto, it may, by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose, any industrial undertaking or class of industrial undertakings or any scheduled industry or class of scheduled industries as it may specify in the notification from the operation of all or any of the provisions of this Act or any rule or order made thereunder.

(2)Where any notification under sub-section (1) granting any exemption is cancelled, no owner of any industrial undertaking to which the provisions of section 10, section 11, section 11A or clause (d) of sub-section (1) of section 13, would have applied, if the notification under sub-section (1) had not been issued, shall carry on the business of the undertaking after the expiry of such period as may be specified in the notification cancelling the exemption except under and in accordance with a licence issued in this behalf by the Central Government and, in the case of a State Government, except under and in accordance with the previous permission of the Central Government.

(2A) In particular, and without prejudice to the generality of the provisions of sub-section (1), the Central Government may, if it is satisfied, after considering the recommendations made to it by the Advisory Committee constituted under sub-section (2B), that it is necessary so to do for the development and expansion of ancillary, or small scale, industrial undertakings, by notified order, direct that any article or class of articles specified in Schedule I shall, on and from such date as may be specified in the notified order (hereafter in this section referred to as the "date of reservation"), be reserved for exclusive production by the ancillary, or small scale, industrial undertaking (hereafter in this section referred to as "reserved article").

(2B) The Central Government shall, with a view to determining the nature of any article or class or articles that may be reserved for production by the ancillary, or small scale, industrial undertakings,

constitute an Advisory Committee consisting of such persons as have, in the opinion of that government, the necessary expertise to give advice on the matter.

(2C) The advisory committee shall, after considering the following matters, communicate its recommendation to the Central Government, namely-

(a) the nature of any article or class of articles which may be produced economically by the ancillary, or small scale, industrial undertakings;

(b) the level of employment likely to be generated by the production of such article or class of articles by the ancillary, or small scale, industries undertakings;

(c) the possibility of encouraging and diffusing entrepreneurship in industry;

(d) the prevention of concentration of economic power to the common detriment; and

(e) such other matters as the Advisory Committee may think fit.

(2D) The production Of any reserved article or class of reserved articles by any industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, on the date of reservation, is engaged in, or has taken effective steps for, the production of any reserved article or class of reserved articles, shall, after the commencement of the Industries (Development and Regulation) Amendment Act, 1984, or, as the case may be, the date of reservation, whichever is later, be subject to such conditions as the Central Government may, by notified order, specify.

(2E) While specifying any condition under sub-section (2D), the Central Government may take into consideration the level of production of any reserved articles or class of reserved articles achieved, immediately before the date of reservation, by the industrial undertaking referred to in sub-section (2D), and such other factors as may be relevant.

(2F) Every person or authority, not being the Central Government, who or which, is registered under section 10 or to whom, or to which, a licence has been issued or permission has been granted under section 11 for the production of any article or class of articles which has, or have, been subsequently reserved for the ancillary, or small scale, industrial undertakings, shall produce, such registration certificate, licence or permission, as the case may be, within such period as the Central Government may, enter therein all or any of the conditions specified by it under sub-section (2D), including the productive capacity of the industrial undertakings and other prescribed particulars.

(2G) The owner of every industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, immediately before the commencement of the Industries (Development and Regulation) Amendment Act, 1984 or the date of reservation, whichever is later-

(a) was engaged in the production of any article or class of articles, which has, or have been, reserved for the ancillary, or small scale, industrial undertakings, or

(b) had before such commencement or before the date of such reservation, as the case may be, taken effective steps for commencing the production of such reserved article or class of reserved articles, without being registered under section 10 or in respect of which a licence or permission has not been issued under section 11, shall refrain from the production of such reserved article or class of reserved

articles, on and from the date of expiry of three months from such commencement or from the date of such reservation, whichever is later.

(2H) Every notified order made under sub-section (2A) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notified order or both Houses agree that the notified order should not be made, the notified order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notified order.

(3) The provisions of this Act shall apply, so far as may be, in relation to the issue of a licence or permission to any industrial undertaking referred to in sub-section (2) as they apply in relation to the issue of a licence or permission to a new industrial undertaking.

### 29C. Protection of action taken under the Act

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

### 29D. Debts incurred by the authorised person to have priority

Every debt arising out of any loan obtained by the authorised person for carrying on the management of, or exercising functions of control in relation to, an industrial undertaking or part thereof, the management of which has been taken over under section 18A or section 18AA or section 18FA-

(a) shall have priority over all other debts, whether secured or unsecured, incurred before the management of such industrial undertaking was taken over;

(b) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956 (1 of 1956);

and such debts shall rank equally among themselves and be paid in full out of the assets of the industrial undertaking unless such assets are insufficient to meet them, in which case they shall abate in equal proportions.

### 30. Power to make rules

(1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely,-

(a) the constitution of the Advisory Council and Development Councils, the term of office and other conditions of service of, the procedure to be followed by, and the manner of filling casual vacancies among members of the Advisory Council or a Development Council;

(b) the form of the statement of account to be furnished by a Development Council;

(c) the intervals at which, the time within which, and the manner in which the cess leviable under section 9 shall be payable and the rebate for the prompt payment of such cess.

(d) the expenses which a Development Council may meet from the proceeds of the cess levied under section 9 which may have been handed over to it;

(e) the appointment by or with the approval of the Central Government of any officers of a Development Council;

(f) the facilities to be provided by any industrial undertaking for the training of technicians and labour;

(g) the collection of any information or statistics in respect of any scheduled industry;

(h) the manner in which industrial undertakings may be registered under section 10 and the levy of a fee therefor;

(i) the procedure for the grant or issue of licences and permissions under sections 11, section 11A, section 13 or section 29B, the time within which such licences or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such public inquiry in relation thereto as may be necessary in the circumstances;

(j) the fees to be levied in respect of licences and permissions issued under this Act;

(k) the matters which may be taken into account in the granting or issuing of licences and permissions, including in particular, the previous consultation by the Central Government with the Advisory Council or any Development Council or both in regard to the grant or issue of any such licences or permissions;

(l) the procedure to be followed in making any investigation under this Act;

(m) the conditions which may be included in any licences and permissions;

(n) the conditions on which licences and permissions may be varied or amended under section 12;

(o) the maintenance of books, accounts and records relating to an industrial undertaking;

(p) the submission of special or periodical returns relating to an industrial undertaking by persons having the control of, or employed in connection with, such undertaking, and the forms in which, and the authorities to which such returns and reports shall be submitted;

(pp) any matter which is to be or may be prescribed for giving effect to the provisions of Chapter IIIAA or Chapter IIIAC;

(q) any other matter which is to be or may be prescribed under this Act;

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 24.

(4) Every rule made under this section shall be laid, as soon as may be after it is made before the house of parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in the rule or both house agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule done under that rule.

### 31. Application of other laws not barred

The provisions of this Act shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other Central Act for the time being in force, relating to any of the scheduled industries.

### 32. Amendment of section 2, Act 14 of 1947

[*Rep. by Repealing and Amending Act, 1957 (3 6 of 1957)*]

## SCHEDULE I

[*Sections 2 and 3(i)*]

Any industry engaged in the manufacture or production of any of the articles mentioned in each of the following headings or sub-headings, namely:

1. METALLURGICAL INDUSTRIES:

A. Ferrous:

(1) Iron and steel (metal).

(2) Ferro-alloys.

(3) Iron and steel castings and forgings

(4) Iron and steel structurals.

(5) Iron and steel pipes.

(6) Special steels.

(7) Other products of iron and steel.

B. Non-ferrous:

(1) Precious metals, including gold and silver, and their alloys.

(1A) Other non-ferrous metals and their alloys.

(2) Semi-manufactures and manufactures.

2. FUELS:

(1) Coal, lignite, coke and their derivatives.

(2) Mineral oil (crude oil), motor and aviation spirit, diesel oil, kerosene oil, fuel oil, diverse hydro-carbon oils and their blends including synthetic fuels, lubricating oils and the like.

(3) Fuel gases (coal gas, natural gas and the like).

3. BOILERS AND STEAM-GENERATING PLANTS:

Boilers and steam-generating plants.

4. PRIME MOVERS (OTHER THAN ELECTRICAL GENERATORS):

(1) Steam-engines and turbines.

(2) Internal combustion engines.

5. ELECTRICAL EQUIPMENT:

(1) Equipment for generation, transmission and distribution of electricity including transformers.

(2) Electrical motors.

(3) Electrical fans.

(4) Electrical lamps.

(5) Electrical furnaces.

(6) Electrical cables and wires.

(7) X-ray equipment.

(8) Electrical equipment.

(9) Household appliances such as electric irons, heaters and the like.

(10) Storage batteries.

(11) Dry cells.

6. TELECOMMUNICATIONS:

(1) Telephones.

(2) Telegraph equipment.

(3) Wireless communication apparatus.

(4) Radio receivers, including amplifying and public-address equipment.

(5) Television sets.

(6) Teleprinters.

7. TRANSPORTATION:

(1) Aircraft.

(2) Ships and other vessels drawn by power.

(3) Railway locomotives.

(4) Railway rolling-stock.

(5) Automobiles (motor cars, buses, trucks, motorcycles, scooters and the like).

(6) Bicycles.

(7) Others, such as fork-lift trucks and the like.

8. INDUSTRIAL MACHINERY:

A. Major items of specialised equipment used in specific industries:

(1) Textile machinery (such as spinning frames, carding machines, powerlooms and the like) including textile accessories.

(2) Jute machinery.

(3) Rayon machinery.

(4) Sugar machinery.

(5) Tea machinery.

(6) Mining machinery.

(7) Metallurgical machinery.

(8) Cement machinery.

(9) Chemical machinery.

(10) Pharmaceutical machinery.

(11) Paper machinery.

B. General items of machinery used in several industries, such as the equipment required for various "unit processes":

(1) Size-reduction equipment -crushers, ball mills, and the like.

(2) Conveying equipment-bucket elevators, skip hoists, cranes, derricks and the like.

(3) Size separation units-screens, classifiers and the like.

(4) Mixers and reactors-kneading mills, turbo-mixers and the like.

(5) Filtration equipment-filter presses, rotary filters and the like.

(6) Centrifugal machines.

(7) Evaporators.

(8) Distillation equipment.

(9) Crystallisers.

(10) Dryers.

(11) Power-driven pumps-reciprocating, centrifugal and the like.

(12) Air and gas compressors and vacuum pipes (excluding electrical furnaces).

(13) Refrigeration plants for industrial use.

(14) Fire-fighting equipment and appliances including fire-engines.

C. Other items of industrial machinery:

(1) Ball, roller and tapered bearings.

(2) Speed-reduction units.

(3) Grinding wheels and abrasives.

9. MACHINE TOOLS:

Machine tools.

10. AGRICULTURAL MACHINERY:

(1) Tractors, harvesters and the like.

(2) Agricultural implements.

11. EARTH-MOVING MACHINERY:

Bulldozers, dumpers, scrapers, loaders, shovels, drag lines, bucket-wheel excavators, road-rollers and the like.

12. MISCELLANEOUS MECHANICAL AND ENGINEERING INDUSTRIES:

(1) Plastic moulded goods.

(2) Hand-tools; small tools and the like.

(3) Razor blades.

(4) Pressure-cookers.

(5) Cutlery.

(6) Steel furniture.

13. COMMERCIAL, OFFICE AND HOUSEHOLD EQUIPMENT

(1) Typewriters.

(2) Calculating machines.

(3) Air-conditioners and refrigerators.

(4) Vacuum cleaners.

(5) Sewing and knittings machines.

(6) Hurricane lanterns.

14. MEDICAL AND SURGICAL APPLIANCES:

Surgical instruments-sterilisers, incubators and the like.

15. INDUSTRIAL INSTRUMENTS:

(1) Water meters, steam meters, electricity meters and the like.

(2) Indicating, recording and regulating devices for pressure, temperature, rate of flow, weights, levels, and the like.

(3) Weighing machines.

16. SCIENTIFIC INSTRUMENTS:

Scientific instruments.

17. MATHEMATICAL, SURVEYING AND DRAWING INSTRUMENTS:

Mathematical, surveying and drawing instruments.

18. FERTILISERS:

(1) Inorganic fertilisers.

(2) Organic fertilisers.

(3) Mixed fertilisers.

19. CHEMICALS (OTHER THAN FERTILISERS):

(1) Inorganic heavy chemicals.

(2) Organic heavy chemicals.

(3) Fine chemicals including photographic chemicals.

(4) Synthetic resins and plastics.

(5) Paints, varnishes and enamels.

(6) Synthetic rubbers.

(7) Man-made fibres including regenerated cellulose-rayon, nylon and the like.

(8) Coke oven by-products.

(9) Coal-tar distillation products like naphthalene, anthracene, and the like.

(10) Explosives including gunpowder and safety fuses.

(11) Insecticides, fungicides, weedicides and the like.

(12) Textile auxiliaries.

(13) Sizing materials including starch.

(14) Miscellaneous chemicals.

20. PHOTOGRAPHIC RAW FILM AND PAPER:

(1) Cinema film.

(2) Photographic amateur film.

(3) Photographic printing paper.

21. DYE-STUFFS:

Dye-stuffs.

22. DRUGS AND PHARMACEUTICALS:

Drugs and pharmaceuticals.

23. TEXTILES (INCLUDING THOSE DYED, PRINTED OR OTHERWISE PROCESSED):

(1) Made wholly or in part of cotton, including cotton yarn, hosiery and rope;

(2) Made wholly or in part of jute, including jute, twine and rope;

(3) Made wholly or in part of wool, including wool tops, woollen yarn, hosiery, carpets and druggets;

(4) Made wholly or in part of silk, including silk yarn and hosiery;

(5) Made wholly or in part of synthetic, artificial (man-made) fibres, including yarn and hosiery of such fibres.

24. PAPER AND PULP INCLUDING PAPER PRODUCTS:

(1) Paper-writing, printing and wrapping.

(2) Newsprint.

(3) Paper board and straw board.

(4) Paper for packaging (corrugated paper, kraft paper, paper bags, paper containers and the like).

(5) Pulp-wood pulp, mechanical, chemical, including dissolving pulp.

25. SUGAR:

Sugar.

26. FERMENTATION INDUSTRIES:

(1) Alcohol.

(2) Other products of fermentation industries.

27. FOOD-PROCESSING INDUSTRIES:

(1) Canned fruits and fruit products.

(2) Milk foods.

(3) Malted foods.

(4) Flour.

(5) Other processed foods.

28. VEGETABLE OILS AND VANASPATI:

(1) Vegetable oil, including solvent oils.

(2) Vanaspati.

29. SOAPS, COSMETICS, AND TOILET PREPARATIONS:

(1) Soaps.

(2) Glycerine.

(3) Cosmetics.

(4) Perfumery.

(5) Toilet preparations.

30. RUBBER GOODS:

(1) Tyres and tubes.

(2) Surgical and medicinal products including prophylactics.

(3) Footwear.

(4) Other rubber goods.

31. LEATHER, LEATHER GOODS AND PICKERS:

Leather, leather goods and pickers.

32. GLUE AND GELATIN:

Glue and gelatin.

33. CLASS:

(1) Hollow ware.

(2) Sheet and plate glass.

(3) Optical glass.

(4) Class wool.

(5) Laboratory ware.

(6) Miscellaneous ware.

34. CERAMICS:

(1) Fire bricks.

(2) Refractories.

(3) Furnace lining bricks-acidic, basic and neutral.

(4) Chinaware and pottery.

(5) Sanitaryware.

(6) Insulators.

(7) Tiles.

(8) Graphite crucibles.

35. CEMENT AND GYPSUM PRODUCTS:

(1) Portland cement.

(2) Asbestos cement.

(3) Insulating boards.

(4) Gypsum boards, wall boards and the like.

36. TIMBER PRODUCTS:

(1) Plywood.

(2) Hardboard, including fibre-board, chip-board and the like.

(3) Matches.

(4) Miscellaneous (furniture components, bobbins, shutters and the like).

37. DEFENCE INDUSTRIES:

Arms and ammunition.

38. MISCELLANEOUS INDUSTRIES:

(1) Cigarettes.

(2) Linoleum, whether felt based or jute based.

(3) Zip fasteners (metallic and non-metallic).

(4) Oil stoves.

(5) Printing, including litho printing industry.

*Explanation 1*: The articles specified under each of the headings Nos. 3, 4, 5, 6, 7, 8, 10, 11 and 13 shall include their component parts and accessories.

*Explanation* 2: The articles specified under each of the headings Nos. 18, 19, 21 and 22 shall include the intermediates required for their manufacture.

## SCHEDULE II

[*Section 6(4)*]

Functions which may be assigned to Development Councils:

(1) Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.

(2) Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs.

(3) Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units.

(4) Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumer.

(5) Promoting standardisation of products.

(6) Assisting in the distribution of controlled materials and promoting arrangements for obtaining materials for the industry.

(7) Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives and the conduct of experimental establishments and of tests on a commercial scale.

(8) Promoting the training of persons engaged or proposing engagement in the industry and their education in technical or artistic subjects relevant thereto.

(9) Promoting the retaining in alternative occupations of personnel engaged in or retrenched from the industry.

(10) Promoting or undertaking scientific and industrial research, research into matters affecting industrial psychology and research into matters relating to production and to the consumption or use of goods and services supplied by the industry.

(11) Promoting improvements and standardisation of accounting and costing methods and practice.

(12) Promoting or undertaking the collection and formulation of statistics.

(13) Investigating possibilities of decentralising stages and processes of production with a view to encouraging the growth of allied small-scale and cottage industries.

(14) Promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.

(15) Advising on any matters relating to the industry (other than remuneration and conditions of employment) as to which the Central Government may request the Development Council to advise and undertaking inquiries for the purpose of enabling the Development Council so to advise, and

(16) Undertaking arrangements for making available to the industry information obtained and for advising on matters with which the Development Councils are concerned in the exercise of any of their functions.

## SCHEDULE III

[*Section 18FB*]

1. The Industrial Employment (Standing Orders) Act, 1946, (2 of 1946).
2. The Industrial Disputes Act, 1947 (14 of 1947).
3. The Minimum Wages Act, 1948 (11 of 1948).

**Foot Notes**

1 Appointed date is 8th. May, 1952.

2 Refer the Trade and Merchandise Marks Act, 1958 (43 of 1958). See now the Trade Marks Act, 1999 (Act No. 47 of 1999).

3 Refer to the corresponding provisions of Criminal Procedure Code, 1973.

4 See now the Companies Act, 1956.

# INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT,1946

[Act No. 20 of Year 1946, dated 23rd. April, 1946]

*An Act to require employers in industrial establishments formally to define conditions of employment under them*

Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them;

It is hereby enacted as follows: -

## 1. Short title, extent and application

(1) This Act may be called the Industrial Employment (Standing Orders) Act, 1946.

(2) It extends to [1][the whole of India.]

[2][(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months:

PROVIDED that the appropriate government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification.].

[3][(4) Nothing in this Act shall apply to-

(i) any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 (11 of 1947) apply; or

(ii) any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (26 of 1961) apply:

PROVIDED that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (26 of 1961), the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.]

## 2. Interpretation

In this Act, unless there is anything repugnant in the subject or context-

[4][(a) "appellate authority" means an authority appointed by the appropriate government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act:

PROVIDED that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963 (39 of 1963), that court or authority shall be deemed to be the appellate authority;]

(b) "appropriate government" means in respect of industrial establishments under the control of the Central Government or a Railway administration or in a major port, mine, or oil-field, the Central Government, and in all other cases, the State Government:

[5][PROVIDED that where any question arises as to whether any industrial establishment is under the control of the Central Government, that Government may, either on a reference made to it by the employer or the workman or a trade union or other representative body of the workmen, or on

its own motion and after giving the parties an opportunity of being heard, decided the question and such decision shall be final and binding on the parties;]

[2][(c) "Certifying Officer" means a Labour Commissioner or a Regional Labour Commissioner, and includes any other officer appointed by the appropriate government, by notification in the Official Gazette, to perform all or any of the functions of a Certifying Officer under this Act;]

(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes-

(i) in a factory, any person named under [2][clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), as manager of the factory;

(ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;

(iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment" means-

(i) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936 (4 of 1936); or

[2][(ii) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948); or]

(iii) a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (9 of 1890), or

(iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employees workmen:

(f) "prescribed" means prescribed by rules made by the appropriate government under this Act;

(g) "standing orders" means rules relating to matters set out in the Schedule;

(h) "trade union" means a trade union for the time being registered under the Indian Trade Unions Act, 1926 (16 of 1926);

[6][(i) "wages" and "workman" have the meanings respectively assigned to them in clauses (rr) and (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947).]

### 3. Submission of draft standing orders

(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

## 4. Conditions for certification of standing orders

Standing orders shall be certifiable under this Act if-

(a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

(b) the standing orders are otherwise in conformity with the provisions of this Act,

and it [7][shall be the function] of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

## 5. Certification of standing orders

(1) On receipt of the draft under section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representative of the workmen as may be prescribed, an opportunity of being heard, the Certifying Officer shall decide whether or no any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modification therein which his order under sub-section (2)

may require, and shall within seven days thereafter send copies of the certified standing order authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

## 6. Appeals

(1) [6][Any employer, workmen, trade union or other prescribed representatives of the workmen] aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within [8][thirty days] from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decisions shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1), send copies thereof of the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

## 7. Date of operation of standing orders

Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal

as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

### 8. Register of standing orders

A copy of all standing orders as finally certified under this Act shall be field by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

### 9. Posting of standing orders

The text of the standing order as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

### 10. Duration and modification of standing orders

(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen, [9][or a trade union or other representative body of the workmen] be liable to be modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

[10][(2) Subject to the provisions of sub-section (1), an employer or workman [9][or a trade union or other representative body of the workmen may apply to

the Certifying Officer to have the standing orders modified and such application shall be accompanied by five copies of the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen [9][or a trade union or other representative body of the workmen], a certified copy of that agreement shall be filed along with the application.]

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

[3][(4)Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

**[9][10A. Payment of subsistence allowance**

(1) Where any workmen is suspended by the employer pending investigation or inquiry into complaints or charge of misconduct against him, the employer shall pay to such workman subsistence allowance-

(a) at the rate of fifty per cent of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and

(b) at the rate of seventy-five per cent of the such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

(2) If any dispute arises regarding the subsistence allowance payable to a workman under sub-section (1) the workman or the employer concerned may refer the dispute to the Labour Court, constituted under the Industrial Disputes Act, 1947 (14 of 1947), within the local limits of whose jurisdiction the industrial establishment wherein such workman is employed is situate and the Labour Court to which the dispute is so referred shall, after giving the parties an opportunity of being heard, decide the dispute and such decision shall be final and binding on the parties.

(3) Notwithstanding anything contained in the foregoing provisions of this section where provisions relating to the payment of subsistence allowance under any other law for the time being in force in any state are more beneficial than the provisions of this sections, the provisions of such other law shall be applicable to the payment of subsistence allowance in the state.]

## 11. Certifying Officers and appellate authorities to have powers of civil court

(1) Every Certifying Officer and appellate authority shall have all the powers of a civil court for the proposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of [6][sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).]

[11][(2) Clerical or arithmetical mistakes in any order passed by Certifying Officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that officer or authority or the successor in office of such officer or authority, as the case may be.]

## 12. Oral evidence in contradiction of standing orders not admissible

No oral evidence having the effect of adding to or otherwise varying or contradicting standing order as finally certified under this Act shall be admitted in any court.

## [12][12A. Temporary application of model standing orders

(1) Notwithstanding anything contained in sections 3 to 12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Act come into operation under section 7 in that establishment, the prescribed model standing order shall be deemed to be adopted in that establishment, and the provisions of section 9, sub-section (2) of section 13 and section 13A shall apply to such model standing orders as they apply to the standing orders so certified.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

## 13. Penalties and procedure

(1) An employer who fails to submit draft standing orders as required by section 3, or who modifies his standing orders otherwise than in accordance with section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine

which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act or his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate government.

(4) No court inferior to that of [6][a Metropolitan Magistrate or Judicial Magistrate of the second class] shall try any offence under this section.

### [13][13A. Interpretation, etc., of standing orders

If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman [9][or a trade union or other representative body of the workmen], may refer the question to any of the Labour Courts constituted under the Industrial Disputes Act, 1947 (14 of 1947), and specified for the disposal of such proceeding by the appropriate government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.]

### [21][13B. Act not to apply to certain industrial establishments

Nothing in this Act shall apply to an industrial establishment insofar as the workmen employed therein are persons to whom the Fundamental and

Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Services) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate government in the official Gazette, apply.]

### 14. Power to exempt

The appropriate government may, by notification in the Official Gazette, exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

### 14A. Delegation of powers

The appropriate government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also-

(a) where the appropriate government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate government is a State Government, by such office or authority subordinate to the State Government as may be specified in the notification.

## 15. Power to make rules

(1) The appropriate government may, after previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may-

(a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition;

(b) set out model standing orders for the purposes of this Act;

(c) prescribe the procedure of Certifying Officers and appellate authorities;

(d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;

(e) provide for any other matter which is to be or may be prescribed:

PROVIDED that before any rule are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate government.

[22][(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or, both Houses agree that the rule should not be made, the rule shall thereafter have

effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

## SCHEDULE: MATTERS TO BE PROVIDED IN STANDING ORDERS UNDER THIS ACT

*[Sections 2(g) and 3(2)]*

1. Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.

2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.

3. Shift working.

4. Attendance and late coming.

5. Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.

6. Requirement to enter premises by certain gates, and liability to search.

7. Closing and re-opening of sections of the industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.

8. Termination of employment, and the notice thereof to be given by employer and workmen.

9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.

10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.

11. Any other matter which may be prescribed.

## Foot Notes

1 Substituted by the A.O. 1950, for the words "all the Provinces of India".

2 Substituted by Act No. 16 of 1961.

3 Inserted by Act No. 39 of 1963, w.e.f. 23rd. December, 1963.

4 Substituted by Act No. 39 of 1963, w.e.f. 23rd. December, 1963.

5 Added by Act No. 18 of 1982, w.e.f. 17th. May, 1982.

6 Substituted by Act No. 18 of 1982, w.e.f. 17th. May, 1982.

7 Substituted by Act No. 36 of 1956, for the words "shall not be the function" w.e.f. 17th. May, 1982.

8 Substituted by Act No. 16 of 1961, for the words "twenty-one days".

9 Inserted by Act No. 18 of 1982, w.e.f.17th. May, 1982.

10 Substituted by Act No. 36 of 1956, w.e.f. 17th. September, 1956.

11 Section 11 re-numbered as sub-section (1) thereof and sub-section (2) inserted by Act No. 39 of 1963, w.e.f. 23rd. December, 1963.

12 Inserted by Act No. 38 of 1963, w.e.f. 23rd. December, 1963.

13 Inserted by Act No. 36 of 1957, w.e.f. 10th. March, 1957.

# MAHARASHTRA ACT NO. LVIII OF 1981. *

(*[1] For Statement of Objects and Reasons, see Maharashtra Government gazette,1981, Part V at pages 473-474. )

(THE MAHARASHTRA PRIVATE SECURITY GUARDS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1981.)

(This Act received assent of the President on 24th September, 1981; assent was first published in the Maharashtra Government Gazette, Part IV, Extraordinary, on 25th September 1981.)

Amended by Mah.28 of 1996 (29-4-1996)+*
(*+This indicates the date of commencement of the Act.)

**An Act for regulating the employment of Private Security Guards employed in factories and establishment in the State of Maharashtra and for making better provisions for their terms and conditions of employment and welfare through the establishment of a Board therefore, and for matters connected therewith.**

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law for regulating the employment of Private Security Guards employed in factories and establishment in the State of Maharashtra and for making better provisions for their terms and conditions of employment and welfare, through the establishment of a board therefore, and for matters connected therewith, and, therefore, promulgated the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 on the 29th June 1981;

Mah. Ord.V of 1981.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-second Year of the Republic of India as follows:-

Short title, extent, commencement and application

**1. (1) This Act may be called the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981.**

(2) It extends to the whole of the State of Maharashtra.

(3) This Act shall be deemed to have come into force only in Greater Bombay and Thane District on the 29th June 1981. It shall come into force in any other area of the State on such

date as the State Government may, by notification in the Official Gazette, appoint in this behalf for that area, and different dates may be appointed for different areas and for different provisions of this Act.

(4) It applies to persons who work as Security Guards in any factory or establishment, but who are not direct and regular employees of the factory or the establishment, as the case may be.

2. In this Act, unless the context otherwise requires,-

Definition. [1]

(1) "agency or agent", in relation to a Security Guard, means an individual or body of individuals or a body corporate, who or which employees, Security Guards in his or its employment on wages and undertakes to execute any security work or watch and ward work on contract, for any factory or establishment by engaging the Security Guards in his or its employment, but does not include a sub-agency or sub-agent or the Board:*

(*This clause was substituted for the original by Mah.Ord..4 of 1996* and subsequently by Mah.28 of 1996, s. 2(a))

(1-a) – "Advisory Committee" means Committee constituted under section 15:

(2) "Board" means a Board established under this Act;

(3) " employer", in relation to a Security Guard in the direct employment of an agency or agent and deployed in a factory or establishment through such agency or agent, means such agency or agent;

(4) "establishment" means an establishment as defined in clause (8) of section 2 of the Bombay Shops and Establishments Act, 1948; Bom. LXX-IX of 1948.

(5) "Factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948; LXIII OF 1948.

(6) "Inspector" means an Inspector appointed under section 16:

(7) "Prescribed" means prescribed by rules made under this Act;

(8) "principal employer", in relation to any class or classes of Security Guards deployed in a factory or establishment by the agency or agent or Board, means the person who has ultimate control over the affairs of the factory of the Establishment and includes any other person to whom the affairs of such factory or establishment are entrusted is called Authorised representative, Manager or by any other name prevailing in the factory or establishment ;

(9) " Scheme" means a Scheme made under this Act ;

(10) "Security"Guard" or "Private Security Guard" means a person who is engaged through any agency or agent or Board to do security work or watch and ward work in any factory or establishment but does not include the members of any principal employer's family or any person who is a direct employee of the principal employer;*

(*2. Clause (3), (8) and (1) were substituted for the original by Mah,. Ord. 4 of 1996 and subsequently by Mah.28 of 1996, s. 2(b) (2) and (d).)

(11)"wages' means all remunerations expressed in terms of money or capable of being so expressed, which would, if the terms of contract of employment express or implied, were fulfilled, be payable to a Security Guard in respect of security work or watch and ward work done in any factory or establishment, but doe not include-

(i) the value of any house accommodation, supply of light, water, medical attendance, or any other amenity or any service excluded from the computation of wages by general or special order of the state Government;

(ii) any contribution paid by the employer (or the principal employer, as the case may be,) to any pension fund or provident fund or under any scheme of social insurance and the interest which may have accrued thereon;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the Security Guard to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

Scheme for ensuring regular employment of Security Guards.

3. (1) For the purpose of ensuring an adequate supply and full and proper utilization of Security Guards in factories and establishments and generally for making better provision for the terms and conditions of employment of such workers, the State Government may be means of one or more Schemes provide for the registration of (principal employers) and Security Guards in any factory or establishment and provide for the terms and conditions of employment of registered Security Guards and make provision for the general welfare of such Security Guards.

(2) In particular, a Scheme may provide for all or any of the following matters, that is to say.-

(a) for the application of the Scheme to such classes of

registered Security Guards, and (principal employers), as may be specified therein;*
(*2. These words were substituted for the word employer (bid,s.3(b) )

(b) for defining the obligations of registered Security Guards and (principal employers), subject to the fulfillment of which the Scheme may apply to them;*
(*3. These words were substituted for the words “employer” (bid, s.3(b) )

© for regulating the recruitment and entry into the Scheme of Security Guards and the registration of Security Guards and (principal employers), including the maintenance of registers, removal or restoration, either temporarily or permanently, of the names from the registers, and the imposition of fees for registration;

(d) for regulating the employment of registered Security Guards and the terms and conditions of such employment including the rates of wages, hours of work, maternity benefit, overtime payment, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

(e) for providing the time within which registered (principal employers) should remit to the Board the amount of wages payable to the registered Security Guards for the work done by such workers; for requiring such (principal employers) who, in the opinion of the Board, make default in remitting the amount of wages in time as aforesaid to deposit with the Board, an amount equal to the monthly average of the wages to be remitted as aforesaid; it at any time the amount of such deposit falls short of such average, for requiring such (principal employers) who, persistently make default in making such remittances in time, to pay also, by way of penalty, a surcharge of such amount not exceeding 10 per cent, of the amount to be remitted as the Board may determine; *
(*1. These words were inserted by Mah.Ord.4 of 1996 and subsequently by Mah.28 of 1996. S. 2(e) )

(f) for securing that, in respect of a period during which employment or full employment is not available to registered Security Guards, though they are available for work, such Security Guards shall, subject to the conditions of the Scheme, receive a minimum guaranteed wage;

(g) for prohibiting, restricting or otherwise controlling the employment of Security Guards to whom the Scheme does

not apply, and the employment of Security Guards by (Principal employers) to whom the Scheme does not apply;

(h) for the welfare of registered Security Guards covered by the Scheme, in so far as satisfactory provision therefore does not exist apart from the Scheme;

(i) for health and safety measures in places where the registered Security Guards are engaged, in so far as satisfactory provision therefore is required but does not exist, apart from the Scheme; XIX of 1952.

(j) for the constitution of any fund or funds including provident fund for the benefits of registered Security Guards, the vesting of such funds, the payment and contributions to be made to such funds, provisions for provident fund and rates of contribution being made after taking into consideration the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and the Scheme framed thereunder, with suitable modifications where necessary, to suit, the conditions of work of such registered Security Guards and all matters relating thereto;

(k) for the manner in which the day from which (either prospective or retrospective) and the persons by whom, the cost of operating the Scheme is to be defrayed;

(l) for constituting the persons or authorities who are to be responsible for the administration of the Scheme, and the administration of funds constituted for purposes aforesaid;

(m) for specifying the powers and duties, which the persons or authorities referred to in clause (e) may exercise or perform, for providing appeals and revision applications against the decisions or orders of such persons and authorities; and for deciding such appeals and applications and for matters incidental thereto;

(n) for such other incidental and supplementary matters as may be necessary or expedient for giving effect to the purposes of the Scheme.

(3) The Scheme may further provide that a contravention of any provision thereof shall, on conviction, be punished with imprisonment for such term as may be specified j(but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention), or with fine which may extend to such amount as may be specified (but in no case exceeding five hundred rupees in respect of the first contravention or one thousand rupees in

respect of any subsequent contravention), or with both imprisonment and fine; and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

(4) Notwithstanding anything contained in this Act.-

(a) on and from the 29th June, 1981, in Greater Bombay and Thane Districts, no principal employer or agency or agent shall dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard, merely by reason of the employer's liability to register himself under a Scheme framed under this section or by reason of any other liability likely to be cast on him under such Scheme or by reason of the liability of the Security Guard to register himself under such Scheme, during the period from the said date upto the date the whole Scheme so framed is applied to such employer and Security Guard or during the period of one year from the said date, whichever is earlier; and

(b) on and from the date on which this Act or any provisions thereof are brought into force in any other area of the State, in that area, no principal employer or agency or agent shall dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard, merely for any of the reasons specified in clause (a) during the period from the said date upto the date the whole Scheme framed under this section is applied to such employer and Security Guard;

Making variation and revocation of Scheme.

Provided that, nothing contained in this sub-section shall affect the right of the (principal employers),*(*These words were substituted for the word substituted for the word "employers"by Mah. Ord.4 of 1996 and subsequently by Mah.28 of 1996 s.3(c) ) agency or agent to dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard as a penalty imposed for disciplinary action taken against him.

Bom. I of 1904.

4. (1) The State Government may, after consultation with the Advisory Committee constituted under section 15, and, subject to the conditions of previous publication, by notification in the Official Gazette, make one or more Schemes for Security Guards, class or classes of Security Guards in one or more areas specified in the notification, and in like manner add to, amend or vary any, Scheme or substitute another Scheme for any Scheme made by it;

Dispute regarding application

of Scheme.

Provided that, no such notification shall come into force, unless a period of one month has expired from the date of its publication in the Official Gazette.

Constitution of Board.

(2) The provisions of section 24 of the Bombay General Clauses Act, 1904, shall apply to the exercise of the powers given by sub-section (1) as they apply to the exercise of the power given by a Maharashtra Act to make rule subject to the conditions of previous publication.

5. If any question arises whether any Scheme applies to any class of Security Guards or (principal employers),*(*1 These words were substituted for the word "employers" by Mah. Ord..4 of 1996 and suibsequently by Mah.28 of 1996 s.4*) the matter shall be referred to the State Government, and the decision of the State Government on the question, which shall be taken after consulting the Advisory Committee constituted under section 15, shall be final.

6. (1) The State Government may, by notification in the Official Gazette, establish a Board to be known by such name as may be specified in the notification for any Security Guards in any area. One or more Boards may be established for one or more classes of Security Guards or for one or more areas.

(2) Every such Board shall be a body corporate with the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, and to contract, and may, by that name, sue or be sued.

(3) The Board shall consist of members nominated, from time to time, by the State Government representing the (principal employers), the Security Guards and the State Government.

(4) The members representing the (principal employers), and the Security Guards shall be equal in number, and the members, representing the State Government shall not exceed one third of the total number of members representing 2(principal employers)*(*These words were substituted for the word "employers", ibid s.5*) and Security Guards.

(5) The Chairman of the Board shall be one of the members appointed to represent the State Government; nominated in this behalf by the State Government.

Power of State Government to appoint Board consisting of

(6) After nomination of all the members of the Board including the Chairman, the State Government, shall, by notification in the Official Gazette, publish the names of all the

members of the Board. one person.

(7) The term of office of members of the Board shall be such as may be prescribed.

(8) There shall be paid to every member (not being a member representing the State Government) from the fund of the Board, travelling and daily allowances for attending meetings, of the Board at such rates as may be prescribed.

(9) The meetings of the board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject to the approval of the State Government, be regulated by the Board.

Power and duties of Board.

7. (1) Where by reason of the (principal employers)*(*[1].These words were substituted for the words "employer", by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.6.*) or the Security Guards refusing to recommend persons for representing them on the Board or for any reasons whatsoever jit appears to be State Government that it is unable to constitute a Board for Security Guards in accordance with the provisions of section 6, the State Government may, by notification in the Official Gazette, appoint a suitable person who shall hold office until a Board is duly constituted under section 6 for such Security Guards.

(2) The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board by or under this Act and the Scheme made thereunder. He shall continue in office until the day immediately preceding the date of the first meeting of the Board constituted under section 6.

(3) The person constituting the Board shall receive such remuneration, from the fund of the Board, and the terms and other conditions of his service shall be such as the State Government may determine.

Accounts and audit.

8. (1) The Board shall be responsible for administering every Scheme and shall exercise such powers and perform and discharge such duties and functions as may be conferred on it by the Scheme.

(2) The Board may take such measures as it may deem fit for administering the Scheme.

(3) The Board shall submit to the State Government, as soon as may be, after the 1st day of April every year, and not

later than the 21st day of October as annual report on the working of the Scheme during the preceding year ending on the 31st day of March of that year. Every report so received shall be laid, as soon as may be after it is received before each House of the State Legislature if it is in session, or in the session immediately following the date of receipt of the report.

(4) In exercise of the powers and performance and discharge of its duties and functions, the Board shall be bound by such directions as the State Government may, for reasons to be stated in writing give to it, from time to time.

9. (1) The Board shall maintain proper accounts and other relevant record and prepare an annual statement of accounts including a balance sheet such form as may be prescribed.

(2) The accounts of the Board shall be audited annually by such qualified persons as the State Government may appoint in this behalf.

Disqualifications and removal.

(3) The auditor shall at all reasonable times have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require or examine any member or officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon, shall be forwarded annually to the State Government before such date as the State Government may specify in this behalf.

(5) The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.

(6) The cost of audit, as determined by the State Government, shall be paid out of the funds of the Board.

Resignation of Office by member.

10. (1) No person shall be chosen as, or continue to be member of the Board who,-

(a) is a salaried officer of the Board; or
(b) is an undischarged insolvent; or
(c) is found to be a lunatic or becomes of unsound mind; or
(d) is or has been convicted of any offence involving moral turpitude, unless a period of five years has elapsed since the date of his conviction.

Vacancy to be filled as early as possible.

(2) The State Government may remove from office any

member, who-

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or
(b) is absent without leave of the Board for more than three consecutive meetings of the Board.

Proceedings presumed to be good and valid.

11. Any member of the Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of resignation, become vacant.

Determination of moneys due from employers, (principal employer) and Security Guards.

12. In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the State Government, and the vacancy shall be filled, as far as possible within ninety days from the date of the occurrence of the vacancy, and the person nominated fill in the vacancy shall hold office so long only as the member in whose place he is nominated would have held it, if the vacancy had not occurred;

V of 1908.

Provided that, during any such vacancy, the continuing members may act as if no vacancy ha occurred.

13. No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

14. (1) The Board or such officer as may be specified by it in this behalf may by order, determine any sum due from any employer (Principal employer) or Security Guard under this Act or any Scheme made thereunder, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

XLV of 1860.

(2) The Board or such officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 for trying a suit in respect of the following matters, namely;-

(a) enforcing the attendance of any person or examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavit;
(d) issuing commissions for the examination of witnesses; and

Advisory Committees

any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code.

(3) No order determining the sum due from any employer (principal employer) or Security Guard shall be made under sub-section (1), unless the employer [1](principal employer)*(*[1].These words were inserted by Mah. Ord. 4 of 1996 and subsequently by Mah.28 of 1996, s.7*) or Security Guard, as the case may be, is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be question in any Court.

(5) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.

Inspectors and their powers.

15. (1) The State Government may constitute an Advisory Committee to advise it upon such matters arising out of the administration of this Act or any Scheme made under this Act or relating to the application of the provisions of this Act to any particular class of Security Guards and [2](principal employer)*(*[2].These words were substituted for the word "employer", ibid s.15(a).) as the Advisory Committee may itself consider to be necessary or as the State Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the State Government and shall be of such number and chosen in such manner as may be prescribed;

Provided that, the advisory Committee shall include an equal number of members representing the [1](Principal employer),*(*[1].These words were substituted for the word "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 5(b)* ) the Security Guards and the Legislature of the State and the members representing the State Government shall not exceed one fourth of its total number of members.

(3) The Chairman of the Advisory Committee shall be one of the members, appointed to represent the State Government, nominated in this behalf by the State Government.

(4) The State Government shall publish in the Official Gazette the names of the members of the Advisory Committee.

(5) The meetings of the Advisory Committee and procedure to be followed for the purpose shall be regulated according to the rules made under this Act.

(6) The terms of office of members of the Advisory Committee shall be such as may be prescribed.

(7) A member of the Advisory Committee (not being a member representing the State Government) shall receive travelling and daily allowances for attending meetings of the Committee at such rates as may be prescribed.

16. (1) The Board may appoint such persons as it thinks fit to be Inspector possessing the prescribed qualifications for the purposes of this Act or of any Scheme and may define the limits of their jurisdiction.

(2) Subject to any rules made by the State Government in this behalf, an Inspector may-

(a) enter and search at all reasonable hour, with such assistants as he thinks fit, any premises or place, where Security Guards are employed or work is given out to Security Guards in any factory or establishment, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any Scheme, and require the production thereof, for inspection. Cognizance of offences.

XLV OF 1860.

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a Security Guard employed therein or a Security Guard to whom work is given out therein;

II of 1974.

© require any person giving any work to a Security Guard or to a group of Security Guards to give any information, which is in his power to give in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work; Prohibition of employment of children.

(d) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant, in respect of an offence under this Act or any Scheme, which he has reason to believe has been committed by an employer or 2(principal employer); *(*2.These words were inserted, ibid s.9*) and Application of Workmen's Compensation Act to Security Guards.

(e) exercise such other powers as may be prescribed;

(3) Every Inspector appointed under this section shall be Application of Payment of

deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

wages Act to Security Guards.

IV of 1936.

17. (1) No Court shall take cognizance of any offence made punishable by a Scheme or of any abetment thereof, except on a complaint in writing made by an Inspector or by a person specially authorised in this behalf by the Board or the State Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence made punishable by a Scheme or an abetment thereof shall be triable only by a Metropolitan Magistrate or a Magistrate of the first class.

18. No child shall be required or allowed to work as a Security Guard.

Explanation,- "child" means a person who has not completed fourteen years of age.

53 of 1961.

Application of Maternity Benefit Act to Women Security Guards.

19. The provisions of the Workmen's compensation Act, 1923, and the rules made thereunder, shall mutatis mutandis apply to the registered Security Guards employed in any factory or establishment; and for that purpose they shall be deemed to be workmen within the meaning of that Act; and in relation to such workmen, employer shall mean where a Board makes payment of wages to any such workmen, the Board, and in any other case, the [1](principal employer)* (*[1].These words were substituted for the word "employer" by Mah. Ord. 4 of 1996 and subsequently by Mah.28 of 1996 s.10*) as defined in this Act.

Rights and privileges under other laws not affected in certain cases.

20. (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (hereinafter referred to in this section as "the said Act"), the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act and the rules made thereunder shall apply to all or any class of registered Security Guards employed in any factory or establishment, with the modification that in relation to registered Security Guards, employer shall mean, where a Board makes payment of wages to any Guards, the Board; and in any other case, the [2](principal employer)* (*[2].These words were substituted for the word "employers", ibid, s. 11.*) as defined in this Act; and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(2) The State Government may, only if the Advisory Committee so advises, by a like notification, cancel or vary

Exemptions

any notification issued under sub-section (1).

21. Notwithstanding anything contained in the Maternity Benefits Act, 1961 (hereinafter referred to in this section as "the said Act"), the state Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act and the rules made thereunder shall apply to registered Workmen Security Guards employed in any factory or establishment; and for that purpose, they shall be deemed to be women within the meaning of the said Act; and in relation to such women, employer shall mean, where a Board makes payment of wages to such women, the Board, and in any other case, [1](principal the employer)*(*[1].These words were substituted for the word "employer" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.12*) as defined in this Act; and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of such provisions of the said Act within the local limits of his jurisdiction.

Inquiry into working of the Board.

22. Nothing contained in this Act shall affect any rights or privileges, which any registered Security Guard employed in any factory or establishment is entitled to on the date on which this Act comes into force, under any other law, contract custom or usage applicable to such Security Guard, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act and the Scheme:

Provided that, such Security Guard shall not be entitled to receive any corresponding benefit under the provisions of this Act and the Scheme.

Supersession of the Board.

23. The State Government may, after consulting the Advisory Committee, by notification in the Official Gazette and subject to such conditions and for such period as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act or any Scheme made thereunder, all or any class or classes of Security Guards employed [2](by the agency or agent as may be specified in the notification and deployed)* (*[2].These words were inserted, ibid, s. 13(a),*) in any factory or establishment or in any class or classes of factories or establishment, if in the opinion of the State Government, all such Security Guards or such class or classes of Security Guards are in the enjoyment of benefits, which are on the whole not less favourable to such Security Guards than the benefits provided by or under this Act or any Scheme made thereunder;

[3]

* * * *

(*3. The first proviso was deleted ibid, s.13(b),*)

4

(Provided that,)*(*4. These words were substituted for the words "Provided further that", ibid s. 13(c)*) the State Government, may, by notification in the Official Gazette, at any time, for reasons to be specified rescind the aforesaid notification.

24. (1) The state Government may, at any time, appoint any person to investigate or inquire into the working of any Board or Scheme and submit a report to the State Government in that behalf.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of the investigation or inquiry, and furnish to him such documents, accounts or information in possession of the Board as he may require.

(3) Any person so appointed to investigate or inquire into the working of any Board or Scheme may exercise all the powers of an Inspector appointed under this Act.

25. (1) If the State Government, on consideration of the report refered to in such-section (1) of section 24 or otherwise, is of the opinion-

(a) that the Board is unable to perform and discharge its duties and functions; or

(b) that the Board has persistently made default in the performance and discharge of its duties and functions or has exceeded or abused its powers.

Contracting out.

the State Government may, by notification in the Official Gazette, supersede the Board and reconstitute it in the prescribed manner, within a period of twelve months from the date of supersession. The period of supersession may be extended by the State Government for sufficient reasons by a like notification by not more than six months ":

General penalty for offences.

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the State Government shall give a reasonable opportunity to the Board to show cause why if should not be superseded, and shall consider the explanations and objections, if any, of the Board.

Protection of action taken under this Act.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act and any Scheme shall be exercised, performed and discharged by the State Government, or by such officer or officers as the State Government may appoint for this purpose.

Power to make rules.

(3) When the Board is superseded, the following consequences shall ensue, that is to say :-

(a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1), vacate their office;

(b) all the powers, duties and functions, which may be exercised, performed or discharged by the Board shall, during the period of supersession, be exercised, performed or discharged by such person or persons as may be specified in the notification;

Scheme and rules to be laid before state Legislature.

(c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government; and on the reconstitution of the Board, such funds and property shall revest in the Board.

26. Any contract or agreement, whether made before or after the commencement of this Act, whereby a registered Security Guard relinquishes any right conferred by, or any privilege or concession accruing to him under this Act or any Scheme, shall be void and of no effect, in so far as it purports to deprive him of such right or privilege or concessions.

Mah. Ord.V of 1981.

27. Save as otherwise expressly provided in this Act, any person, who contravenes any of the provision of this Act, or any rule made thereunder shall, on conviction, be punished with fine, which may extend to five hundred rupees, and in case of continued contravention thereof, with an additional fine which may extend to one hundred rupees per day for every day during which such contravention continues

Repeal of Mah. Ord. V of 1981 and saving.

28. No suit, prosecution or other legal proceedings shall lie against the State Government or the Board or the Chairman, secretary or any member of the Board or the Advisory Committee or any Inspector or any other officer of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or any Scheme or any rule or order made thereunder.

29. (1) The power to make rules under this Act shall be exercised by the State Government, subject to the condition of previous publication and by notification in the Official Gazette.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules, consistent with this Act generally to carry out the purposes of this Act.

30. Every Scheme and every rule made under this Act shall be laid, as soon may be after it is made, before each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the Scheme or the rule, or both Houses agree that the Scheme or the rule should not be made and notify such decision in the Official Gazette, the Scheme or the rule, as the case may be, shall thereafter from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that Scheme or rule.

31. (1) The Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken (including any notification issued, rules, Scheme or any order made) under the said Ordinance, shall be deemed to have been done, taken, issued or made as the case may be, under the corresponding provisions of this Act.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law for regulating the employment of Private Security Guards employed in factories and establishment in the State of Maharashtra and for making better provisions for their terms and conditions of employment and welfare, through the establishment of a board therefore, and for matters connected therewith, and, therefore, promulgated the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 on the 29th June 1981;

Mah. Ord.V of 1981.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Thirty-second Year of the Republic of India as follows:-

Short title, extent, commencement and application

**1. (1) This Act may be called the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981.**

(2) It extends to the whole of the State of Maharashtra.

(3) This Act shall be deemed to have come into force only in Greater Bombay and Thane District on the 29th June 1981. It shall come into force in any other area of the State on such date as the State Government may, by notification in the Official Gazette, appoint in this behalf for that area, and different dates may be appointed for different areas and for different provisions of this Act.

(4) It applies to persons who work as Security Guards in any factory or establishment, but who are not direct and regular employees of the factory or the establishment, as the case may be.

Definition.

2. In this Act, unless the context otherwise requires,-

1

(1) "agency or agent", in relation to a Security Guard, means an individual or body of individuals or a body corporate, who or which employees, Security Guards in his or its employment on wages and undertakes to execute any security work or watch

and ward work on contract, for any factory or establishment by engaging the Security Guards in his or its employment, but does not include a sub-agency or sub-agent or the Board:*

(*This clause was substituted for the original by Mah.Ord..4 of 1996* and subsequently by Mah.28 of 1996, s. 2(a))

(1-a) – "Advisory Committee" means Committee constituted under section 15:

(2) "Board" means a Board established under this Act;

(3) "employer", in relation to a Security Guard in the direct employment of an agency or agent and deployed in a factory or establishment through such agency or agent, means such agency or agent;

(4) "establishment" means an establishment as defined in clause (8) of section 2 of the Bombay Shops and Establishments Act, 1948; Bom. LXX-IX of 1948.

(5) "Factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948; LXIII OF 1948.

(6) "Inspector" means an Inspector appointed under section 16:

(7) "Prescribed" means prescribed by rules made under this Act;

(8) "principal employer", in relation to any class or classes of Security Guards deployed in a factory or establishment by the agency or agent or Board, means the person who has ultimate control over the affairs of the factory of the Establishment and includes any other person to whom the affairs of such factory or establishment are entrusted is called Authorised representative, Manager or by any other name prevailing in the factory or establishment ;

(9) " Scheme" means a Scheme made under this Act ;

(10) "Security Guard" or "Private Security Guard" means a person who is engaged through any agency or agent or Board to do security work or watch and ward work in any factory or establishment but does not include the members of any principal employer's family or any person who is a direct employee of the principal employer;*

(*2. Clause (3), (8) and (1) were substituted for the original by Mah,. Ord. 4 of 1996 and subsequently by Mah.28 of 1996, s. 2(b) (2) and (d).)

(11)"wages' means all remunerations expressed in terms of money or capable of being so expressed, which would, if the terms of contract of employment express or implied, were fulfilled, be payable to a Security Guard in respect of security work or watch and ward work done in any factory or establishment, but doe not include-

(i) the value of any house accommodation, supply of light, water, medical attendance, or any other amenity or any service excluded from the computation of wages by general or special order of the state Government;

(ii) any contribution paid by the employer (or the principal employer, as the case may be,) to any pension fund or provident fund or under any scheme of social insurance and the interest which may have accrued thereon;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the Security Guard to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

Scheme for ensuring regular employment of Security Guards.

3. (1) For the purpose of ensuring an adequate supply and full and proper utilization of Security Guards in factories and establishments and generally for making better provision for the terms and conditions of employment of such workers, the State Government may be means of one or more Schemes provide for the registration of (principal employers) and Security Guards in any factory or establishment and provide for the terms and conditions of employment of registered Security Guards and make provision for the general welfare of such Security Guards.

(2) In particular, a Scheme may provide for all or any of the following matters, that is to say.-

(a) for the application of the Scheme to such classes of registered Security Guards, and (principal employers), as may be specified therein;*

(*2. These words were substituted for the word employer (bid,s.3(b) )

(b) for defining the obligations of registered Security Guards and (principal employers), subject to the fulfillment of which the Scheme may apply to them;*
(*3. These words were substituted for the words “employer” (bid, s.3(b) )

© for regulating the recruitment and entry into the Scheme of Security Guards and the registration of Security Guards and (principal employers), including the maintenance of registers, removal or restoration, either temporarily or permanently, of the names from the registers, and the imposition of fees for registration;

(d) for regulating the employment of registered Security Guards and the terms and conditions of such employment including the rates of wages, hours of work, maternity benefit, overtime payment, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

(e) for providing the time within which registered (principal employers) should remit to the Board the amount of wages payable to the registered Security Guards for the work done by such workers; for requiring such (principal employers) who, in the opinion of the Board, make default in remitting the amount of wages in time as aforesaid to deposit with the Board, an amount equal to the monthly average of the wages to be remitted as aforesaid; it at any time the amount of such deposit falls short of such average, for requiring such (principal employers) who, persistently make default in making such remittances in time, to pay also, by way of penalty, a surcharge of such amount not exceeding 10 per cent, of the amount to be remitted as the Board may determine; *
(*1. These words were inserted by Mah.Ord.4 of 1996 and subsequently by Mah.28 of 1996. S. 2(e) )

(f) for securing that, in respect of a period during which employment or full employment is not available to registered Security Guards, though they are available for work, such Security Guards shall, subject to the conditions of the Scheme, receive a minimum guaranteed wage;

(g) for prohibiting, restricting or otherwise controlling the employment of Security Guards to whom the Scheme does not apply, and the employment of Security Guards by (Principal employers) to whom the Scheme does not apply;

(h) for the welfare of registered Security Guards covered by the Scheme, in so far as satisfactory provision therefore does not exist apart from the Scheme; XIX of 1952.

(i) for health and safety measures in places where the registered Security Guards are engaged, in so far as satisfactory provision therefore is required but does not exist, apart from the Scheme;

(j) for the constitution of any fund or funds including provident fund for the benefits of registered Security Guards, the vesting of such funds, the payment and contributions to be made to such funds, provisions for provident fund and rates of contribution being made after taking into consideration the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and the Scheme framed thereunder, with suitable modifications where necessary, to suit, the conditions of work of such registered Security Guards and all matters relating thereto;

(k) for the manner in which the day from which (either prospective or retrospective) and the persons by whom, the cost of operating the Scheme is to be defrayed;

(l) for constituting the persons or authorities who are to be responsible for the administration of the Scheme, and the administration of funds constituted for purposes aforesaid;

(m) for specifying the powers and duties, which the persons or authorities referred to in clause (e) may exercise or perform, for providing appeals and revision applications against the decisions or orders of such persons and authorities; and for deciding such appeals and applications and for matters incidental thereto;

(n) for such other incidental and supplementary matters as may be necessary or expedient for giving effect to the purposes of the Scheme.

(3) The Scheme may further provide that a contravention of any provision thereof shall, on conviction, be punished with imprisonment for such term as may be specified j(but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention), or with fine which may extend to such amount as may be

specified (but in no case exceeding five hundred rupees in respect of the first contravention or one thousand rupees in respect of any subsequent contravention), or with both imprisonment and fine; and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

(4) Notwithstanding anything contained in this Act.-

(a) on and from the 29th June, 1981, in Greater Bombay and Thane Districts, no principal employer or agency or agent shall dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard, merely by reason of the employer's liability to register himself under a Scheme framed under this section or by reason of any other liability likely to be cast on him under such Scheme or by reason of the liability of the Security Guard to register himself under such Scheme, during the period from the said date upto the date the whole Scheme so framed is applied to such employer and Security Guard or during the period of one year from the said date, whichever is earlier; and

(b) on and from the date on which this Act or any provisions thereof are brought into force in any other area of the State, in that area, no principal employer or agency or agent shall dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard, merely for any of the reasons specified in clause (a) during the period from the said date upto the date the whole Scheme framed under this section is applied to such employer and Security Guard;

Making variation and revocation of Scheme.

Provided that, nothing contained in this sub-section shall affect the right of the (principal employers),*(*These words were substituted for the word substituted for the word "employers"by Mah. Ord.4 of 1996 and subsequently by Mah.28 of 1996 s.3(c) ) agency or agent to dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard as a penalty imposed for disciplinary action taken against him. Bom. I of 1904.

4. (1) The State Government may, after consultation with the Advisory Committee constituted under section 15, and, subject to the conditions of previous publication, by

Dispute regarding application of Scheme.

notification in the Official Gazette, make one or more Schemes for Security Guards, class or classes of Security Guards in one or more areas specified in the notification, and in like manner add to, amend or vary any, Scheme or substitute another Scheme for any Scheme made by it;

Constitution of Board.

Provided that, no such notification shall come into force, unless a period of one month has expired from the date of its publication in the Official Gazette.

(2) The provisions of section 24 of the Bombay General Clauses Act, 1904, shall apply to the exercise of the powers given by sub-section (1) as they apply to the exercise of the power given by a Maharashtra Act to make rule subject to the conditions of previous publication.

5. If any question arises whether any Scheme applies to any class of Security Guards or (principal employers),*(*1 These words were substituted for the word "employers" by Mah. Ord..4 of 1996 and suibsequently by Mah.28 of 1996 s.4*) the matter shall be referred to the State Government, and the decision of the State Government on the question, which shall be taken after consulting the Advisory Committee constituted under section 15, shall be final.

6. (1) The State Government may, by notification in the Official Gazette, establish a Board to be known by such name as may be specified in the notification for any Security Guards in any area. One or more Boards may be established for one or more classes of Security Guards or for one or more areas.

(2) Every such Board shall be a body corporate with the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, and to contract, and may, by that name, sue or be sued.

(3) The Board shall consist of members nominated, from time to time, by the State Government representing the (principal employers), the Security Guards and the State Government.

(4) The members representing the (principal employers), and the Security Guards shall be equal in number, and the members, representing the State Government shall not exceed one third of the total number of members representing

[2](principal employers)*(*These words were substituted for the word “employers”, ibid s.5*) and Security Guards.

Power of State Government to appoint Board consisting of one person.

(5) The Chairman of the Board shall be one of the members appointed to represent the State Government; nominated in this behalf by the State Government.

(6) After nomination of all the members of the Board including the Chairman, the State Government, shall, by notification in the Official Gazette, publish the names of all the members of the Board.

(7) The term of office of members of the Board shall be such as may be prescribed.

(8) There shall be paid to every member (not being a member representing the State Government) from the fund of the Board, travelling and daily allowances for attending meetings, of the Board at such rates as may be prescribed.

(9) The meetings of the board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject to the approval of the State Government, be regulated by the Board.

Power and duties of Board.

7. (1) Where by reason of the (principal employers)*(*[1].These words were substituted for the words “employer”, by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.6.*) or the Security Guards refusing to recommend persons for representing them on the Board or for any reasons whatsoever jit appears to be State Government that it is unable to constitute a Board for Security Guards in accordance with the provisions of section 6, the State Government may, by notification in the Official Gazette, appoint a suitable person who shall hold office until a Board is duly constituted under section 6 for such Security Guards.

(2) The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board by or under this Act and the Scheme made thereunder. He shall continue in office until the day immediately preceding the date of the first meeting of the Board constituted under section 6.

(3) The person constituting the Board shall receive such remuneration, from the fund of the Board, and the terms and

other conditions of his service shall be such as the State Government may determine.

Accounts and audit.

8. (1) The Board shall be responsible for administering every Scheme and shall exercise such powers and perform and discharge such duties and functions as may be conferred on it by the Scheme.

(2) The Board may take such measures as it may deem fit for administering the Scheme.

(3) The Board shall submit to the State Government, as soon as may be, after the 1st day of April every year, and not later than the 21st day of October as annual report on the working of the Scheme during the preceding year ending on the 31st day of March of that year. Every report so received shall be laid, as soon as may be after it is received before each House of the State Legislature if it is in session, or in the session immediately following the date of receipt of the report.

(4) In exercise of the powers and performance and discharge of its duties and functions, the Board shall be bound by such directions as the State Government may, for reasons to be stated in writing give to it, from time to time.

9. (1) The Board shall maintain proper accounts and other relevant record and prepare an annual statement of accounts including a balance sheet such form as may be prescribed.

Disqualifications and removal.

(2) The accounts of the Board shall be audited annually by such qualified persons as the State Government may appoint in this behalf.

(3) The auditor shall at all reasonable times have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require or examine any member or officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon, shall be forwarded annually to the State Government before such date as the State Government may specify in this behalf.

(5) The Board shall comply with such directions as the State Government may, after perusal of the report of the

auditor, think fit to issue.

(6) The cost of audit, as determined by the State Government, shall be paid out of the funds of the Board.

Resignation of Office by member.

10. (1) No person shall be chosen as, or continue to be member of the Board who,-

Vacancy to be filled as early as possible.

(a) is a salaried officer of the Board; or
(b) is an undischarged insolvent; or
(c) is found to be a lunatic or becomes of unsound mind; or
(d) is or has been convicted of any offence involving moral turpitude, unless a period of five years has elapsed since the date of his conviction.

(2) The State Government may remove from office any member, who-

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or
(b) is absent without leave of the Board for more than three consecutive meetings of the Board.

Proceedings presumed to be good and valid.

Determination of moneys due from employers, (principal employer) and Security Guards.

11. Any member of the Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of resignation, become vacant.

12. In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the State Government, and the vacancy shall be filled, as far as possible within ninety days from the date of the occurrence of the vacancy, and the person nominated fill in the vacancy shall hold office so long only as the member in whose place he is nominated would have held it, if the vacancy had not occurred;

V of 1908.

Provided that, during any such vacancy, the continuing members may act as if no vacancy ha occurred.

13. No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

14. (1) The Board or such officer as may be specified by it in this behalf may by order, determine any sum due from any employer (Principal employer) or Security Guard under this Act or any Scheme made thereunder, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

XLV of 1860.

(2) The Board or such officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 for trying a suit in respect of the following matters, namely;-

(a) enforcing the attendance of any person or examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavit;
(d) issuing commissions for the examination of witnesses; and

any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code.

(3) No order determining the sum due from any employer (principal employer) or Security Guard shall be made under sub-section (1), unless the employer [1](principal employer)*(*[1].These words were inserted by Mah. Ord. 4 of 1996 and subsequently by Mah.28 of 1996, s.7*) or Security Guard, as the case may be, is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be question in any Court.

(5) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.

Advisory Committees

15. (1) The State Government may constitute an Advisory Committee to advise it upon such matters arising out of the administration of this Act or any Scheme made under this Act or relating to the application of the provisions of this Act to any particular class of Security Guards and [2](principal employer)*(*[2].These words were substituted for the word

"employer", ibid s.15(a).) as the Advisory Committee may itself consider to be necessary or as the State Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the State Government and shall be of such number and chosen in such manner as may be prescribed;

Provided that, the advisory Committee shall include an equal number of members representing the [1](Principal employer),*(*[1].These words were substituted for the word "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 5(b)* ) the Security Guards and the Legislature of the State and the members representing the State Government shall not exceed one fourth of its total number of members.

Inspectors and their powers.

(3) The Chairman of the Advisory Committee shall be one of the members, appointed to represent the State Government, nominated in this behalf by the State Government.

(4) The State Government shall publish in the Official Gazette the names of the members of the Advisory Committee.

(5) The meetings of the Advisory Committee and procedure to be followed for the purpose shall be regulated according to the rules made under this Act.

(6) The terms of office of members of the Advisory Committee shall be such as may be prescribed.

(7) A member of the Advisory Committee (not being a member representing the State Government) shall receive travelling and daily allowances for attending meetings of the Committee at such rates as may be prescribed.

16. (1) The Board may appoint such persons as it thinks fit to be Inspector possessing the prescribed qualifications for the purposes of this Act or of any Scheme and may define the limits of their jurisdiction.

(2) Subject to any rules made by the State Government in this behalf, an Inspector may-

(a) enter and search at all reasonable hour, with such

Cognizance of offences.

XLV OF 1860. assistants as he thinks fit, any premises or place, where Security Guards are employed or work is given out to Security Guards in any factory or establishment, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any Scheme, and require the production thereof, for inspection.

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a Security Guard employed therein or a Security Guard to whom work is given out therein;

II of 1974.

Prohibition of employment of children.

© require any person giving any work to a Security Guard or to a group of Security Guards to give any information, which is in his power to give in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work;

Application of Workmen's Compensation Act to Security Guards.

(d) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant, in respect of an offence under this Act or any Scheme, which he has reason to believe has been committed by an employer or 2(principal employer); *(*2.These words were inserted, ibid s.9*) and

Application of Payment of wages Act to Security Guards.

(e) exercise such other powers as may be prescribed;

(3) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

IV of 1936.

17. (1) No Court shall take cognizance of any offence made punishable by a Scheme or of any abetment thereof, except on a complaint in writing made by an Inspector or by a person specially authorised in this behalf by the Board or the State Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence made punishable by a Scheme or an abetment thereof shall be triable only by a Metropolitan Magistrate or a Magistrate of the first class.

18. No child shall be required or allowed to work as a Security Guard.

53 of 1961.

Explanation,- "child" means a person who has not completed fourteen years of age.

Application of Maternity Benefit Act to Women Security Guards.

19. The provisions of the Workmen's compensation Act, 1923, and the rules made there under, shall mutatis mutandis apply to the registered Security Guards employed in any factory or establishment; and for that purpose they shall be deemed to be workmen within the meaning of that Act; and in relation to such workmen, employer shall mean where a Board makes payment of wages to any such workmen, the Board, and in any other case, the [1](principal employer)* (*[1].These words were substituted for the word "employer" by Mah. Ord. 4 of 1996 and subsequently by Mah.28 of 1996 s.10*) as defined in this Act.

Rights and privileges under other laws not affected in certain cases.

20. (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (hereinafter referred to in this section as "the said Act"), the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act and the rules made there under shall apply to all or any class of registered Security Guards employed in any factory or establishment, with the modification that in relation to registered Security Guards, employer shall mean, where a Board makes payment of wages to any Guards, the Board; and in any other case, the [2](principal employer)* (*[2].These words were substituted for the word "employers", ibid, s. 11.*) as defined in this Act; and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

Exemptions.

(2) The State Government may, only if the Advisory Committee so advises, by a like notification, cancel or vary any notification issued under sub-section (1).

21. Notwithstanding anything contained in the Maternity Benefits Act, 1961 (hereinafter referred to in this section as "the said Act"), the state Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act and the rules made thereunder shall apply to registered Workmen Security Guards employed in any factory or establishment; and for that purpose, they shall be deemed to be women within the meaning of the said Act; and in relation to such women, employer shall mean, where a Board makes payment of wages to such women, the Board, and in any other case, [1](principal the employer)*(*[1].These words were Inquiry into

substituted for the word “employer” by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.12*) as defined in this Act; and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of such provisions of the said Act within the local limits of his jurisdiction. working of the Board.

22. Nothing contained in this Act shall affect any rights or privileges, which any registered Security Guard employed in any factory or establishment is entitled to on the date on which this Act comes into force, under any other law, contract custom or usage applicable to such Security Guard, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act and the Scheme: Supersession of the Board.

Provided that, such Security Guard shall not be entitled to receive any corresponding benefit under the provisions of this Act and the Scheme.

23. The State Government may, after consulting the Advisory Committee, by notification in the Official Gazette and subject to such conditions and for such period as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act or any Scheme made thereunder, all or any class or classes of Security Guards employed [2](by the agency or agent as may be specified in the notification and deployed)* (*[2].These words were inserted, ibid, s. 13(a),*) in any factory or establishment or in any class or classes of factories or establishment, if in the opinion of the State Government, all such Security Guards or such class or classes of Security Guards are in the enjoyment of benefits, which are on the whole not less favourable to such Security Guards than the benefits provided by or under this Act or any Scheme made thereunder;

[3]* * * *

(*[3]. The first proviso was deleted ibid, s.13(b),*)

[4](Provided that,)*(*4. These words were substituted for the words “Provided further that”, ibid s. 13(c)*) the State Government, may, by notification in the Official Gazette, at any time, for reasons to be specified rescind the aforesaid notification.

24. (1) The state Government may, at any time, appoint any person to investigate or inquire into the working of any Board

or Scheme and submit a report to the State Government in that behalf.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of the investigation or inquiry, and furnish to him such documents, accounts or information in possession of the Board as he may require.

(3) Any person so appointed to investigate or inquire into the working of any Board or Scheme may exercise all the powers of an Inspector appointed under this Act.

25. (1) If the State Government, on consideration of the report refered to in such-section (1) of section 24 or otherwise, is of the opinion-

(a) that the Board is unable to perform and discharge its duties and functions; or

Contracting out.

(b) that the Board has persistently made default in the performance and discharge of its duties and functions or has exceeded or abused its powers.

the State Government may, by notification in the Official Gazette, supersede the Board and reconstitute it in the prescribed manner, within a period of twelve months from the date of supersession. The period of supersession may be extended by the State Government for sufficient reasons by a like notification by not more than six months ":

General penalty for offences.

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the State Government shall give a reasonable opportunity to the Board to show cause why if should not be superseded, and shall consider the explanations and objections, if any, of the Board.

Protection of action taken under this Act.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act and any Scheme shall be exercised, performed and discharged by the State Government, or by such officer or officers as the State Government may appoint for this purpose.

Power to make rules.

(3) When the Board is superseded, the following consequences shall ensue, that is to say :-

(a) all the members of the Board shall, as from the date of publication of the notification under sub-

section (1), vacate their office;

(b) all the powers, duties and functions, which may be exercised, performed or discharged by the Board shall, during the period of supersession, be exercised, performed or discharged by such person or persons as may be specified in the notification;

Scheme and rules to be laid before state Legislature.

(c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government; and on the reconstitution of the Board, such funds and property shall revest in the Board.

26. Any contract or agreement, whether made before or after the commencement of this Act, whereby a registered Security Guard relinquishes any right conferred by, or any privilege or concession accruing to him under this Act or any Scheme, shall be void and of no effect, in so far as it purports to deprive him of such right or privilege or concessions.

Mah. Ord.V of 1981.

Repeal of Mah. Ord. V of 1981 and saving.

27. Save as otherwise expressly provided in this Act, any person, who contravenes any of the provision of this Act, or any rule made thereunder shall, on conviction, be punished with fine, which may extend to five hundred rupees, and in case of continued contravention thereof, with an additional fine which may extend to one hundred rupees per day for every day during which such contravention continues

28. No suit, prosecution or other legal proceedings shall lie against the State Government or the Board or the Chairman, secretary or any member of the Board or the Advisory Committee or any Inspector or any other officer of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or any Scheme or any rule or order made thereunder.

29. (1) The power to make rules under this Act shall be exercised by the State Government, subject to the condition of previous publication and by notification in the Official Gazette.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules, consistent with this Act generally to carry out the purposes of this Act.

30. Every Scheme and every rule made under this Act shall be laid, as soon may be after it is made, before each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the Scheme or the rule, or both Houses agree that the Scheme or the rule should not be made and notify such decision in the Official Gazette, the Scheme or the rule, as the case may be, shall thereafter from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that Scheme or rule.

31. (1) The Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken (including any notification issued, rules, Scheme or any order made) under the said Ordinance, shall be deemed to have been done, taken, issued or made as the case may be, under the corresponding provisions of this Act.

**The Maharashtra Workers Payment of Legal Dues Act, 2003.**

An Act for regulating the payment of statutory dues of workers, to make provisions for proper, adequate and prompt payment of such dues and for matters connected therewith.

WHEREAS it is expedient to regulate the payment of statutory dues of workers engaged in establishments, such as payment of gratuity, contribution of Provident fund, retrenchment/closure, retirement dues compensation, etc., to make provision for ensuring an adequate, proper and prompt payment of such dues, to provide for the constitution of Board, in respect of these establishments and in the different areas of the State and to provide for purposes connected with the matters aforesaid. It is hereby enacted in the 54th year of the Republic of India as follows:

1. Short title, extent and commencement.

(1) This Act may be called as the Maharashtra Workers Payment of Legal Dues Act,2003.

(2) It extends to the whole State of Maharashtra.

(3) It shall come into force on such date as the State Government may by Notification in the Official gazette appoint.

(4) It shall apply to all establishments of factories, construction, service, motor transport or inland water transport works, Shops & Commercial establishments including film making, Cinema, Theatres, Charitable, Research, Training, Educational Institutions, Hospitals, dispensaries, nursing home, restaurants, eating houses, consultancy and Solicitors & Lawyers organization & to any other establishment, which the State Government may by notification in the Official Gazette, specify in this behalf.

2. Definition – In this Act, unless the contest otherwise requires;-

(a) 'Average Wage' means the average of wages (including piece rate earnings) paid to workers.

(i) in case of monthly paid workers and piece rated workers, in 3 completed calendar months,

(ii) in case of fortnight or weekly paid workers in four completed fortnights or 4 complete weeks,

(iii)in case of daily paid workers, in the 12 full working days,

preceeding the date with reference to which the average pay becomes payable if the worker had worked for 3 complete calendar months or 4 complete fortnights or 4 complete weeks or as the case may be,12 full working days and where such average cannot be calculated as aforesaid, the average of wages payable to the workers during the period he actually worked.

(b) 'Board' – means the Board constituted under Section 6.

(c) 'Construction' – means the construction, alteration, repair, maintenance or demolition of or in relation to buildings, roads, streets, irrigation, drainage, embankment works, flood control works, transmission and distribution of power, water works including cannals,for distribution of water, electric lines, dams, Reservoirs, tunnels, bridges, pipelines, towers and such other work as may be specified in this behalf by the State Government by Notification.

(d) 'Closure'- means the permanent closing down of any place of employment or part thereof.

(e) 'Day'- means a period of 24 hours beginning at the midnight.

(f) 'Contribution' –means a contribution payable in respect of a worker registered under a Scheme or the contribution payable in respect of a worker to whom the Scheme applies.

(g) 'Employer'- means an owner thereof or a person who employs workers in his establishment or a person who has ultimate control over the affairs of the establishment including an agent of such owner & the legal representative of the deceased owner or employer.

(h) 'Establishment'- means any activity carried on by co-operation between the employer and workers and include any branch or office of the establishment, & also includes manufacturing activity, factory, construction, service of transport or other enterprises, hospitals, dispensaries, nursing homes, restaurants, eating houses, hotels, shops & establishments, charitable, research training & educational institutions, consultancy and solicitors or lawyers organizations and other professionals such as Chartered accountants, Architects, etc.

(i) 'Charitable Institution'- means an institution whether registered or unregistered under the relevant Act, which is established for the purpose of charity to any living being or formed for not any profit motive or formed for the welfare of living beings, or for preservation of environment or for heritage or for religious purposes.

(j) 'Factory'- means factory as defined under the Factories Act, 1948.

(k) 'Hotel'- means any premises in which business is carried on for the supply of dwelling accommodation and meals on payment of sum or money by travaller or any member of the public or a class of the public and includes club.

(l) 'Restaurant'- means any premises in which is carried on wholly or principally the business of supply of meals or refreshment to the public or a class of the public or consumption on the premises.

(m) 'Shop'- means any premises where goods are sold either on retail or on wholesale, the services are rendered to customers and includes the office, store-room, go-down, warehouse or work house, work place, wherein the same premises or otherwise, used in or in connection with such trade or business, but does not include the factory.

(n) 'Worker'- means any person employed for carrying out any establishment for hire or re-ward, where the terms of employment be expressed or implied and whose wages do not exceed Rs.25000/- per month, and for the purpose of any proceedings under this Act, in relation to an individual claim includes any such worker who has been separated from service, dismissed, discharged, retrenched and whose separation from service, dismissal, discharge or retrenchment, has led to that claim but does not include any such person who is employed in managerial, administrative or supervisory capacity.

(o) 'Notification'- means a notification published in the Official Gazette.

(p) 'Prescribed'- means prescribed by the Rules made in this Act.

(q) 'Separation from service'- means the termination, by employer, of services of the worker, on account of –

i) Retrenchment, or

ii) By way of punishment on account of misconduct, or

iii) Voluntary retirement, or

iv) Resignation, or
v) Reaching the age of superannuation in terms of contract of employment, rules,or Standing Orders applicable to the worker, or
vi) Closure of establishment, or
vii) As a result of the contract of employment coming to an end or non renewal of the contract of employment or termination of contract under stipulation in that behalf contained therein, or
viii) Termination of service on grounds of ill health or
ix) Termination of service on account of any other reason.

r) 'Legal Dues Fund'- means fund constituted under the Scheme.
s) 'Scheme'- means a scheme made under this Act.
t) "Wages" means all remuneration capable of being expressed in terms of money which would if the terms of employment, express or implied were fulfilled, be payable to a worker in respect of his employment, or of work done in such employment and includes,

(i) such allowance (including dearness allowance) as the workman is for the time being entitled to;
(ii) the value of any house accommodation or of supply of light, water, medical attendance or other amenity or of any service, or of any concessional supply of food grains or other articles;
(iii) any traveling concession;
(iv) any remuneration payable on the promotion of sales or business or both;

but does not include-

a) any bonus;
b) any gratuity payable on the termination of service;
c) any contribution paid or payable to the legal dues fund or for the benefit of the worker under any law for the time being in force.

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The term and expressions not defined in this Act shall have the same meaning as assigned to them in respective prevailing Acts.

3.Scheme for ensuring adequate, proper & prompt payment of legal dues.

(i) For the purpose of ensuring an adequate and proper,prompt payment of legal dues, the State Government may in the scheme provide for registration of the employers, workers in an establishment and make provisions for the general social security measures for such workers,

(ii) In particular the scheme may provide for all or any of the following matters i.e. to say-

a) to make provision regarding payment of legal dues of workers of the establishments which are closed/not working for whatsoever reasons.
b) for application of the Scheme, to such class of registered workers and employments as may be specified therein,
c) for defining obligations of registered workers and employers,

d) for regulating the registration of the workers and employers, removal of the names of the workers/employers from the register and the imposition of fees for registration.

e) for regulating the payment of contribution towards legal dues to workers such as gratuity, provident fund, separation from service, compensation and payment of any other legal dues to the workers.

(f) for providing the time within which the registered employers should remit to the Board the amount of payment of contribution towards gratuity, providend fund & unpaid legal dues.

g) For the constitution of a Legal Dues Fund,or Funds, the vesting of such funds and the payment, contribution to be made to the funds, provision for gratuity, bonus, leave with wages and all matters relating thereto.

h) For the manner in which, the date from which (either prospective or retrospective) and the persons by whom the cost of operating of the scheme is to be defrayed.

i) For constituting persons or authorities who are to be responsible for the administration of the Scheme and for the administration of the funds constituted for the purpose aforesaid.

j) For specifying the powers and duties which the persons or Authorities referred to in clause (i) may exercise or perform.

k) For such incidental and supplementary matters as may be necessary or expedient for giving effect to the purposes of a Scheme.

iii) The Scheme may further provide that a contravention of any provision thereof shall be punished with imprisonment for such term as may be specified or with both imprisonment and fine and if the contravention is continued after conviction with a further fine which shall not be less than Rs. 1000/- for each day from which the contravention is so continued.

4. Making variation & revocation of Scheme– a) The State Government may, by Notification in the official gazette and subject to the condition of previous publication, make the Scheme for the State and in like manner add to, amend, vary or substitute another Scheme for any Scheme made by it.

Provided that no such notification shall come into force unless the period of one month has expired from the date of its publication in the official gazette.

5. If any question arises whether any Scheme applies to any class of workers or employers, the matter shall be referred to the Board or such officer as may be specified by it in this behalf and the decision of the Board or such officer as may be specified by it, on this question, shall be final.

6. Constitution of Board.–

i) The State government may by Notification in the official Gazette establish a Board to be known by such name as may be specified in the Notification.

ii) The Board shall be a body corporate with the name aforesaid having perpetual succession and common seal with power to acquire, hold, and dispose of property, and to contract, and may, by that name , sue or be sued.

iii) The Board shall consist of members nominated from time to time by the State Government representing the employers, the workers and the State Government. The members representing employers and workers shall be equal in number and the members representing State Government shall not exceed one third of the total number of members representing the employers and workers.

iv) The Chairman of the Board shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.

v) After nomination of all the members of the Board including the Chairman, the State Government shall by notification in the official Gazette publish the name of all the members of the Board.

vi) The term of office of members of the Board shall be such as may be prescribed.

vii) There shall be paid to every member (not being a member representing the State Government) from the fund of the Board, travelling and daily allowances for attending the meetings of the Board at such rate as may be prescribed.

viii. The meetings of the Board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall subject to the approval of the State Government, be regulated by the Board itself.

7.Power of State Government to appoint a Board consisting of one person-

i) Where by reason of employers or workers refusing to nominate persons for representing them on the Board or for any reasons whatsoever it appears to the State Government that it is unable to constitute a Board in accordance with the provision of section 6 the State Government may by Notification in the official Gazette appoint a person who shall hold office until a Board is duly constituted under section 6.

ii) The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board by or under this Act. He shall continue in office until the day immediately preceding the date of the first meeting of such Board constituted under Section 6.

iii)The person constituting the Board shall receive such remuneration from the fund of the Board and the terms and other conditions of service shall be such as State Government may determine.

8 – Powers and duties of the Board.

a) The Board shall be responsible for administering the Scheme and shall exercise such powers and perform such functions as may be conferred on it by the Scheme.

b) The Board may take such measures as it may deem fit for administering the Scheme.

c) The Board shall submit to the State Government as soon as may be, after 1st day of April every year, and not later than 31st day of October the annual report on the working of the Scheme during the preceeding year ending on31st day of March of that year. Every report so received shall be laid as soon as may be after it is received before each House of the State Legislature if it is in session or in the session immediately falling on the date of receipt of the report.

d) The Board shall maintain proper accounts of its income & expenditure in such form and in such manner as the State Government may specify in the scheme. e)The accounts of the Board shall be audited annually by the Controller & Auditor General of India/Maharashtra & any expenditure is owned by him in connection with such audit shall be payable by the Board to Controller & Auditor General of India/Maharashtra.

9-(1) No person shall be chosen as, or continue to be, a member of the Board who-

(a) is a salaried officer of the Board; or

(b) is or at any time has been adjudged insolvent; or

(c) is found to be a lunatic or becomes of unsound mind; or

(d) (1) is or has been convicted of any offence involving moral turpitude

(di) (2) the State Government may remove from office any member, who- is absent without leave of the Board for more than three consecutive meetings of the Board.

(dii) (3) Nothwithstanding anything contained in sub-section (v) and (vi) of section 6 or other provisions of this Act or the rules made thereunder, the members shall hold office during the pleasure of the State Government and, if in the opinion of the State Government,-

(a) the member representing the employers or the workers ceases to adequately represent the employers, or as the case may be, the workers; or

(b) having regard to the exigencies of circumstances or service in the State Government, the member (including the Chairman) representing the State Government cannot continue to represent the State Government,

the State Government may, by order remove all or any of them (including the Chairman) from office at any time.

10. Any member of the Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of resignation, become vacant.

11. In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurance to the State Government, and the vacancy shall be filled not later than ninety days from the date of the occurance of the vacancy, and the person nominated to fill in the vacancy shall hold office so long only as the member in whose place he is nominated would have held it if the vacancy had not occurred;

Provided that, during any such vacancy, the continuing members may act as if no vacancy has occurred.

12. No act or proceeding of the Board shall be questioned or invalidated merely by reason of any defect in the constitution hereof.

1. The State Govt. shall appoint a State Legal Dues Fund Commissioner who shall be Chief Executive Officer of the Board & shall be subject to the general control & superintendence of the Board.

1) The State Government may appoint a Financial Advisor & Chief Accounts Officer to assist the State Legal Dues Fund Commissioner in discharge of his duties.

2) The state government may appoint as many Additional Legal Dues Commissioner, Deputy Legal Dues Commissioner, Asstt. Legal Dues Fund Commissioner and such other Officers & employees as it may consider necessary for the efficient administration of the scheme.

3) No appointment for the post of State Legal Dues Fund Commissioner, Addl.Legal Dues Fund Commissioner, Dy.Legal Dues Fund Commissioner, Financial Adviser & Chief Accounts Officer or any other post under the Board carrying a pay scale equivalent to Existing Group A or Group B post under State Government, shall be made except after consultation with MPSC.

14. Delegation of Powers.

The Board may delegate to Chairman of the Board or to any of its Officers subject to such conditions & limitations, if any, as it may specify such of its powers & functions under this Act as it may deem necessary for the efficient administration of the Scheme. Determination of applicability of the Act & determination of amount due from the employer.

15.(1) The Board or such officer as may be specified by it in this behalf may by order, a) in case where a dispute arises regarding the applicability of this Act, to an establishment, decide such dispute and b)determine the amount due from any employer under this Act or any Scheme made thereunder, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

(2) The Board or such officer, conducting the inquiry under sub-section (1) shall , for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:-

(a)enforcing the attendance of any person or examining him on oath;

(b)requiring the discovery and production of documents; (c)receiving evidence on affidavit;

(d)issuing commissions for the examination of witnesses; and

any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

(3). No order determining the sum due from any employer or worker shall be made under sub-section (1), unless the employer or worker, as the case may be, is given a reasonable opportunity of representing his case.

(4) where the employer, worker or any other person required to attend the inquiry under section 15, fails to attend such enquiry without assigning any valid reason, or fails to produce any document or to give any report or return when called for upon to do so, the officer conducting the inquiry may decide the applicability of the Act or determine the amount due from any employer as the case may be, on the grounds of the evidence adduced during such enquiry & other documents available on record.

(5) An order made under this section shall be final and shall not be questioned in any Court.

(6) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.

**16. (1)** The Board may appoint such persons as it thinks fit to be Inspectors possessing the prescribed qualifications for the purposes of this Act or of any Scheme and may define the limits of their jurisdiction.

(2) Subject to any rules made by the State Government in this behalf, an Inspector may-

(a) enter and search at all reasonable hours, with such assistants as he thinks fit, any premises or place, where workers are employed, or work is given out to workers for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any Scheme and require the production thereof, for inspection

(b) examining any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is worker employed therein or worker to whom work is given out therein;

(c) require any person giving any work to worker or to a group of workers to give any information, which is in his power to give in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work;

(d) seize or take copies of such registers, records of wages or notices or portions thereof,, as he may consider relevant, in respect of an offence under this Act or Scheme, which he has reason to believe has been committed by an employer; and;

(e) excise such other powers as may be prescribed;

Provided that, no one shall be required under the provisions of this section to answer any question or make any statement tending to incriminate himself.

(3). Every Inspector appointed under the section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**17.(**1) If the State Government, on consideration of the report/information received by it or otherwise, is of the opinion-

(a) that the Board is unable to perform its functions; or

(b) that the Board has persistently made default in the discharge of its functions or has exceeded or abused its powers,

the State Government may, by notification in the Official Gazette, supersede the Board and constitute it in the prescribed manner, within a period of twelve months from the date of supersession. The period of supersession may be extended for sufficient reasons by a like notification by not more than six months.

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the state government shall give a reasonable opportunity to the Board to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the Board.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act shall be exercised and performed by the State government, or by such officer or officers' as the state government may appoint for this purpose.

(3) When the Board is superseded the following consequences shall ensure, that is to say-

a) All the members of the Board shall, as from the date of publication of the notification under sub-section (1) vacate their office;

b) all the powers and functions, which may be exercised or performed by such persons as may be specified in the notification'

c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government and on the reconstitution of the Board, such funds and property shall revest in the Board.

18. Act to override other enactments,etc.- The provisions of this Act or any rules made thereunder shall have, effect notwithstanding anything with inconsistent therewith contained in any other enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.

19. Powers to make rules- 1) The State Government may, by Notification make rules for the purpose of carrying out the provisions of this Act. 2) All rules made under this section shall, as soon as possible after they are made, be laid before the State Legislature.

# MATERNITY BENEFIT ACT,1961

[Act No. 53 of Year 1961, dated 12th. December, 1961]

*An Act to regulate the employment of women in certain establishments for certain period before and after child-birth and to provide for maternity benefit and certain other benefits*

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows: -

### 1. Short title, extent and commencement

(1) This Act may be called the Maternity Benefit Act, 1961.

(2) It extends to the whole of India. [1][* * *]

(3) It shall come into force on such date[2] as may be notified in this behalf in the Official Gazette-

[3][(a) in relation to mines and to any other establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, by the Central Government; and ]

(b) in relation to other establishments in a State, by the State Government.

### 2. Application of Act

[4][(1) It applies, in the first instance-

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months:]

PROVIDED that the State Government may, with the approval of the Central Government, after giving not less than two months' notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

(2) [5][Save as otherwise provided in [6][sections 5A and 5B] nothing contained in this Act] shall apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), apply for the time being.

### 3. Definitions

In this Act, unless the context otherwise requires-

(a) "appropriate government" means, in relation to an establishment being a mine, [7][or an establishment where in persons are employed for the exhibition of equestrian, acrobatic and other performances], the Central Government and in relation to any other establishment, the State Government;

(b) "child" includes a still-born child;

(c) "delivery" means the birth of a child;

(d) "employer" means-

(i) in relation to an establishment which is under the control of the government a person or authority appointed by the government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

[7][(e) "establishment" means-

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performance; [8][***]

[9][(iva) a shop or establishment; or]

(v) an establishment to which the provisions of this Act have been declared under sub-section (1) of section 2 to be applicable;]

(f) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(g) "inspector" means an Inspector appointed under section 14;

(h) "maternity benefit" means the payment referred to in sub-section (1) of section 5;

[10][(ha) "medical termination of pregnancy" means the termination of pregnancy permissible under the provisions of Medical Termination of Pregnancy Act, 1971;]

(i) "mine" means a mine as defined in clause (j) of section (2) of the Mines Act, 1952 (35 of 1952);

(j) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code (45 of 1860);

(k) "plantation" means a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);

(l) "prescribed" means prescribed by rule made under this Act;

(m) "State Government", in relation to a Union territory, means the Administrator thereof;

(n) "wages" means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes-

(1) such cash allowances (including dearness allowance and house rent allowances) as a woman is for the time being entitled to,

(2) incentive bonus, and

(3) the money value of the concessional supply of foodgrains and other articles but does not include-

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and

(iv) any gratuity payable on the termination of service;

(o) "woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

**4. Employment of, or work by women prohibited during certain periods**

(1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, [11][miscarriage or medical termination of pregnancy].

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery [11][miscarriage or medical termination of pregnancy].

(3) Without prejudice to the provisions of section 6, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period specified in sub-section (4) any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be-

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 6.

**5. Right to payment of maternity benefits**

[4][(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual

absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.]

*Explanation:* For the purpose of this sub-section, the average daily wage means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, [12][the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948 (11 of 1948) or ten rupees, whichever is the highest].

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than [13][eighty days] in the twelve months immediately preceding the date of her expected delivery:

PROVIDED that the qualifying period of [13][eighty days] aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration.

*Explanation* : For the purpose of calculating under this sub-section the days on which a woman has actually worked in the establishment, [14][the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages] during the period of twelve months immediately preceding the date of her expected delivery shall be taken into account.

[15][(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery:]

PROVIDED that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

[15][PROVIDED FURTHER that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.]

**[16][5A. Continuance of payment of maternity benefit in certain cases**

Every woman entitled to the payment of maternity benefit under this Act shall, notwithstanding the application of the Employees' State Insurance Act, 1948 (34 of 1948), to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 50 of that Act.]

[15][5B. Payment of maternity benefit in certain cases

Every woman-

(a) who is employed in a factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), apply;

(b) whose wages (excluding remuneration for over-time work) for a month exceed the amount specified in sub-clause (b) of clause (9) of section 2 of that Act; and

(c) who fulfils the conditions specified in sub-section (2) of section 5,

shall be entitled to the payment of maternity benefit under this Act.]

6. Notice of claim for maternity benefit and payment thereof

(1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in such form as may be prescribed, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.

[4][(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.]

(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Act if she is otherwise entitled to such benefit or amount and in any such case an Inspector may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.

7. Payment of maternity benefit in case of death of a woman

If a woman entitled to maternity benefit or any other amount under this Act, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to

sub-section (3) of section 5, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 6 and in case there is no such nominee, to her legal representative.

### 8. Payment of medical bonus

Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus, of [17][two hundred and fifty rupees], if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

### [18][9. Leave for miscarriage, etc.

In case of miscarriage or medical termination of pregnancy, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or, as the case may be, her medical termination of pregnancy.]

### [10][9A. Leave with wages for tubectomy operation

In case of tubectomy operation, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.]

### 10. Leave for illness arising out of pregnancy, delivery, premature birth of child, [19][miscarriage, medical termination of pregnancy or tubectomy operation]

A woman suffering from illness arising out of pregnancy, delivery, premature birth of child, [miscarriage, medical termination of pregnancy or tubectomy operation] shall, on production of such proof as may be prescribed, be entitled, in addition to the period of absence allowed to her under section 6, or, as the case may be, under section 9, to leave with wages at the rate of maternity benefit for a maximum period of one month.

### 11. Nursing breaks

Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months.

## 12. Dismissal during absence of pregnancy

(1) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.

(2) (a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus:

PROVIDED that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.

[4][(b) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharged or dismissed shall be final.]

(c) Nothing contained in this sub-section shall effect the provisions contained in sub-section (1).

## 13. No deduction of wages in certain cases

No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Act shall be made by reason only of-

(a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3) of section 4; or

(b) breaks for nursing the child allowed to her under the provisions of section 11.

## 14. Appointment of Inspectors

The appropriate government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

## 15. Powers and duties of Inspectors

An Inspector may, subject to such restrictions or conditions as may be prescribed, exercise all or any of the following powers, namely:-

(a) enter at all reasonable times with such assistants, if any, being person in the service of the government or any local or other public authority, as he thinks fit, any premises or place where women are employed or work is given to them in an establishment, for the purposes of examining any register, records and notices required to be kept or exhibited by or under this Act and require their production for inspection;

(b) examine any person whom he finds in any premises or place and who, he has reasonable cause to believe, is employed in the establishment;

PROVIDED that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself;

(c) require the employer to give information regarding the names and addresses of women employed, payments made to them and applications or notices received from them under this Act; and

(d) take copies of any registers and records or notices or any portions thereof.

### 16. Inspectors to be public servants

Every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

### 17. Power of Inspector to direct payments to be made

[4][(1) Any woman claiming that-

(a) maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld;

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Act,

may make a complaint to the Inspector.

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that-

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may pass such orders as are just and proper according to the circumstances of the case.]

(3) Any person aggrieved by the decision of the Inspector under sub-section (2) may, within thirty days from the date on which such decision is communicated to such person, appeal to the prescribed authority.

(4) The decision of the prescribed authority where an appeal has been preferred to it under sub-section (3) or of the Inspector where no such appeal has been preferred, shall be final.

[4][(5) Any amount payable under this section shall be recoverable by the Collector on a certificate issued for that amount by the Inspector as an arrear of land revenue.]

### 18. Forfeiture of maternity benefit

If a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of section 6 for any period during such authorised absence, she shall forfeit her claim to the maternity benefit for such period.

### 19. Abstract of Act and rules thereunder to be exhibited

An abstract of the provisions of this Act and the rules made thereunder in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.

### 20. Registers, etc.

Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

### [4][21. Penalty for contravention of Act by employer

(1) If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees:

PROVIDED that the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

(2) If any employer contravenes the provisions of this Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both:

PROVIDED that where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.]

### 22. Penalty for obstructing Inspector

Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Act or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector shall be punishable with imprisonment which may extend to [20][one year], or with fine which may extend to five thousand rupees, or with both.

### [21][23. Cognizance of offences

(1) Any aggrieved woman, an office-bearer of a trade union registered under the Trade Unions Act, 1926 (16 of 1926) of which such woman is a member or a voluntary organisation registered under the Societies Registration Act, 1860 (21 of 1860) or an Inspector, may file a complaint regarding the commission of an offence under this Act in any court of competent jurisdiction and no such complaint shall be filed after the expiry of one year from the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.]

### 24. Protection of action taken in good faith

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

### 25. Power of Central Government to give directions

The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of the provisions of this Act and the State Government shall comply with such directions.

### 26. Power to exempt establishments

If the appropriate government is satisfied that having regard to an establishment or a class of establishments providing for the grant of benefits which are not less favourable than those provided in this Act, it is necessary so to do, it may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions, if any, as may be specified in the notification, the establishment or class of establishments from the operation of all or any of the provisions of this Act or of any rule made thereunder.

### 27. Effect of laws and agreements inconsistent with this Act

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act:

PROVIDED that where under any such award, agreement, contract of service or otherwise, a woman is entitled to benefits in respect of any matter which are more favourable to her than those to which she would be entitled under this Act, the woman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that she is entitled to receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude a woman from entering into an agreement with her employer for granting her rights or privileges in respect of any matter which are more favourable to her than those to which she would be entitled under this Act.

### 28. Power to make rules

(1) The appropriate government may, subject to the condition of previous publication and by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the preparation and maintenance of registers, records and muster-rolls;

(b) the exercise of powers (including the inspection of establishments) and the performance of duties by Inspectors for the purposes of this Act;

(c) the method of payment of maternity benefit and other benefits under this Act insofar as provision has not been made therefor in this Act;

(d) the form of notices under section 6;

(e) the nature of proof required under the provisions of this Act;

(f) the duration of nursing breaks referred to in section 11;

(g) acts which may constitute gross misconduct for purposes of section 12;

(h) the authority to which an appeal under clause (b) of sub-section (2) of section 12 shall lie; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;

(i) the authority to which an appeal shall lie against the decision of the Inspector under section 17; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;

(j) the form and manner in which complaints may be made to Inspectors under sub-section (1) of section 17 and the procedure to be followed by them when making inquiries or causing inquiries to be made under sub-section (2) of that section;

(k) any other matter which is to be, or may be prescribed.

[3][(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions, aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

### 29. Amendment of Act 69 of 1951

In section 32 of the Plantations Labour Act, 1951-

(a) in sub-section (1), the letter and brackets "(a)" before the words "in the case of sickness", the word "and" after the words "sickness allowances" and clause (b) shall be omitted;

(b) in sub-section (2), the words "or maternity" shall be omitted.

### 30. Repeal

On the application of this Act-

(i) to mines, the Mines Maternity Benefit Act, 1941 (19 of 1941); and

(ii) to factories situate in the Union territory of Delhi, Bombay Maternity Benefit Act, 1929 (Bombay Act VII of 1929); as in force in that territory, shall stand repealed.

### Foot Notes

1 The words "except the State of Jammu and Kashmir" omitted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.

2 1st. November, 1963, vide Notification No. SO 2920, dated 5th. October, 1963, Gazette of India.

3 Substituted by Act No. 52 of 1973 w.e.f. 1st. March, 1975.

4 Substituted by Act No. 61 of 1988 w.e.f. 10th. January, 1989.

5 Substituted by Act No. 21 of 1972, for the words "Nothing contained in this Act", 1st. June, 1972.

6 Substituted for the word and figures "section 5A" by Act No. 53 of 1976, w.e.f. 1st. May, 1976.

7 Inserted by Act No. 52 of 1973 w.e.f. 1st. March, 1975.

8 Word "or" omitted by Act No. 61 of 1988 w.e.f. 10th. January, 1989.

9 Inserted by Act No. 61 of 1988 w.e.f. 10th. January, 1989.

10 Inserted by Act No. 29 of 1995 w.e.f. 1st. February, 1996.

11 Substituted by Act No. 29 of 1995, for the words "or her miscarriage" w.e.f. 1st. February, 1996.

12 Substituted by Act No. 61 of 1988 for the words "or one rupee a day" w.e.f. 10th. January, 1989.

13 Substituted for the words "one hundred and sixty days" by Act No. 61 of 1988 w.e.f. 10th. January, 1989.

14 Substituted for the words "the days for which she has been laid of" by Act No. 61 of 1988 w.e.f. 10th. January, 1989.

15 Inserted by Act No. 53 of 1976. w.e.f. 1st. May, 1976.

16 Inserted by Act No. 21 of 1972, w.e.f. 1st. June, 1972.

17 Substituted for the words "twenty-five rupees" by Act No. 61 of 1988 w.e.f. 10th. January, 1989.

18 Substituted by Act No. 29 of 1995 w.e.f. 1st. February, 1996.

19 Substituted by Act No. 29 of 1995 for the words "or miscarriage" w.e.f. 1st. February, 1996.

20 Substituted by Act No. 61 of 1988 for the words "three months"w.e.f. 10th. January, 1989.

21 Substituted ibid.

# FAQ
# Maternity Benefit Act, 1961

**What is the scope & coverage of this Act ?**
As per **Sec 2 and 3(e)** the Act applies to the whole of India and is applicable to every establishment which is a factory, mine or plantation including those belonging to the Govt. and to every establishment wherein persons are employed for exhibition of equestrian, acrobatic and other performances, irrespective of the number of employees, and to every shop and establishment, wherein 10 or more persons are / were employed on any day during the preceding 12 months. The State Government may extend the Act to any other establishment or class of establishment; industrial, commercial, agricultural or otherwise

**What is meant by wages?**

As per **Sec 2(n)** "wages means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and *includes* -

- such cash allowances (including dearness allowance and house rent allowances) as a woman is for the time being entitled to,
- inventive bonus, and
- the money value of the concessional supply of food grains and other articles

**but *does not include* -**

- any bonus other than incentive bonus;
- over-time earnings and any deduction or payment on account of fines;
- any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and
- any any gratuity payable on the termination of service

**At what rate will a women receive maternity benefits?**

As per **Sec 5** a women is entitled to receive payment of maternity benefit at the rate of the *average daily wages* for the period of her actual absence if she has worked in that establishment for atleast 80 days in the 12 months immediately preceding the date of her expected delivery.

The maximum period for which the women is entitled to maternity benefit is 12 weeks of which not more than 6 weeks must precede the date of her expected delivery.

Where the women dies during this period, the maternity benefit will be payable only for the days upto & including the day of her death.

There is no wage ceiling for coverage under the Act and there are no restrictions as regards the type of work a woman is engaged in.

*"Average daily wages"* means average of the wages payable to the woman employee for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, the minimum rate of wages fixed or revised under the Minimum Wages Act, or Rs. 10 , whichever is highest.

**Is a woman entitled to receive maternity benefit if she dies during her *benefit period*?**

If a woman dies during the *benefit period,* the benefit is payable -

- upto and including the day of her death, in case she dies without delivering a child;
- for the entire period, in case she dies after delivering the child;
- upto and including the day of child's death, in case the child also dies during that period

**Can the maternity benefit be forfeited?**
As per **Sec 18** if a women works in any other establishment after she has been permitted to take maternity leave, her claim over maternity benefit shall be forfeited.
**Is the employer required to maintain any registers?**
As per **Sec 20** every employer must prepare & maintain such registers, records & muster-rolls as prescribed
**Can a women be dismissed during her absence due to pregnancy ?**
As per **Sec 12** when a women absents herself from work due to pregnancy, the employer cannot discharge or dismiss her or vary the conditions of her service to her disadvantage. A women entitled to receive maternity benefit or medical benefit if dismissed or discharged, would still be entitled to receive it. However if such discharge or dismissal is due to gross misconduct, the employer can by communicating in writing to the women, deprive her of maternity benefit and/or medical benefit. The aggrieved women can appeal to the prescribed Authority within 60 days from the date on which order of deprivation or discharge or dismissal is communicated to her. The decision of the Authority will be final
**Is a women entitled to claim *medical bonus* ?**

As per **Sec 8** if pre-natal confinement & post-natal care is not provided free of charge by the employer, then every women entitled to receive maternity benefit will also be entitled to receive a medical bonus of Rs.250 from her employer.

**Will a women be entitled to receive any maternity benefit on medical termination of pregnancy**
As per **Sec 9**, in case of miscarriage or medical termination of pregnancy, a women is entitled to leave with wages at the rate of maternity benefit for a period of six weeks immediately following the day of her miscarriage or medical termination of pregnancy provided she produces the prescribed proof.

**What are the obligations of an employer?**

Under the Act, an employer has the following obligations -

- To pay maternity benefit and/or medical bonus; allow maternity leave and nursing breaks to woman employees in accordance with the provisions of the Act.
- Not to engage pregnant women in contravention of Sec 4 and not to dismiss or discharge a pregnant woman employee during the period of maternity leave.
- To exhibit the abstract of the provisions of the Act and the rules made thereunder, in the local languages, at a conspicuous place in every part of the establishment in which women are employed. [**Sec 19**

**What are the offences & penalties prescribed under the Act ?**

| Offence | Penalty | Section |
|---|---|---|
| • employer fails to pay any amount of maternity benefit to a woman entitled under this Act **OR**<br>• discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, | imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees. | **Sec 21(1)** |
| • failure to produce any register or document before the Inspector or obstructing the Inspector. | Imprisonment upto one year or fine upto five thousand rupees or both. | **Sec 22** |
| • Contravention of any other provision of the Act or Rules. | Imprisonment upto one year or fine upto five thousand rupees or both. | **Sec 21(2)** |

# MINIMUM WAGES ACT, 1948

[Act No. 11 of Year 1948, dated 15th. March, 1948]

*An Act to provide for fixing minimum rates of wages in certain employments*

Whereas it is expedient to provide for fixing minimum rates of wages in certain employments;

It is hereby enacted as follows: -

**1. Short title and extent**

(1) This Act may be called the Minimum Wages Act, 1948.

(2) It extends to the whole of India.[1][***]

**2. Interpretation**

In this Act, unless there is anything repugnant in the subject or context,-

[2][(a) "adolescent" means a person who has completed his fourteenth years of age but has not completed his eighteenth year;

(aa) "adult" means a person who has completed his eighteenth years of age;]

(b) "appropriate government" means-

(i) in relation to any scheduled employment carried on by or under the authority of the [3][Central Government or a railway administration], or in relation to a mine, oilfield or major port, or any corporation established by [4][a Central Act], the Central Government, and

(ii) in relation to any other scheduled employment, the State Government;

[5][(bb) "child" means a person who has not completed his fourteenth year of age;]

(c) "competent authority" means the authority appointed by the appropriate government by notification in its Official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(d) "cost of living index number" in relation to employees in any scheduled employment in respect of which minimum rates of wages have

been fixed, means the index number ascertained and declared by the competent authority by notification in the Official Gazette to be the cost of living index number applicable to employees in such employment;

(e) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,-

(i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under [6][clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948)], as manager of the factory;

(ii) in any scheduled employment under the control of any government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such government for the supervision and control of employees or where no person or authority is so appointed the head of the department;

(iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scheduled employment" means an employment specified in the Schedule, or any process or branch of work forming part of such employment;

(h) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment [7][and includes house rent allowance], but does not include-

(i) the value of-

(a) any house, accommodation, supply of light, water, medical attendance, or

(b) any other amenity or any service excluded by general or special order of the appropriate government;

(ii) any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge;

(i) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate government; but does not include any member of the Armed Forces of the,[8][Union].

**3. Fixing of minimum rates of wages**

[9][(1) The appropriate government shall, in the manner hereinafter provided,-

[10][(a) fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Part by notification under section 27:

PROVIDED that the appropriate Government may, in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages under this clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof;]

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

[7][PROVIDED that where for any reason the appropriate government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.]

(1A) Notwithstanding anything contained in sub-section (1), the appropriate government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment, but if at any time, [11][***] the appropriate government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment [12][as soon as may be after such finding.]

(2) The appropriate government may fix-

(a) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");

(b) a minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate");

(c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

(d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

[13][(2A) Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment, any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act, 1947 (14 of 1947) or before any like authority under any other law for the time being in force, or an award made by any Tribunal, National Tribunal or such authority is in operation, and a notification fixing or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award, then, notwithstanding anything contained in this Act, the minimum rates of wages so fixed or so revised shall not apply to those employees during the period in which the proceeding is pending and the award made therein is in operation or, as the case may be, where the notification is issued during the period of operation of an award, during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment, no minimum rates of wages shall be fixed or revised in respect of that employment during the said period.]

(3) In fixing or revising minimum rates of wages under this section,-

(a) different minimum rates of wages may be fixed for-

(i) different scheduled employments;

(ii) different classes of work in the same scheduled employment;

(iii) adults, adolescents, children and apprentices;

(iv) different localities;

[14][(b) minimum rates of wages may be fixed by any one or more of the following wage periods, namely:

(i) by the hour,

(ii) by the day,

(iii) by the month, or

(iv) by such other larger wage-period as may be prescribed;

and where such rates are fixed by the day or by the month, the manner of calculating wages for a month or for a day, as the case may be, may be indicated:]

PROVIDED that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (4 of 1936), minimum wages shall be fixed in accordance therewith.

**4. Minimum rate of wages**

(1) Any minimum rate of wages fixed or revised by the appropriate government in respect of scheduled employments under section 3 may consist of-

(i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance"); or

(ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concessional rates, where so authorised; or

(iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concessional rate shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate government.

**[14][5. Procedure for fixing and revising minimum wages**

(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate government shall either-

(a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

(b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate government shall, by notification in the Official Gazette fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

PROVIDED that where the appropriate government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate government shall consult the Advisory Board also.]

**6. Advisory committees and sub-committees**

*[Repealed by the Minimum Wages (Amendment) Act, 1957 (30 of 1957)]*

**7. Advisory Board**

For the purpose of co-ordinating work of [15][committees and sub-committees appointed under section 5] and advising the appropriate government generally in the matter of fixing and revising minimum rates of wages, the appropriate government shall appoint an Advisory Board.

**8. Central Advisory Board**

(1) For the purpose of advising the Central and State Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board.

(2) The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.

**9. Composition of committees, etc.**

Each of the committees, sub-committees [16][***] and the Advisory Board shall consist of persons to be nominated by the appropriate government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate government.

**[14][10.Correction of errors**

(1) The appropriate government may, at any time, by notification in the Official Gazette, correct clerical or arithmetical mistakes in any order fixing or revising minimum rates of wages under this Act, or errors arising therein from any accidental slip or omission.

(2) Every such notification shall, as soon as may be after it is issued, be placed before the Advisory Board for information,]

**11. Wages in kind**

(1) Minimum wages payable under this Act shall be paid in cash.

(2) Where it has been the custom to pay wages wholly or partly in kind, the appropriate government being of the opinion that it is necessary in the circumstances of the case may, by notification in the Official Gazette, authorise the payment of minimum wages either wholly or partly in kind.

(3) If appropriate government is of the opinion that provision should be made for the supply of essential commodities at concessional rates, the appropriate government may, by notification in the Official Gazette, authorise the provision of such supplies at concessional rates.

(4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concessional rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

**12. Payment of minimum rates of wages**

(1) Where in respect of any scheduled employment a notification under section 5 [17][***] is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (4 of 1936).

**13. Fixing hours for a normal working day, etc.**

[18][(1) In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate government may-

(a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate.]

[19][(2) The provisions of sub-section (1) shall, in relation to the following classes of employees, apply only to such extent and subject to such conditions as may be prescribed:-

(a) employees engaged on urgent work, or in any emergency which could not have been foreseen or prevented;

(b) employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;

(c) employees whose employment is essentially intermittent;

(d) employees engaged in any work which for technical reasons has to be completed before the duty is over;

(e) employees engaged in a work which could not be carried on except at times dependent on the irregular action of natural forces.

(3) For the purposes of clause (c) of sub-section (2), employment of an employee is essentially intermittent when it is declared to be so by the appropriate government on the ground that the daily hours of duty of the employee, or if there be no daily hours of duty as such for the employee, the hours of duty, normally include periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attention.]

**14. Overtime**

(1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of [20][section 59 of the Factories Act, 1948 (63 of 1948)] in any case where those provisions are applicable.

**15. Wages of worker who works for less than normal working day**

If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day:

PROVIDED, however, that he shall not be entitled to receive wages for a full normal working day-

(i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and

(ii) in such other cases and circumstances as may be prescribed.

**16. Wages for two or more classes of work**

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

**17. Minimum time rate Wages for piece work**

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the minimum time rate.

**18. Maintenance of registers and records**

(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out work to them, notices in the prescribed form containing prescribed particulars.

(3) The appropriate government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages

have been fixed and prescribed in the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

**19. Inspectors**

(1) The appropriate government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed-

(a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the government or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein;

(c) require any person giving out-work and any out-workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

[14][(d) seize or take copies of such register, record or wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer]; and

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

[7][(4) Any person required to produce any document or thing or to give any information by an Inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).]

**20. Claim**

(1) The appropriate government may, by notification in the Official Gazette, appoint [21][any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour

Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any] other officer with experience as a judge of a civil court or as a Stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages [7][or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of wages at the overtime rate under section 14], to employees employed or paid in that area.

(2) [14][Where an employee has any claim of the nature referred to in sub-section (1)], the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the authority appointed under sub-section (1) may apply to such authority for a direction under sub-section (3):

PROVIDED that every such application shall be presented within six months from the date on which the minimum wages [7][or other amount] became payable:

PROVIDED FURTHER that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

[14][(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer, or give them an opportunity of being heard, and after such further inquiry, if any, as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct-

(i) in the case of a claim arising out of payment of less than the minimum rates of wages, the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount of such excess;

(ii) in any other case, the payment of the amount due to the employee, together with the payment of such compensation as the authority may think fit, not exceeding ten rupees;

and the authority may direct payment of such compensation in cases where the excess or the amount due is paid by the employer to the employee before the disposal of the application.]

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered-

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by the authority as a Magistrate, or

(b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the authority under this section shall be final.

(7) Every authority appointed under sub-section (1) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

**21. Single application in respect of a number of employees**

(1) [22][Subject to such rules as may be prescribed, a single application] may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess [7][or ten rupees per head, as the case may be].

(2) The authority may deal with any number of separate pending applications presented, under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

**[14][22. Penalties for certain offences**

Any employer who

(a) pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act, or

(b) contravenes any rule or order made under section 13;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both:

PROVIDED that in imposing any fine for an offence under this section, the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.

**22A. General provision for punishment of other offences**

Any employer who contravenes any provision of this Act or of any rule or order made thereunder shall, if no other penalty is provided for such contravention by this Act be punishable with fine which may extend to five hundred rupees.

**22B. Cognizance of offences**

(1) No court shall take cognizance of a complaint against any person for an offence-

(a) under clause (a) of section 22 unless an application in respect of the facts constituting such offence has been presented under section 20 and has been granted wholly or in part, and the appropriate government or an officer authorised by it in this behalf has sanctioned the making of the complaint;

(b) under clause (b) of section 22 or under section 22A, except on a complaint made by, or with the section of, an Inspector.

(2) No court shall take cognizance of an offence-

(a) under clause (a) or clause (b) of section 22, unless complaint thereof is made within one month of the grant of sanction under this section;

(b) under section 22A, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

**22C. Offences by companies**

(1) If the person committing any offence under this Act is a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* : For the purposes of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director" in relation to a firm means a partner in the firm.

**22D. Payment of undisbursed amounts due to employees**

All amounts payable by an employer to an employee as the amount of minimum wages of the employee under this Act or otherwise due to the employee under this Act or any rule or order made thereunder shall, if such amounts could not or cannot be paid to the employee on account of his death before payment or on account of his whereabouts not being known, be deposited with the prescribed authority who shall deal with the money so deposited in such manner as may be prescribed.

**22E. Protection against attachment of assets of employer with government**

Any amount deposited with the appropriate government by an employer to secure the due performance of a contract with that government and any other amount due to such employer from that government in respect of such contract shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the employer other than any debt or liability incurred by the employer towards any employee employed in connection with the contract aforesaid.

**22F. Application of Payment of Wages Act, 1936 to scheduled employments**

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936), the appropriate government may, by notification in the Official Gazette, direct that, subject to the provisions of sub-section (2), all or any of the provisions of the said Act shall, with such modifications, if any, as may be specified in the notification, apply to wages payable to employees in such scheduled employments as may be specified in the notification.

(2) Where all or any of the provisions of the said Act are applied to wages payable to employees in any scheduled employment under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of the provisions so applied within the local limits of his jurisdiction.]

**23. Exemption of employer from liability in certain cases**

Where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved the employer proves to the satisfaction of the court-

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged:

PROVIDED that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

**24. Bar of suits**

No court shall entertain any suit for the recovery of wages in so far as the sum so claimed-

(a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff, or

(b) has formed the subject of a direction under that section in favour of the plaintiff, or

(c) has been adjudged in any proceeding under that section not to be due to the plaintiff, or

(d) could have been recovered by an application under that section.

**25. Contracting out**

Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

**26. Exemptions and exceptions**

(1) The appropriate government may, subject to such conditions, if any as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) The appropriate government, if for special reasons it think so fit, by notification in the Official Gazette, direct that [7][subject to such conditions and] for such period as it may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

[23][(2A) The appropriate government may, if it is of opinion that having regard to the terms and conditions of service applicable to any class of employees in a scheduled employment generally or in a scheduled employment in a local area, [7][or to any establishment or a part of any establishment in a scheduled employment], it is not necessary to fix minimum wages in respect of such employees of that class [7][or in respect of employees in such establishment or such part of any establishment] as are in receipt of wages exceeding such limit as may be prescribed in this behalf, direct, by notification in the Official Gazette,and subject to such conditions, if any as it may think fit to impose, that the provisions of this Act or any of them shall not apply in relation to such employees.]

(3) Nothing in this Act shall apply to the wages payable by an employer to a member of his family who is living with him and is dependent on him.

*Explanation*: In this sub-section, a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

**27. Power of State Government to add to Schedule**

The appropriate government, after giving by notification in the Official Gazette not less than three months' notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly.

**28. Power of Central Government to give directions**

The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

**29. Power of Central Government to make rules**

The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules prescribing the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board.

**30. Power of appropriate government to make rules**

(1) The appropriate government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may-

(a) prescribe the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees, sub-committees,[16][***] and the Advisory Board;

(b) prescribe the method of summoning witnesses, production of documents relevant to the subject-matter of the enquiry before the committees, sub-committees, [16][***] and the Advisory Board;

(c) prescribe the mode of computation of the cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates;

(d) prescribe the time and conditions of payment of, and the deductions permissible from, wages;

(e) provide for giving adequate publicity to the minimum rates of wages fixed under this Act;

(f) provide for a day of rest in every period of seven days and for the payment of remuneration in respect of such day;

(g) prescribe the number of hours of work which shall constitute a normal working day;

(h) prescribe the cases and circumstance in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day;

(i) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records ;

(j) provide for the issue of wage book and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips;

(k) prescribe the powers of Inspectors for purposes of this Act;

(l) regulate the scale of costs that may be allowed in proceedings under section 20; and

(m) prescribe the amount of court-fees payable in respect of proceedings under section 20; and

(n) provide for any other matter which is to be or may be prescribed.

**[13][30A. Rules made by Central Government to be laid before Parliament**

Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

**[10][31. Validation of fixation of certain minimum rates of wages**

Where during the period-

(a) commencing on the lst day of April, 1952, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1954 (26 of 1954); or

(b) commencing on the 31st day of December, 1954, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1957 (30 of 1957); or

(c) commencing on the 31st day of December, 1959, and ending with the date of the commencement of the minimum Wages (Amendment) Act , 1961 (31 of 1961), minimum rates of wages have been fixed by an appropriate government as being payable to employees employed in any employment specified in the Schedule in the belief or purported belief that such rates were being fixed under clause (a) of sub-section (1) of section 3, as in force immediately before the commencement of the Minimum Wages (Amendment) Act, 1954 (26 of 1954), or the Minimum Wages (Amendment) Act, 1957 (30 of 1957), or the Minimum Wages (Amendment) Act, 1961 (31 of 1961), as the case may be, such rates shall be deemed to have been fixed in accordance with law and shall not be called in question in any court on the ground merely that the relevant date specified for the purpose in that clause had expired at the time the rates were fixed :

PROVIDED that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of the payment by him by way of wages to any of his employees during any period specified in this section of an amount which is less than the minimum rates of wages referred to in this section or by reason of non-compliance during the period aforesaid with any order or the rule issued under section 13.]

## THE SCHEDULE

*[See section 2(g) and 27]*

PART I

(1) Employment in any woollen carpet making or shawl weaving establishment.

(2) Employment in any rice mill, flour mill or dal mill.

(3) Employment in any tobacco (including bidi making) manufactory.

(4) Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.

(5) Employment in any oil mill.

(6) Employment under any local authority.

[24][(7) Employment on the construction or maintenance of roads or in building operations.]

(8) Employment in stone breaking or stone crushing.

(9) Employment in any lac manufactory.

(10) Employment in any mica works.

(11) Employment in public motor transport.

(12) Employment in tanneries and leather manufactory.

[25][Employment in gypsum mines.

Employment in barytes mines.

Employment in bauxite mines.]

[26][Employment in manganese mines.]

[27][Employment in the maintenance of buildings and employment in the construction and maintenance of runways]

[28][Employment in china clay mines.

Employment in kyanite mines.]

[29][Employment in copper mines.]

[30][Employment in clay mines.]

[31][Employment in magnesite mines covered under the Mines Act, 1952]

[32][Employment in white clay mines.]

[33][Employment in stone mines.]

[34][Employment in steatite (including mines producing soapstone & tale)]

[35][Employment in ochre mines.]

[36][Employment in asbestos mines.]

[37][Employment in fire clay mines.]

[38][Employment in chromite mines.]

[39][Employment in quartizite mines.

Employment in quartz mines.

Employment in silica mines.]

[40][Employment in graphite mines.

[41][Employment in felspar mines.]

[42][Employment in laterite mines.]

[43][Employment in dolomite mines.

Employment in red oxide mines.]

[44][Employment in wolfram mines.]

[45][Employment in iron-ore mines.]

[46][Employment in granite mines.]

[47][Employment in rock phosphate mines.]

[48][Employment in haemetite mines.]

[49][Employment in loading and unloading in railways, goods sheds.

Employment in docks and ports.]

[50][Employment in ashpit cleaning on railways.]

[51][Employment in marble and calcite mines.]

[52][Employment in uranium mines.]

[53][Employment in mica mines.]

[54][Employment in lignite mines;

Employment in gravel mines.

Employment in state mines.

Employment in laying of underground cables, electric lines, water supply lines and sewerage pipe line.]

PART II

(1) Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live-stock, bees or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).

**Foot Notes**

1 The words "except the State of Jammu and Kashmir" omitted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.

2 Substituted by Act No. 61 of 1986, w.e.f. 23rd. December, 1986.

3 Substituted for the words "Central Government or a railway administration" by Act No. 30 of 1957, w.e.f. 17th. September, 1957.

4 Substituted for the words "an Act of the Central Legislature" by the A.O. 1950.

5 Inserted by Act No. 61 of 1986, w.e.f. 23rd. December, 1986.

6 Substituted for the words, brackets and figures "clause (e) of sub-s. (1) of s. 9 of Factories Act, 1934 (25 of 1934)" by Act No. 26 of 1954.

7 Inserted by Act No.30 of 1957.

8 Substituted by the A.O. 1950, for the word "Crown".

9 Substituted by Act No.26 of 1954.

10 Substituted by Act No.31 of 1961.

11 Omitted by Act No.31 of 1961.

12 Substituted by Act No.31 of 1961.

13 Inserted by Act No.31 of 1961.

14 Substituted by Act No.30 of 1957.

15 Substituted for the words "committees, sub-committees, advisory committees and advisory sub-committees appointed under sections 5 and 6" by Act No.30 of 1957.

16 The words "advisory committee, advisory sub-committees" omitted by Act No.30 of 1957.

17 The words and figures "or section 10" omitted by Act No.30 of 1957.

18 Section 13 re-numbered as sub-section (1) thereof by Act No.30 of 1957.

19 Added by Act No.30 of 1957.

20 Substituted by Act No.26 of 1954, for the words, brackets and figures "s. 47 of the Factories Act, 1934 (25 of 1934)".

21 Substituted for the words "any Commissioner for Workmen's Compensation or" by Act No.30 of 1957.

22 Substituted by Act No.30 of 1957, for the words "A single application".

23 Inserted by Act No.26 of 1954.

24 Substituted by Act No.30 of 1957.

25 Inserted by Notification No S.O. 3760, dated 4th. December, 1962.

26 Inserted by Notification No. S.O. 4030, dated 30th. October, 1967.

27 Inserted by Notification No. S.O. 1987, dated 30th. May, 1968.

28 Inserted by Notification No. S.O. 586, dated 5th. February, 1970.

29 Inserted by Notification No. S.O. 795, dated 13th. February, 1970.

30 Inserted by Notification No. S.O. 796, dated 18th. February, 1970.

31 Inserted by Notification No. S.O. 2357, dated 1st. July, 1970.

32 Inserted by Notification No. S.O. 3896, dated 3rd. September, 1971.

33 Inserted by Notification No. S.O. 3898, dated 15th. September, 1971.

34 Inserted by Notification No. S.O. 2972, dated 1st. July, 1972.

35 Inserted by Notification No. S.O. 2973, dated 1st. July, 1972.

36 Inserted by Notification No. S.O. 2974, dated 6th. July, 1972.

37 Inserted by Notification No. S.O. 1587, dated 24th. May, 1973.

38 Inserted by Notification No. S.O. 2311, dated 3rd. July, 1975.

39 Inserted by Notification No. S..O. 807, dated 4th. February, 1976.

40 Inserted by Notification No. S.O. 558, dated 29th. January, 1977.

41 Inserted by Notification No. S.O. 1823, dated 14th. June, 1978.

42 Inserted by Notification No. S.O. 2945, dated 22nd. September, 1978.

43 Inserted by Notification No. S.O. 2950, dated 25th. September, 1978.

44 Inserted by Notification No. S.O. 3671, dated 7th. December, 1978.

45 Inserted by Notification No. S.O. 1757, dated 16th. June, 1980.

46 Inserted by Notification No. S.O. 2473, dated 28th. September, 1980.

47 Inserted by Notification No. S.O. 1824, dated 22rd. March, 1983.

48 Inserted by Notification No. S.O. 1957, dated 11th. April, 1983.

49 Inserted by Notification No. S.O. 2092, dt 24th. April, 1983.

50 Inserted by Notification No. S.O. 2093, dated 23rd. April, 1983.

51 Inserted by Notification No. S.O. 3455, dated 20th. August, 1983.

52 Inserted by Notification No. S.O. 2693, dated 1st. August, 1986.

53 Inserted by Notification No. S.O. 726(E), dated 29th. September, 1993.

54 Inserted by Notification No. S.O. 439(E), dated 20th. May, 1998.

**No.27 OF 1961**

[20th May, 1961]

An Act to Provide for the welfare of motor transport workers and to regulate the conditions of their work

BE it enacted by Parliament in the Twelfth Year of the Republic of Indian as follows

## CHAPTER I

## PRELIMINARY

**1.Short title, extent, commencement and application.-** (1) This Act may be called the Motor Transport Workers Act 1961

(2) It extends to the whole of Indian except the State of Jammu and Kashmir.

(3) It shall come into force on such date not being later than the 31st day of March , 1962, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States. **Maharastra enforced wef 31-3-1962 )**

(4 ) It applies to every motor transport undertaking employing five or more motor transport workers:

Provided that the Sate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply all or any of the provisions of this Act to any motor transport undertaking employing less than five motor transport workers.

**2.Definitions.-** In this Act, unless the context otherwise requires,---

(a) " adolescent" means a person who has not completed his fifteenth year but has not completed his eighteenth year;

(b) " adult'' means a person who has completed his eighteenth year;

(c) "child "means a person who has not completed his fifteenth year;

(d) " day means a period of twenty- four hours beginning at midnight:

Provided that where a motor transport worker's duty commences before midnight but extends beyond midnight, the following day for him shall be deemed to be the period of twenty- four hours beginning when such duty ends and the previous day ;

(e) "employer" means, in relation to any motor transport undertaking ,the person who, or the authority which, has the ultimate control over the affairs of the motor transport under - taking, and where the said affairs are entrusted to any other person whether called a manager, managing director managing agent or by any other name, such other person;

(f) "hours of work" means the time during which a motor transport worker is at the disposal of the employer or of any other person entitled to claim his services and includes----

(i) the time spent in work done during the running time of the transport vehicle;

(ii) the time spent in subsidiary work; and

(iii) Periods of mere attendance at terminals of less than fifteen minutes;

Explanation.--- For the purposes of this clause---

(1) "running time" in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work ;

(2) "subsidiary work" means work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular---

(i) work in connection with account , the paying in of cash , the signing of registers, the handing in of service sheets, the checking of tickets and other similar work;

(ii) the taking over and garaging of the transport vehicle;

(iii) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;

(iv) work in connection with the upkeep and repair of the transport vehicle; and

(v) the loading and unloading of the transport vehicle;

(3) "period of mere attendance" means the period during which a person remains at hi post solely in order to reply to possible calls or to resume action at the time fixed ion the duty schedule;

(g) "motor transport undertaking" means a motor transport undertaking engaged in carrying passengers or gods or both by road for hire or reward, and includes a private carrier;

(h) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend to duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but except in section 8 does not include---

(i) any such person who is employed in a factory as defined in the Factories Act, 1948 (69 of 1948);

(ii) any such person to whom the provisions of any law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "qualified medical practitioner" means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916, (7 of 1916) or notified under section 3 of that Act or specified in the Schedules to the Indian Medical Council Act, 1956, (102 of 1956) and includes any person having a certificate granted under any Provincial or State Medical Council Act;

(k) "spread-over" means the period between the commencement of duty on any day and the termination of duty on that day;

(l) "wages" has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936(4 of 1936);

(m) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night;

(n) all other words and expressions used but not defined in this Act an defined in the Motor Vehicles Act, 1939, (4 of 1939) shall have the meanings respectively assigned to them in that Act.

## CHAPTER II

## REGISTRATION OF MOTOR TRANSPORT UNDERTAKINGS

**3.Registration of motor transport undertaking.-** (1) Every employer of a motor transport undertaking to which this Act applies shall have the undertaking registered under this Act.

(2) An application for the registration of a motor transport undertaking shall be made by the employer to the prescribed authority in such form and within such time as may be prescribed.

(3) Whether a motor transport undertaking is registered under this Act, there shall be issued to the employer a certificate of registration containing such particulars as may be prescribed.

## CHAPTER III

## INSPECTING STAFF

**4.Chief inspector and inspectors.-** (1) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the chief inspector and as many duly qualified persons to be inspectors subordinate to the chief inspector as it thinks fit.

(2) The chief inspector may declare the local limits within which inspectors shall exercise their powers under this Act, an may himself exercise the powers of an inspector within such local limits as may be assigned to him by the State Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code(45 of 1860).

**5.Powers of the inspectors.-** (1) Subject to such conditions and restrictions as the State Government may be general or special order impose, the chief inspector or an inspector may-

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed in the case of any motor transport undertaking, and for that purpose require the driver of a transport vehicle to cause the transport vehicle to stop and remain stationary so long as may reasonably be necessary;

(b) with such assistance, if any, as he thinks fit, enter, inspect an search any premises which he has reason to believe is under use or occupation of any motor transport undertaking at any reasonable time for the purpose of carrying out the objects of this Act;

(c) examine any motor transport worker employed in a motor transport undertaking or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statement of any person which he may consider necessary for carrying out the purposes of this Act;

(d) seize or take copy of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believes has been committed by an employer;

(e) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this subsection to answer any question or make any statement tending to incriminate himself.

(2) The provisions of the Code of Criminal Procedure, 1898, (5 of 1898) shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under the section 98 of the said Code.

**6.Facilities to be afforded to inspectors.-** Every employer shall afford the chief inspector and an inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act.

**7.Certifying surgeons.-** (1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such motor transport undertakings or class of motor transport undertakings as it may assign to them respectively.

(2) The certifying surgeon shall perform such duties as may be prescribed in connection with-

(a) the examination and certification of motor transport workers;

(b) the exercise of such medical supervision as may be prescribed where adolescents are, or are to be, employed as motor transport workers in any work in any motor transport undertaking which is likely to cause injury to their health.

## CHAPTER IV

## WELFARE AND HEALTH

**8.Canteens.-** (1) The State Government may make rules requiring that in every place wherein one hundred motor transport workers or more employed in a motor transport undertaking ordinarily call on duty during every day, one or more canteens shall be provided and maintained by the employer for the use of the motor transport workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-
(a) the date by which the canteens shall be provide;

(b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens;

(c) the foodstuffs which may be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for a canteen and the representation of the motor transport workers in the management of the canteen.

(3) The State Government may, subject to such conditions as it may impose, delegate to the chief inspector the power to make rules with reference to clause (c) of sub-section (2).

**9.Rest rooms.-** (1) In every place wherein motor transport workers employed in a motor transport undertaking are required to halt at night, there shall be provided and maintained by the employer for the use of those motor transport workers such number of rest rooms or such other suitable alternative accommodation, as may be prescribed.

(2) The rest rooms or the alternative accommodation to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition.

(3) The State Government may prescribe the standards in respect of construction, accommodation, furniture and other equipment of rest rooms or the alternative accommodation to be provided under this section.

**10.Uniforms.-** (1) The State Government may, by notification in the Official Gazette, make rules requiring an employer of a motor transport undertaking to provide for the drivers, conductors and line checking staff employed in that undertaking such number and type of uniforms, raincoats or other like amenities for their protection from rain or cold as may be specified in the rules.

(2) There shall be paid to the drivers, conductors and line checking staff by the employer an allowance for washing of uniforms provided under sub-section (1) at such rates as may be prescribed;

Provided that no such allowance shall be payable by an employer who has made at his own cost adequate arrangements for the washing of uniforms.

**11.Medical facilities.-** There shall be provided and maintained by the employer so as to be readily available such medical facilities for the motor transport workers at such operating centres and halting stations as may be prescribed by the State Government.

**12.First-aid facilities.-** (1) There shall be provided and maintained by the employer so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents in every transport vehicle.

(2) Nothing except the prescribed contents shall be kept in a first-aid box.

(3) The first-aid box shall be kept in the charge of the driver or the conductor of the transport vehicle who shall be provided facilities for training in the use thereof.

## CHAPTER V

## HOURS AND LIMITATIONS OF EMPLOYMENT

**13.Hours of work for adult transport workers.-** No adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week:

Provided that where any such motor transport worker is engaged in the running of any motor transport service on such long distance routes, or on such festive and other occasions as may be notified in the prescribed manner by the prescribed authority, the employer may, with the approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or forty-eight hours in any week but in any case for more than ten hours in a day and fifty-four hours in a week, as the case may be:

Provided further that in the case of a breakdown or dislocation of a motor transport service or interruption of traffic or act of God, the employer may, subject to such conditions and limitations as may be prescribed, require or allow any such motor transport worker to work for more than eight hours in any day or more than forty-eight hours in any week.

**14.Hours of work for adolescents employed as motor transport workers.-** No adolescent shall be employed or required to work as a motor transport worker in any motor transport undertaking

(a) for more than six hours a day including rest interval of half-an-hour;

(b) between the hours of 10 P.M.and 6 A.M.

**15.Daily intervals for rest.-** (1) The hours of work in relation to adult motor transport workers on each day shall be so fixed that no period of work shall exceed five hours and that no such motor transport worker shall work for more than five hours before he has had an interval for rest for at least half-an-hour:

Provided that he provisions of this sub-section in so far as they relate to interval for rest shall not apply to a motor transport worker who is not required to work for more than six hours on that day.

(2) The hours of work on each day shall be so fixed that a motor transport worker is, except in any case referred to in the second proviso to section 13, allowed a period of rest of at least nine consecutive hours between the termination of duty on any one day and the commencement of duty on the next following day.

**16.Spread-over.-** (1) The hours of work of an adult motor transport worker shall, except in any case referred to ion the second proviso to section 13, be so arranged that inclusive of

interval for rest under section 15, they shall not spread-over more than twelve hours in any day.

(2) The hours of work of an adolescent motor transport worker shall be so arranged that inclusive of interval for rest under section 14, they shall not spread-over more than nine hours in any day.

**17.Split duty.-** Subject to the other provisions contained in this Act, the hours of work of a motor transport worker shall not be split into more than two spells on any day.

**18.Notice of hours of work.-** (1) There shall be displayed and correctly maintained by every employer a notice of hours of work in such form and manner as may be prescribed showing clearly for every day the hours during which motor transport workers may be required to work.

(2) Subject to the other provisions contained in this Act, no such motor transport worker shall be required or allowed to work otherwise than in accordance with the notice of hours of work so displayed.

**19.Weekly rest.-** (1) The State Government may, by notification in the Official Gazette, make rules providing for a day of rest in every period of seven days, which shall be allowed to all motor transport workers.

(2) Notwithstanding anything contained in sub-section (1) , an employer may, in order to prevent any dislocation of a motor transport service, require a motor transport worker to work on any day of rest which is not a holiday so, however, that the motor transport worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

(3) Nothing contained in sub-section (1) shall apply to any motor transport worker whose total period of employment including any day spent on leave is less than six days.

**20.Compensatory day of rests.-** Where, as a result of any exemption granted to an employer under the provisions of this Act from the operation of section 19, a motor transport worker is deprived of any of the days of rest to which he is entitled under that section, the motor transport worker shall be allowed within the month in which the days of rest are due to him or within two months immediately following that month, compensatory d lays of rest of equal number to the days of rest so lost.

## CHAPTER VI

## EMPLOYMENT OF YOUNG PERSONS

**21.Prohibition of employment of children.-** No child shall be required or allowed to work in any in any motor transport undertaking capacity

**22.Adolescent employed motor transport workers to carry tokens.-** No adolescent shall be required or allowed to work as a motor transport worker in any motor transport undertaking unless

(a) a certificate of fitness granted with reference to him under section 23 is in the custody of the employer; and

(b) such adolescent carries with him while he is at work a token giving a reference to such certificate.

**23.Certificate of fitness.-** (1) A certifying surgeon shall, on the application of any adolescent or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed as a motor transport worker in a motor transport undertaking if certified to be fit for that work, or on the application of the employer or any other person on his behalf with reference to any adolescent intending to work, examine such person and ascertain his fitness for work as a motor transport worker.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be said by the employer and shall not be recoverable from the adolescent, his parent or guardian.

**24.Power to require medical examination.-** Where an inspector is of opinion that a motor transport worker working in any motor transport undertaking without a certificate of fitness of an adolescent, the inspector may serve on the employer a notice requiring that such adolescent motor transport worker shall be examined by a certifying surgeon and such adolescent motor transport worker shall not, if the inspector so directs, be employed or permitted to work in any motor transport undertaking until he has been so examined and has been granted a certificate of fitness under section 23.

## CHAPTER VIII

## WAGES AND LEAVE

**25.Act 4 of 1936 to apply to payment of wages to motor transport workers.-** The Payment of Wages Act, 1936, (4 of 1936) as in force for the time being, shall apply to motor transport workers engaged in a motor transport undertaking as it applies to wages payable in an industrial establishment as if the said Act had been extended to the payment of wages of such motor transport workers by a notification of the State Government under sub-section (5) of section I thereof, and as if a motor transport undertaking were an industrial establishment within the meaning of the said Act.

**26.Extra wages for overtime.-** (1) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the first proviso to section 13 or where he is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at the rate of twice his ordinary rate of wages in respect of the over-time work or the work done on the day of rest, as the case may be.

(2) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the second proviso to section 13, he shall be entitled to wages in respect of the overtime work at such rates as may be prescribed.

(3) Where an adolescent motor transport worker is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at the rate of twice his ordinary rate of wages in respect of the work done on the day of rest.

(4) For the purposes of this section, "ordinary rate of wages" in relation to a motor transport worker means his basic wages plus dearness allowance.

**27.Annual leave with wages.-** (1) Without prejudice to such holidays as may be prescribed, every motor transport worker who has worked for a period of two hundred an forty days or more in a motor transport undertaking during a calendar year shall be allowed during the subsequent calendar year leave with wages for a number of days calculated at the rate of

(a) if an adult, one day for every twenty days of work performed by him during the previous calendar year; and

(b) if an adolescent, one day for every fifteen days of work performed by him during the previous calendar year.

(2) A motor transport worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down ion clause (a) or, as the case may be, clause (b) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a motor transport worker is discharged or dismissed from service during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1) , even if he has not worked for the entire period specified in sub-section (1) or subsection (2) entitling him to earned leave.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a motor transport worker does not ion any one calendar year take the whole of the leave allowed to him under sub-section

(1) or sub-section (2) , as the case may be, any leave not taken by him shall be added to the leave to be allowed to him ion the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of an adolescent.

(6) In this section, "calendar year" means the year commencing on the first day of January.

Explanation.---For the purposes of this section, leave shall not include weekly holidays or holidays for festival or other similar occasions whether occurring during or at either end of the period of leave.

**28.Wages during leave period.-** (1) For the leave allowed to a motor transport worker under section 27, he shall be paid at the rate equal to the daily average of his total full time wages for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of the advantage, if any, accruing by the concessional supply by the employer of foodgrains for the day on which he worked.

(2) A motor transport worker who has been allowed leave for not less than four days under section 27 shall, on an application made by him in this behalf to the employer, be paid in advance, before his leave begins, an approximate amount equivalent to the wages payable to him for the period of his leave and any amount so paid shall be adjusted against the wages due to him for the aforesaid period of leave.

(3) If a motor transport worker is not granted leave to which he is entitled under sub-section (3) of section 27, he shall be paid wages in lieu thereof at the rates specified in sub-section (1).

## CHAPTER VIII

## PENALTIES AND PROCEDURE

**29.Obstructions.-** (1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglect to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any motor transport undertaking shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

2.Whoever willfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting ion pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**30.Use of false certificate of fitness.-** Whoever knowingly uses or attempts to use a certificate of fitness granted to himself under section 23 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**31.Contravention of provisions regarding employment of motor transport workers.-** Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made there under, prohibiting, restricting or regulating the employment of persons ion a motor transport undertaking, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to seventy-five rupees for every day during which such contravention continues after conviction for the first such contravention.

**32.Other offences.-** Whoever willfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**33.Enhanced penalty after previous conviction.-** If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

**34.Offences by companies.-** (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to the proceeded against and punished accordingly.

Explanation. ---For the purposes of this section, ---

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director", in relation to a firm, means a partner in the firm.

**35.Cognizance of offences. -** No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction ion writing of, the inspector and no court inferior to that of a Presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

**36.Limitation of prosecutions. -** No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

## CHAPTER IX

## MISCELLANEOUS

**37.Effect of laws and agreements inconsistent with this Act. -** (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act.

Provided that where under any such award, agreement, contract of service or otherwise a motor transport worker is entitled to benefits ion respect of any matter which are more favourable to him then those to which he would be entitled under this Act, the motor transport worker shall continue to be entitled to the more favourable benefits in respect o that matter, notwithstanding that he receiver benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any motor transport worker from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

**38.Exemption. -** (1) Nothing contained in this Act shall apply to or in relation to any transport vehicle

(i) used for the transport of sick or injured persons;

(ii) used for any purpose connected with the security of India, or the security of a State, or the maintenance of public order.

(2) Without prejudice to the provisions of sub-section (1) , the State Government may, by notification in the Official Gazette, direct that subject to such conditions and restrictions, if any, as may be specified in the notification, the provisions of this Act or the rules made thereunder shall not apply to (i) any motor transport workers who, in the opinion of the State Government, hold positions of supervision or management in any motor transport undertaking,

(ii) any part-time motor transport worker, and

(iii) any class of employers:

Provided that before issuing any order under this sub-section, the State Government shall send a copy thereof to the Central Government.

**39.Powers to give directions.-** The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

**40.Power to make rules.-** (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act.

Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, (10 of 1897) shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for

(a) the form of application for the registration of a motor transport undertaking, the time within which and the authority to which such application may be made;

(b) the grant of a certificate of registration in respect of a motor transport under taking and the fees payable for such registration;

(c) the qualifications required in respect of the chief inspector and inspector;

(d) the powers which may be exercised by inspectors and the manner in which such powers may be exercised;

(e) the medical supervision which may be exercised by certifying surgeons;

(f) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which, such appeals may be preferred;

(g) the time within which facilities required by this Act to be provided and maintained may be so provided;

(h) the medical facilities that should be provided for motor transport workers;

(i) the type of equipment that should be provided in the first-aid boxes;

(j) the manner in which long distance routes, festive and other occasions shall be notified by the prescribed authority;

(k) the conditions and limitations subject to which any motor transport worker may be required or allowed to work for mores than eight hours in any day or more than forty-eight hours in any week in any case refereed to in the second proviso to section 13;

(l) the form and manner ion which notices of period of work shall be displayed and maintained;

(m) the rates of extra wages in respect of the over-time work done by a motor transport worker in any case referred to in the second proviso to section 13;

(n) the registers which should be maintained by employers and the returns, whether occasional or periodical , as in the opinion of the State Government may be required for the purposes of this Act; and

(o) any other matter which has to be, or may be, prescribed.

# PAYMENT OF BONUS ACT,1965

[Act No. 21 of Year 1965, dated 25th. September, 1965]

[1][An Act to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith]

Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows,-

## 1. Short title, extent and application

(1) This Act may be called the Payment of Bonus Act, 1965.

(2) It extends to the whole of India [2][***].

(3) Save as otherwise provided in this Act, it shall apply to,-

(a) every factory; and

(b) every other establishment in which twenty or more persons are employed on any day during an accounting year.

[3][PROVIDED that the appropriate government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act with effect from such accounting year as may be specified in the notification, to any establishment or class of establishments [including an establishment being a factory within the meaning of sub-clause (ii) of clause (m) of section 2 of the Factories Act, 1948 (63 of 1948)] employing such number of persons less than twenty as may be specified in the notification; so, however, that the number of persons so specified shall in no case be less than ten.]

(4) Save as otherwise provided in this Act, the provisions of this Act shall, in relation to a factory or other establishment to which this Act applies, have effect in respect of the accounting year commencing on any day in the year 1964 and in respect of every subsequent accounting year:

[4][PROVIDED that in relation to the State of Jammu and Kashmir, the reference to the accounting year commencing on any day in the year 1964, and every subsequent accounting year shall be construed as reference to the accounting year commencing on any day in the year 1968 and every subsequent accounting year:]

[3][PROVIDED FURTHER that when the provisions of this Act have been made applicable to any establishment or class of establishments by the issue of a notification under the proviso to sub-section (3), the reference to the accounting year commencing on any day in the year 1964 and every subsequent accounting year or, as the case may be, the reference to the accounting year commencing on any day in the year 1968 and every subsequent accounting year, shall, in relation to such establishment or class of establishments, be construed as a reference to the accounting year specified in such notification and every subsequent accounting year.]

(5) An establishment to which this Act applies [5][***] shall continue to be governed by this Act notwithstanding that the number of persons employed therein falls below twenty [3][or, as the case may be, the number specified in the notification issued under the proviso to sub-section (3)].

## 2. Definitions

In this Act, unless the context otherwise requires,

(1) "accounting year" means,-

(i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced;

(ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not,

(iii) in any other case,-

(a) the year commencing on the lst day of April; or

(b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced:

PROVIDED that an option once exercised by the employer under paragraph (b) of this sub-clause shall not again be exercised except with the previous permission in writing of the prescribed authority and upon such conditions as that authority may think fit;

(2) "agricultural income" shall have the same meaning as in the Income-tax Act;

(3) "agricultural income tax law" means any law for the time being in force relating to the levy of tax on agricultural income;

(4) "allocable surplus" means,-

(a) in relation to an employer, being a company [6][(other than a banking company) which has not made the arrangements prescribed under the Income Tax Act for the declaration and payment within India of the dividends payable out of its profits in accordance with the provisions of section 194 of that Act, sixty-seven per cent of the available surplus in an accounting year;

(b) in any other case, sixty per cent of such available surplus;

(5) "appropriate government" means,-

(i) in relation to an establishment in respect of which the appropriate government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;

(6) "available surplus" means the available surplus computed under section 5;

(7) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947), or by any other authority constituted under any corresponding law relating to investigation and settlement of industrial disputes in force in a State and includes an arbitration award made under section 10A of that Act or under that law;

(8) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949 (10 of 1949), and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), [3][any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970)], [6][any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)], any co-operative bank as defined in clause (bii) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934) and any other banking institution which may be notified in this behalf by the Central Government;

(9) "company" means any company as defined in section 3 of the Companies Act, 1956 (1 of 1956) and includes a foreign company within the meaning of section 591 of that Act;

(10) "co-operative society " means a society registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912), or any

other law for time being in force in any State relating to co-operative societies;

(11) "corporation" means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co-operative society;

(12) "direct tax" means,-

**(a)** any tax chargeable under,-

(i) the Income-tax Act;

(ii) the Super Profits Tax Act, 1963 (14 of 1963);

(iii) the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(iv) the agricultural income tax law; and

(**b**) any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax for the purposes of this Act;

(13) "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding [7][three thousand and five hundred rupees] per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied;

(14) "employer" includes,-

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;

(15) "establishment in private sector" means any establishment other than an establishment in public sector;

(16) "establishment in public sector" means an establishment owned, controlled or managed by,-

(a) a government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(b) a corporation in which not less than forty per cent of its capital is held (whether singly or taken together) by,-

(i) the government; or

(ii) the Reserve Bank of India; or

(iii) a corporation owned by the government or the Reserve Bank of India;

(17) "factory" shall have the same meaning as in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(18) "gross profits" means the gross profits calculated under section 4;

(19) "Income Tax Act" means the Income Tax Act, 1961, (43 of 1961);

(20) "prescribed" means prescribed by rules made under this Act;

(21) "salary or wages " means all remuneration (other than remuneration in respect of over-time work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), but does not include,-

(i) any other allowance which the employee is for the time being entitled to;

(ii) the value of any house accommodation or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

(iii) any travelling concession;

(iv) any bonus (including incentive, production and attendance bonus);

(v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;

(vi) any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any ex gratia payment made to him;

(vii) any commission payable to the employee.

*Explanation:* Where an employee is given in lieu of the whole or part of the salary or wages payable to him, free food allowance or free food by his employer, such food allowance or the value of such food shall, for the purpose of this clause, be deemed to form part of the salary or wages of such employee;

(22) Words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947,(14 of 1947), shall have the meanings respectively assigned to them in that Act.

**3. Establishments to include departments, undertakings and branches**

Where an establishment consists of different departments or undertakings or has branches, whether situated in the same place or in different places, all such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Act:
PROVIDED that where for any accounting year a separate balance-sheet and profit and loss account are prepared and maintained in respect of any such department or undertaking or branch, then, such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus, under this Act for that year, unless such department or undertaking or branch was, immediately before the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus.

**[8][4. Computation of gross profits**

The gross profits derived by an employer from an establishment in respect of the accounting year shall,-

(a) in the case of a banking company, be calculated in the manner specified in the First Schedule;

(b) in any other case, be calculated in the manner specified in the Second Schedule.]

**5. Computation of available surplus**

The available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 6:
[9][PROVIDED that the available surplus in respect of the accounting year commencing on any day in the year 1968 and in respect of every subsequent accounting year shall be the aggregate of,-

(a) the gross profits for that accounting year after deducting therefrom the sums referred to in section 6; and

(b) an amount equal to the difference between,-

(i) the direct tax, calculated in accordance with the provisions of section 7, in respect of an amount equal to the gross profits of the employer for the immediately preceding accounting year; and

(ii) the direct tax, calculated in accordance with provisions of section 7, in respect of an amount equal to the gross profits of the employer for such preceding accounting year after deducting therefrom the amount of bonus which the employer has paid or is liable to pay to his employees in accordance with the provisions of this Act for that year.]

**6. Sums deductible from gross profits**

The following sums shall be deducted from the gross profits as prior charges, namely:-

(a) any amount by way of depreciation admissible in accordance with the provisions of the sub-section (1) of section 32 of the Income Tax Act or in accordance with the provisions of the agricultural income tax law, as the case may be:

PROVIDED that where an employer has been paying bonus to his employees under a settlement or an award or agreement made before the 29th May, 1965, and subsisting on that date after deducting from the gross profits notional normal depreciation, then, the amount of depreciation to be deducted under this clause shall, at the option of such employer (such option to be exercised once and within one year from date) continue to be such notional normal depreciation;

(b) any amount by way of [10][development rebate or investment allowance or development allowance] which the employer is entitled to deduct from his income under the Income Tax Act;

(c) subject to the provisions of section 7, any direct tax which the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year;

(d) such further sums as are specified in respect of the employer in the [11][Third Schedule.]

**7. Calculation of direct tax payable by the employer**

[12][Any direct tax payable by the employer for any accounting year shall, subject to the following provisions, be calculated at the rates applicable to the income of the employer for that year, namely,-

(a) in calculating such tax no account shall be taken of,-

(i) any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;

(ii) any arrears of depreciation which the employer is entitled to add to the amount of the allowance for depreciation for any following accounting year or years under sub-section (2) of section 32 of the Income Tax Act;

(iii) any exemption conferred on the employer under section 84 of the Income Tax Act or of any deduction to which he is entitled under sub-section (1) of section 101 of that Act, as in force immediately before the commencement of the Finance Act, 1965 (10 of 1965);

(b) Where the employer is a religious or a charitable institution to which the provisions of section 32 do not apply and the whole or any part of its income is exempt from tax under the Income Tax Act, then, with respect to

the income so exempted, such institution shall be treated as if it were a company in which the public are substantially interested within the meaning of that Act;

(c) where the employer is an individual or a Hindu Undivided Family, the tax payable by such employer under the Income Tax Act shall be calculated on the basis that the income derived by him from the establishment is his only income;

(d) where the income of any employer includes any profits and gains derived from the export of any goods or merchandise out of India and any rebate on such income is allowed under any law for the time being in force relating to direct taxes, then, no account shall be taken of such rebate;

(e) no account shall be taken of any rebate [10][other than development rebate or investment allowance or development allowance] or credit or relief or deduction (not hereinbefore mentioned in this section) in the payment of any direct tax allowed under any law for the time being in force relating to direct taxes or under the relevant annual Finance Act, for the development of any industry.

**8. Eligibility for bonus**

Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

**9. Disqualification for bonus**

Notwithstanding anything contained in this Act, an employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for,-

(a) fraud; or

(b) riotous or violent behaviour while on the premises of the establishment; or

(c) theft, misappropriation or sabotage of any property of the establishment.

**[10][10. Payment of minimum bonus**

Subject to the other provisions of this Act, every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1979 and in respect of every subsequent accounting year, a minimum bonus which shall be 8.33 per cent of the salary or wages earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year:

PROVIDED that where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employee as if for the words "one hundred rupees" the words "sixty rupees" were substituted.]

**11. Payment of maximum bonus**

(1) Where in respect of any accounting year referred to in section 10, the allocable surplus exceeds the amount of minimum bonus payable to the employees under that section, the employer shall, in lieu of such minimum

bonus, be bound to pay to every employee in respect of that accounting year bonus which shall be an amount in proportion to the salary or wages earned by the employee during the accounting year subject to a maximum of twenty per cent of such salary or wage.

(2) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 15 shall be taken into account in accordance with the provisions of that section.

**[13][12. Calculation of bonus with respect to certain employees**

Where the salary or wages of an employee exceeds two thousand and five hundred rupees per mensem, the bonus payable to such employee under section 10 or, as the case may be, under section 11, shall be calculated as if his salary or wages were [14][two thousand and five hundred rupees] per mensem.]

**[15][13. Proportionate deduction in bonus in certain cases**

Where an employee has not worked for all the working days in an accounting year, the minimum bonus of one hundred rupees or, as the case may be, of sixty rupees, if such bonus is higher than 8.33 per cent of his salary or wage of the days he has worked in that accounting year, shall be proportionately reduced.]

**14. Computation of number of working days**

For the purposes of section 13, an employee shall be deemed to have worked in an establishment in any accounting year also on the days on which,-

(a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947, (14 of 1947), or under any other law applicable to the establishment;

(b) he has been on leave with salary or wages;

(c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment, and

(d) the employee has been on maternity leave with salary or wages, during the accounting year.

**[16][15. Set on and set off of allocable surplus**

(1) Where for any accounting year, the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under section 11, then, the excess shall, subject to a limit of twenty per cent of the total salary or wages of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.

(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 10, and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting

year and so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule.

(3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act.

(4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.]

**16. Special provisions with respect to certain establishments**

[17][(1) Where an establishment is newly set up, whether before or after the commencement of this Act, the employees of such establishment shall be entitled to be paid bonus under this Act in accordance with the provisions of sub-sections (1A) (1B) and (1C).

(1A) In the first five accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment and such bonus shall be calculated in accordance with the provisions of this Act in relation to that year but without applying the provisions of section 15.

(1B) For the sixth and seventh accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 15 shall apply subject to the following modifications, namely,-

(i) for the sixth accounting year,-

set on or set off, as the case may be, shall be made in the manner illustrated in the [18][Fourth Schedule] taking into account the excess or deficiency, if any as the case may be, of the allocable surplus set on or set off in respect of the fifth and sixth accounting years;

(ii) for the seventh accounting year,-

set on or set off, as the case may be, shall be made in the manner illustrated in the [18][Fourth Schedule] taking into account the excess or deficiency, if any as the case may be, of the allocable surplus set on or set off in respect of the fifth, sixth and seventh accounting years.

(1C) From the eighth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 15 shall apply in relation to such establishment as they apply in relation to any other establishment.

*Explanation I* . For the purpose of sub-section (1), an establishment shall not be deemed to be newly set up merely by reason of a change in its location, management name or ownership.

*Explanation II* : For the purpose of sub-section (1A), an employer shall not be deemed to have derived profit in any accounting year unless,-

(a) he has made provision for that year's depreciation to which he is entitled under the Income Tax Act or, as the case may be., under the agricultural income tax law, and

(b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

*Explanation III:* For the purposes of sub-section (1A), (1B) and (1C), sale of the goods produced or manufactured during the course of the trial running of any factory or of the prospecting stage of any mine or an oil-

field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the decision of the appropriate government made after giving the parties a reasonable opportunity of representing the case, shall be final and shall not be called in question by any court or other authority.]

(2) The provisions of [19][sub-sections (1), (1A), (1B) and (1C)] shall, so far as may be, apply to new departments or undertakings or branches set up by existing establishments:

PROVIDED that if an employer in relation to an existing establishment consisting of different departments or undertakings or branches (whether or not in the same industry) set up at different periods has, before the 29th May, 1965, been paying bonus to the employees of all such departments or undertakings or branches irrespective of the date on which such departments or undertakings or branches were set up, on the basis of the consolidated profits computed in respect of all such departments or undertakings or branches, then, such employer shall be liable to pay bonus in accordance with the provisions of this Act to the employees of all such departments or undertakings or branches (whether set up before or after that date) on the basis of the consolidated profits computed as aforesaid.

**17. Adjustment of customary or interim bonus against bonus payable under the Act**

Where in any accounting year,-

(a) an employer has paid any puja bonus or other customary bonus to an employee; or

(b) an employer has paid a part of the bonus payable under this Act to an employee before the date on which such bonus becomes payable,

then, the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee under this Act in respect of that accounting year and the employee shall be entitled to receive only the balance.

**18. Deduction of certain amounts from bonus payable under the Act**

Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Act in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

**19. Time-limit for payment of bonus**

[20][All amounts] payable to an employee by way of bonus under this Act shall be paid in cash by his employer,-

(a) where there is a dispute regarding payment of bonus pending before any authority under section 22, within a month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute;

(b) in any other case, within a period of eight months from the close of the accounting year.

PROVIDED that the appropriate government or such authority as the appropriate government may specify in this behalf may, upon an application made to it by the employer and for sufficient reasons, by order, extend the said period of

eight months to such further period or periods as it thinks fit; so, however, that the total period so extended shall not in any case exceed two years.

**20. Application of Act to establishments in public sector in certain cases**

[21][(1)] If in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both is not less than twenty per cent of the gross income of the establishment in public sector for that year, then, the provisions of this Act shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector.

[22][(2) Save as otherwise provided in sub-section (1), nothing in this Act shall apply to the employees employed by any establishment in public sector.]

**21. Recovery of bonus due from an employer**

Where any money is due to an employee by way of bonus from his employer under a settlement or an award or agreement, the employee himself or any other person authorised by him in writing in this behalf, or in the case of the death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate government for the recovery of the money due to him, and if the appropriate government or such authority as the appropriate government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

"3">PROVIDED that every such application shall be made within one year from the date on which the money became due to the employee from the employer:

PROVIDED FURTHER that any such application may be entertained after the expiry of the said period of one year, if the appropriate government is satisfied that the applicant had sufficient cause for not making the application within the said period.

*Explanation:* In this section and in [23][sections 22, 23, 24 and 25] "employee" includes a person who is entitled to the payment of bonus under this Act but who is no longer in employment.

**22. Reference of disputes under the Act**

Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act or with respect to the application of this Act to an establishment in public sector, then, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), or of any corresponding law relating to investigation and settlement of industrial disputes, in force in a State and the provisions of that Act or, as the case may be, such law, shall, save as otherwise expressly provided, apply accordingly.

**23. Presumption about accuracy of balance sheet and profit and loss account of corporations and companies**

(1) Where, during the course of proceedings before any arbitrator or Tribunal under the Industrial Disputes Act, 1947 (14 of 1947), or under any corresponding law relating to investigation and settlement of industrial disputes in force in a state (hereinafter in this section and in [24][sections

24 and 25] referred to as the "said authority") to which any dispute of the nature specified in section 22 has been referred, the balance sheet and the profit and loss account of an employer, being a corporation or a company (other than a banking company), duly audited by the Comptroller and Auditor General of India or by auditors duly qualified to act as auditors of companies under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956), are produced before it, then, the said authority may presume the statements and particulars contained in such balance sheet and profit and loss account to be accurate and it shall not be necessary for the corporation or the company to prove the accuracy of such statements and particulars by the filing of an affidavit or by any other mode:

PROVIDED that where the said authority is satisfied that the statements and particulars contained in the balance sheet or the profit and loss account of the corporation or the company are not accurate, it may take such steps as it thinks necessary to find out the accuracy of such statements and particulars.

(2) When an application is made to the said authority by any trade union being a party to the dispute or where there is no trade union, by the employees being a party to the dispute, requiring any clarification relating to any item in the balance sheet or the profit and loss account, it may, after satisfying itself that such clarification is necessary, by order, direct the corporation or, as the case may be, the company, to furnish to the trade union or the employees such clarification within such time as may be specified in the direction and the corporation or, as the case may be, the company, shall comply with such direction.

**[25][24. Audited accounts of banking companies not to be questioned**

(1) Where any dispute of the nature specified in section 22 between an employer, being a banking company, and its employees has been referred to the said authority under that section and during the course of proceedings the accounts to the banking company duly audited are produced before it, the said authority shall not permit any trade union or employees to question the correctness of such accounts, but the trade union or the employees may be permitted to obtain from the banking company such information as is necessary for verifying the amount of bonus due under this Act.

(2) Nothing contained in sub-section (1) shall enable the trade union or the employees to obtain any information which the banking company is not compelled to furnish under the provisions of section 34A of the Banking Regulation Act, 1949 (10 of 1949).]

**25. Audit of accounts of employers, not being corporations or companies**

(1) Where any dispute of the nature specified in section 22 between an employer, not being a corporation or a company, and his employees has been referred to the said authority under that section and the accounts of such employer audited by any auditor duly qualified to act as auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956), are produced before the said authority, the provisions of section 23 shall, so far as may be, apply to the accounts so audited.

(2) When the said authority finds that the accounts of such employer have not been audited by any such auditor and it is of opinion that an audit of the accounts of such employer is necessary for deciding the question referred to it, then, it may, by order, direct the employer to get his accounts audited within such time as may be specified in the direction or within such

further time as it may allow by such auditor or auditors as it thinks fit and thereupon the employer shall comply with such direction.

(3) Where an employer fails to get the accounts audited under sub-section (2) the said authority may, without prejudice to the provisions of section 28, get the accounts audited by such auditor or auditors as it thinks fit.

(4) When the accounts are audited under sub-section (2) or sub-section (3) the provisions of section 23 shall, so far as may be, apply to the accounts so audited.

(5) The expenses of, and incidental to, any audit under sub-section (3) (including the remuneration of the auditor or auditors) shall be determined by the said authority (which determination shall be final) and paid by the employer and in default of such payment shall be recoverable from the employer in the manner provided in section 21.

**26. Maintenance of registers, records, etc.**

Every employer shall prepare and maintain such registers, records and other documents in such form and in such manner as may be prescribed.

**27. Inspectors**

(1) The appropriate government may, by notification in the Official Gazette appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and may define the limits within which they shall exercise jurisdiction.

(2) An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act has been complied with-

(a) require an employer to furnish such information as he may consider necessary;

(b) at any reasonable time and with such assistance, if any, as he thinks fit, enter any establishment or any premises connected therewith and require anyone found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of salary or wages or bonus in the establishment;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been an employee in the establishment;

(d) make copies of, or take extracts from, any book, register or other document maintained in relation to the establishment;

(e) exercise such other power as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(4) Any person required to produce any accounts, books, register or other documents or to give information by an Inspector under sub-section (1) shall be legally bound to do so.

[6][(5) Nothing contained in this section shall enable an Inspector to require a banking company to furnish or disclose any statement or information or to produce, or give inspection of any of its books of account or other documents, which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the provisions of section 34A of the Banking Regulation Act, 1949 (10 of 1949).]

**28. Penalty**

If any person,-

(a) contravenes any of the provisions of this Act or any rule made thereunder, or

(b) to whom a direction is given or a requisition is made under this Act fails to comply with the direction or requisition,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**29. Offences by companies**

(1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation :* For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

**30. Cognizance of offences**

(1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of appropriate government [6][or an officer of the government (not below the rank of a Regional Labour Commissioner in the case of an officer of the Central Government, and not below the rank of a Labour Commissioner in the case of an officer of the State Government) specially authorised in this behalf by that government.]

(2) No curt inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

**31. Protection of action taken under the Act**

No suit, prosecution or other legal proceeding shall lie against the government or any officer of the government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

**[3][31A. Special provision with respect to payment of bonus linked with production or productivity**

Notwithstanding anything contained in this Act,-

(i) where an agreement or a settlement has been entered into by the employees with their employer before the commencement of the Payment of bonus (Amendment) Act, 1976, (23 of 1976), or

(ii) where the employees enter into any agreement or settlement with their employer after such commencement,

for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits payable under this Act, then, such employees shall be entitled to receive bonus due to them under such agreement or settlement, as the case may be:

[6][PROVIDED that any such agreement or settlement whereby the employees relinquish their right to receive the minimum bonus under section 10 shall be null and void in so far as it purports to deprive them of such right:

[26][PROVIDED FURTHER that] such employees shall not be entitled to be paid such bonus in excess of twenty per cent of the salary or wages earned by them during the relevant accounting year.]

**32. Act not to apply to certain classes of employees**

Nothing in this Act shall apply to,-

(i) [27][employees employed by any insurer carrying on general insurance business and the] employees employed by the Life Insurance Corporation of India;

(ii) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958);

(iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948, (9 of 1948), and employed by registered or listed employers;

(iv) employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;

(v) employees employed by,-

(a) the Indian Red Cross Society or any other institution of a like nature (including its branches);

(b) universities and other educational institutions;

(c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;

(vi) employees employed through contractors on building operations;

(vii) employees employed by the Reserve Bank of India;

(viii) employees employed by,-

(a) the Industrial Finance Corporation of India;

(b) any financial corporation established under section 3, or any joint financial corporation established under Section 3A, of the State Financial Corporations Act, 1951 (63 of 1951);

(c) the Deposit Insurance Corporation;

[28][(d) The National Bank of Agriculture and Rural Development;]

(e) the Unit Trust of India;

(f) the Industrial Development Bank of India;

[29][(fa) the Small Industries Development Bank of India established under Section 3 of the Small Industries Development Bank of India Act, 1989;]

[30][(ff) the National Housing Bank;]

(g) any other financial institution [6][other than a banking company] being an establishment in public sector, which the Central Government may, by notification in the Official Gazette, specify, having regard to,-

(i) its capital structure;

(ii) its objectives and the nature of its activities;

(iii) the nature and extent of financial assistance or any concession given to it by the government; and

(iv) any other relevant factor;

(ix) employees employed by inland water transport establishments operating on routes passing through any other country.

**33. Act to apply to certain pending disputes regarding payment of bonus**

Omitted by the Payment of Bonus (Amendment) Act, 1976, w.e.f. 25th. September, 1975.

**[31][34. Effect of laws and agreements inconsistent with the Act**

Subject to the provisions of section 31A, the provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in the terms of any award, agreement, settlement or contract of service.]

**35. Saving**

Nothing contained in this Act shall be deemed to affect the provisions of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (46 of 1948), or of any scheme made thereunder.

**36. Power of exemption**

If the appropriate government, having regard to the financial position and other relevant circumstances of any establishment or class of establishments, is of opinion that it will not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt for such period as may be specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishments from all or any of the provisions of this Act.

**37. Power to remove difficulties**

Omitted by the Payment of Bonus (Amendment) Act, 1976, w.e.f. 25th. September, 1975.

**38. Power to make rules**

(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,-

(a) the authority for granting permission under the proviso to sub-clause (iii) of clause (1) of section 2;

(b) the preparation of registers, records and other documents and the form and manner in which such registers, records and documents may be maintained under section 26;

(c) the powers which may be exercised by an Inspector under clause (e) of sub-section (2) of section 27;

(d) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session [32][or in two or more successive sessions], and if before the expiry of the session [33][immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**39. Application of certain laws not barred**

Save as otherwise expressly provided, the provisions of this Act shall be in addition to and not in derogation of the Industrial Disputes Act, 1947 (14 of 1947), or any corresponding law relating to investigation and settlement of industrial disputes in force in a State.

**40. Repeal and saving**

(1) The Payment of Bonus Ordinance, 1965 (3 of 1965), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 29th May, 1965.

**THE FIRST SCHEDULE: COMPUTATION OF GROSS PROFITS**

*[Section 4(a)]*Accounting year ending .....

| *Item No.* | *Particulars* | *Amt. of sub-Items Rs.* | *Amt. of main Items Rs.* | *Remarks* |
|---|---|---|---|---|
| *1. | Net Profit as shown in the profit and loss account after making usual and necessary provisions.. | | | |
| 2. | Add back provision for:<br><br>(a) Bonus to employees<br><br>(b) Depreciation<br><br>(c) Development Rebate Reserve | | | |

| | | | | |
|---|---|---|---|---|
| | (d) Any other reserves<br><br>Total of Item No.2…….. | Rs…… | | |
| 3. | Add back also:<br><br>(a) Bonus paid to employees in respect of previous accounting years.<br><br>(b) The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of –<br><br>(i) the amount, if any, paid to, or provided for payment to, an approved gratuity fund; and<br><br>(ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason.<br><br>(c) Donations in excess of the amount admissible for income-tax . | | | **<br><br>** |
| | (d) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and | | | ** |

| | | | | |
|---|---|---|---|---|
| | capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income tax). | | | |
| | (e) Any amount certified by the Reserve Bank of India in terms of sub-section (2) of section 34A of the Banking Regulation Act, 1949 (10 of 1949).<br><br>(f) Losses of , or expenditure relating to, any business situated outside India.<br><br>Total of Item No.3…….. | Rs…… | | |
| 4. | Add also income, profits or gains (if any ) credited directly to published or disclosed reserves, other than-<br><br>(i) capital receipts and capital profits (including profits on the sale of capital assets on such depreciation has not been allowed for income-tax);<br><br>(ii) profits of, and receipts relating to , any business situated outside India;<br><br>(iii) income of | Rs…… | | |

| | | | | |
|---|---|---|---|---|
| | foreign banking companies from investment outside India.<br><br>Net total of Item No.4……. | | | |
| 5. | Total of Item Nos.1,2,3& 4… | Rs…… | | |
| 6. | Deduct :<br><br>(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax).<br><br>(b) Profits of, and receipts relating to any business situated outside India. | | | ***<br><br>***<br> |
| | (c) Income of foreign banking companies from investments outside India .<br><br>(d) Expenditure or losses (if any ) debited directly to published or disclosed reserves, other than –<br><br>,Courier">(i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed | | | *** |

| | | | | |
|---|---|---|---|---|
| | for income-tax );<br><br>(ii) losses of any business situated outside India. | | | |
| | (e) In the case of foreign banking companies proportionate administrative (overhead ) expenses of head-office allocable to Indian business.<br><br>(f) Refund of any excess direct tax paid for previous accounting years and excess provision if any of previous accounting years, relating to bonus, depreciation or development rebate, if written back.<br><br>(g) Cash subsidy, if any, given by the government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes .<br><br>Total of Item No. 6 …… | Rs…… | | ***<br><br>***<br><br>*** |

| | | | | |
|---|---|---|---|---|
| 7. | Gross profits for purposes of bonus (Item No. 5 minus Item No. 6) | | Rs…….. | |

*Explanation* : In sub-item (b) of Item 3, "approved gratuity fund" has the same meaning assigned to it in clause (5) of section 2 of the Income Tax Act.
* Where the profit subject to taxation is shown in the profit and loss account and the provision made for taxes on income is shown, the actual provision for taxes on income shall be deducted from the profit.
** If, and to the extent, charged to Profit and Loss Account.
*** If, and to the extent, credited to Profit and Loss Account.
**** In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per consolidated profit and loss account adjusted as in Item No. 2 above only)]

**THE SECOND SCHEDULE: COMPUTATION OF GROSS PROFITS**

*[(See Section 4(b)]*
Accounting year ending…….

| *Item No.* | *Particulars* | *Amt. Of sub-Items Rs.* | *Amt. Of main Items Rs.* | *Remarks* |
|---|---|---|---|---|
| 1. | Net profit as per profit and loss account | | | |

| | | | | |
|---|---|---|---|---|
| 2. | Add back provision for :<br><br>(a) Bonus to employees<br><br>(b) Depreciation.<br><br>(c) Direct taxes, including the provision (if any), for previous accounting years<br><br>(d) Development rebate / investment allowance / development allowance reserve.<br><br>(e) Any other reserves<br><br>Total of Item No.2…….. | Rs. …….. | | *<br><br>*<br><br>* |
| 3. | Add back also :<br><br>(a) Bonus paid to employees in respect of previous accounting years.<br><br>(aa) The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of- | | | * |

| | | | | |
|---|---|---|---|---|
| | (i) the amount, if any, paid to, or provided for payment to, an approved gratuity fund; and<br><br>(ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason.<br><br>(b) Donations in excess of the amount admissible for income-tax .<br><br>(c) Any annuity due, or commuted value of any annuity paid, under the provisions of section 280D of the Income Tax Act during the accounting year. | | | |

| | | | | |
|---|---|---|---|---|
| | (d) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income tax or agricultural income-tax.).<br><br>(e) Losses of , or expenditure relating to, any business situated outside India.<br><br>Total of Item No.3…….. | Rs…….. | | * |
| 4. | Add also income, profits or gains (if any) credited directly to reserves, other than- | | | |
| | (i) capital receipts and capital profits (including profits on the sale of | | | |

| | | | | |
|---|---|---|---|---|
| | capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax); | | | |
| | (ii) profits of, and receipts relating to, any business situated outside India;<br><br>(iii) income of foreign concerns from investments outside India.<br><br>Net total of Item No.4…….. | Rs……. | | |
| 5. | Total of Item Nos. 1,2,3 and 4… | Rs…….. | | |
| 6. | Deduct :<br><br>(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax).<br><br>(b) Profits of, and receipts relating to, any business | | | **<br><br>**<br><br>** |

| | | | | |
|---|---|---|---|---|
| | situated outside India.<br><br>(c) Income of foreign concerns from investment outside India.<br><br>(d) Expenditure or losses (if any ) debited directly to reserves, other than-<br><br>(i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax ; or agricultural income-tax;<br><br>(ii) losses of any business situated outside India.<br><br>(e) In the case of foreign concerns proportionate administrative (overhead ) expenses of head office allocable to Indian business. | Rs…….. | | ***<br><br>**<br> |

| | | | | |
|---|---|---|---|---|
| | (f) Refund of any direct tax paid for previous accounting years and excess provision, if any, of previous accounting years relating to bonus, depreciation, taxation or development rebate or development allowance, if written back.<br><br>(g) Cash subsidy, if any, given by the government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes.<br><br>Total of Item No.6 | | | |
| 7. | Gross Profits for purposes of bonus (Item No.5 minus | Rs……. | | |

| | | | | |
|---|---|---|---|---|
| | Item No.6 ) | | | |

*Explanation* : In sub-item (aa) of Item 3, "approved gratuity fund" has the same meaning assigned to it in clause (5) of section 2 of the Income Tax Act.
* If, and to the extent, charged to Profit and Loss Account.
** If, and to the extent, credited to Profit and Loss Account.
*** In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per consolidated profit and loss account, adjusted as in Item No. 2 above only).

**THE THIRD SCHEDULE**

*[Section 6(d)]*

| *Item No.* | *Category of employer* | *Further sums to be deducted* |
|---|---|---|
| 1. | Company, other than a banking company. | (i) The dividends payable on its preference share capital for the accounting year calculated at the actual rate at which such dividends are payable;<br><br>(ii) 8.5 percent of its paid up equity share capital as at the commencement of the accounting year;<br><br>(iii) 6 percent of its reserves shown in its balance sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year :<br><br>PROVIDED that where the employer is a foreign company within the meaning of section 591 of the Companies Act ,1956 (1of 1956) , the total amount to be deducted under this item shall be 8.5 percent on the aggregate of the value of the net fixed assets and the current assets of the company in India after deducting the amount of its current liabilities (other than any amount shown as payable by the company to its Head Office whether towards any advance made by the Head Office or otherwise or any interest paid by the company to its Head Office ) in India. |
| 2. | Banking company | (i) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable ;<br><br>(ii) 7.5 per cent of its paid up equity share capital as at the commencement of the accounting year ;<br><br>(iii) 5 percent of its reserves shown in its |

| | | |
|---|---|---|
| | | balance sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year;<br><br>(iv) any sum which, in respect of the accounting year, is transferred by it-<br><br>(a) to a reserve fund under sub-section (1) of section 17 of the Banking Regulation Act, 1949 (10 of 1949 ); or<br><br>(b) to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India,<br><br>whichever is higher:<br><br>PROVIDED that where the banking company is a foreign company within the meaning of section 591 of the Companies Act , 1956 (1of 1956), the amount to be deducted under this item shall be the aggregate of-<br><br>(i) the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds;<br><br>(ii) 7.5 per cent of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total working funds.<br><br>(iii) 5 per cent of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds;<br><br>(iv) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of the Banking Regulation Act, 1949 (10 of 1949) , not exceeding the amount required under the aforesaid provision to be so deposited.] |
| 3. | Corporation | (i) 8.5 per cent of its paid up capital as at the commencement of the accounting year;<br><br>(ii) 6 per cent of its reserves, if any, shown in its balance sheet as at the commencement of the |

| | | |
|---|---|---|
| | | accounting year, including any profits carried forward from the previous accounting year. |
| 4. | Co-operative society | (i) 8.5 per cent of the capital invested by such society in its establishment as evidenced from its books of accounts at the commencement of the accounting year; |
| | | (ii) such sums as has been carried forward in respect of the accounting year to a reserve fund under any law relating to co-operative societies for the time being in force. |
| 5. | Any other employer not falling under any of the aforesaid categories | 8.5 per cent of the capital invested by him in his establishment as evidenced from his books of accounts at the commencement of the accounting year:<br><br>PROVIDED that where such employer is a person to whom Chapter XXII-A of the income Tax Act applies , the annuity deposit payable by him under the provisions of that Chapter during the accounting year shall also be deducted:<br><br>PROVIDED FURTHER that where such employer is a firm, an amount equal to 25 per cent of the gross profits derived by it from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of section 6 by way of remuneration to all the partners taking part in the conduct of business of the establishment shall also be deducted, but where the partnership agreement, whether oral or written, provides for the payment of remuneration to any such partner, and –<br><br>(i) the total remuneration payable to all such partners is less than the said 25 per cent the amount payable, subject to a maximum of forty-eight thousand rupees to each such partner; or<br><br>(ii) the total remuneration payable to all such partners is higher than the said 25 percent , such percentage, or a sum calculated at the rate of forty – eight thousand rupees to each such partner, whichever is less , shall be deducted under this proviso:<br><br>PROVIDED ALSO that where such employer is an individual or a Hindu Undivided Family - |

| | | |
|---|---|---|
| | | (i) an amount equal to 25 per cent of the gross profits derived by such employer from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of section 6; or<br><br>(ii) forty-eight thousand rupees,<br><br>whichever is less by way of remuneration to such employer, shall also be deducted. |
| 6. | Any employer falling under Item No.1 or Item No. 3 or Item No. 4 or Item No. 5 and being a licensee within the meaning of the Electricity (Supply) Act, 1948 (54 of 1948) . | In addition to the sums deductible under any of the aforesaid Items, Such sums as are required to be appropriated by licensee in respect of the accounting year to a reserve under the Sixth Schedule to that Act shall also be deducted. |

*Explanation* : The expression "reserves" occurring in column (3) against Item Nos. 1(iii), 2(iii) and 3(ii) shall not include any amount set apart for the purpose of,-

(i) payment of any direct tax which, according to the balance-sheet, would be payable;

(ii) meeting any depreciation admissible in accordance with the provisions of clause (a) of section 6;

(iii) payment of dividends which have been declared,

but shall include,-

(a) any amount, over and above the amount referred to in clause-(i) of this Explanation, set apart as specific reserve for the purpose of payment of any direct tax; and

(b) any amount set apart for meeting any depreciation in excess of the amount admissible in accordance with the provisions of clause (a) of section 6.

**THE FOURTH SCHEDULE**

*[Sections 15 and 16]*

In this Schedule, the total amount of bonus equal to 8.33 per cent of the annual salary or wages payable to all the employees is assumed to be Rs. 1,04,167. Accordingly, the maximum bonus to which all the employees are

entitled to be paid (twenty per cent of the annual salary or wages of all the employees) would be Rs. 2,50,000.

| Year | Amount equal to sixty per cent or sixty-seven per cent, as the case may be, of available surplus allocable as bonus | Amount payable as bonus | Set on or Set off of the year carried forward | Total set on or set off carried forward | |
|---|---|---|---|---|---|
| | *Rs.* | *Rs.* | *Rs.* | *Rs.* | *Of (year)* |
| 1. | 1,04,167 | 1,04,167# | Nil | Nil | |
| 2. | 6,35,000 | 2,50,000* | Set on 2,50,000* | Set on 2,50,000* | (2) |
| 3. | 2,20,000 | 2,50,000* (inclusive of 30,000 from year-2) | Nil | Set on 2,20,000 | (2) |
| 4. | 3,75,000 | 2,50,000* | Set on 1,25,000 | Set on 2,20,000 1,25,000 | (2) (4) |
| 5. | 1,40,000 | 2,50,000* (inclusive of 1,10,000 from year-2) | Nil | Set on 1,10,000 1,25,000 | (2) (4) |
| 6. | 3,10,000 | 2,50,000* | Set on 60,000 | Set on Nil ## 1,25,000 60,000 | (2) (4) (6) |
| 7. | 1,00,000 | 2,50,000* (inclusive of 1,25,000 from year-4 and 25,000 from year-6) | Nil | Set on 35,000 | (6) |
| 8. | Nil | 1,04,167# | Set | Set off | (8) |

| | | | | | |
|---|---|---|---|---|---|
| | (due to loss) | (inclusive of 35,000 from year-6) | on 69,167 | 69,167 | |
| 9. | 10,000 | 1,04,167# | Set off 94,167 | Set off 69,167 94,167 | (8) (9) |
| 10. | 2,15,000 | 1,04,167# (after setting off 69,167 from year-8 and 41,666 from year-9) | Nil | Set off 52,501 | (9) |

* Maximum amount admissible.
# Minimum amount admissible.
## The Balance of Rs. 1,10,000 set on from year-2 lapses;

**Foot Notes**

1 Substituted for the long title by Act No. 23 of 1976, w.e.f. 25th. September, 1975.
2 The words "except the State of Jammu and Kashmir" omitted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.
3 Inserted by Act No. 23 of 1976, w.e.f. 25th. September, 1975.
4 Inserted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.
5 The words, brackets, letter and figure "under cl. (b) of sub-section (3)" omitted by Act No. 23 of 1976, w.e.f. 25th. September, 1975.
6 Inserted by Act No. 66 of 1980, w.e.f. 21st. August,1980.
7 Substituted for 'two thousand and five hundred rupees' by Act No. 34 of 1995, w.e.f. 1st. April, 1993.
8 Substituted by Act No. 66 of 1980, for section 4 w.e.f. 21st. August,1980.
9 Added by Act No. 8 of 1969.
10 Substituted by Act No. 66 of 1980, w.e.f. 21st. August,1980.
11 Substituted Act No. 66 of 1980, for the words "Second Schedule", w.e.f. 21st. August,1980.
12 Substituted by Act No. 8 of 1969, for the words, bracket and figures "For the purpose of clause (c) of section 6, any direct tax payable by the employer".
13 Section 12 omitted by Act No. 30 of 1985, and re-inserted by Act No. 67 of 1985, w.e.f. 7th. November, 1985.
14 Substituted by Act No. 34 of 1995, for the words 'one thousand and six hundred rupees', w.e.f. 1st. April, 1993.
15 Substituted for section 13 by Act No. 66 of 1980, w.e.f. 21st. August,1980.
16 Substituted for section 15 by Act No. 66 of 1980, w.e.f. 21st. August,1980.
17 Substituted by Act No. 23 of 1976, for sub-section (1) and *Explanation* thereto, w.e.f. 25th. September, 1975.
18 Substituted by Act No. 66 of 1980, for the words "Third Schedule", w.e.f. 21st. August,1980.

19 Substituted by Act No. 23 of 1976, for the words, brackets and figure "sub-section (1)", w.e.f. 25th. September, 1975.
20 Substituted by Act No. 23 of 1976, for the words, bracket and figure "(1) Subject to the provisions of this section, all amounts", w.e.f. 25th. September, 1975.
21 Section 20 re-numbered as sub-section (1) thereof by Act No. 66 of 1980, w.e.f. 27th. December, 1980.
22 Inserted by Act No. 66 of 1980, w.e.f. 27th. December, 1980.
23 Substituted by Act No. 66 of 1980, for the words and figures "sections 22, 23 and 25", w.e.f. 21st. August,1980.
24 Substituted by Act No. 66 of 1980, for the word and figure "section 25", w.e.f. 21st. August,1980.
25 Substituted by Act No. 66 of 1980, for section 25, w.e.f. 21st. August,1980.
26 Substituted by Act No. 66 of 1980, for the words "Provided that", w.e.f. 21st. August,1980.
27 The words "employees employed by any insurer carrying on general insurance business and the" shall stand omitted by Act No. 62 of 1968.
28 Substituted by Act No. 61 of 1981, for sub-clause (d), w.e.f. 12-7-1982.
29 Inserted by Act No. 39 of 1989.
30 Inserted by Act No. 53 of 1987, w.e.f. 9-7-1988, was omitted by Act No. 66 of 1980, w.e.f. 21st. August,1980.
31 Substituted by Act No. 23 of 1976, for section 34, w.e.f. 25th. September, 1975.
32 Substituted by Act No. 23 of 1976, for the words "or in two successive sessions", w.e.f. 25th. September, 1975.
33 Substituted ibid, for the words "in which it is so laid or the session immediately following".

# THE PAYMENT OF BNONUS RULES, 1975[1]

*In exercise of the powers conferred by section 38 of the Payment of Bonus Act, 1965 (31 of 1965), and in super session of the Payment of Bonus Rules, 1965, the Central Government hereby makes the following rules, namely:-*

**1. Short title and commencement**. – (1) These rules may be called the Payment of Bonus Rules, 1965.

(2) They shall come into force on the date of their publication in Official Gazette.

**2. Definitions. –** In these rules -

(a) "form" means a form appended to these rules;
(b) "act" means the Payment of Bonus Act, 1965 (21 of 1965).
(c) "section" means a section of the Act.

**3. Authority for granting permission for change of accounting year. –** The prescribed authority for the purposes of the proviso to paragraph (b) of sub-clause (iii) of clause (1) of section 2 shall be -

(a) in case of an establishment in relation to which the Central Government is the appropriate Government under the Act, the Chief Labour Commissioner (Central);
(b) in any other case, the Labour Commissioner of the State in which the establishment is situated.

**4. Maintenance of registers.-** Every employer shall prepare and maintain the following registers, namely:-

(a) a register showing the computation of the allocable surplus referred to in clause (4) of section 2, in form A:

(b) a register howing the set-on and set-off of the allocable surplus, under section 15, in form B.

(c) a register showing the details of the amount of bonus due to each of the employees, the deductions under sections 17 and 18 and the amount actually disbursed, in Form C.

[2]{**5. Annual returns.** – Every employer shall send a return in Form D to the Inspector so as to reach him within 30 days after the expiry of the time limit specified in section 19 for payment of bonus.}

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[1] Vide G.S.R 2367dated 21st August, 1975, published in the Gazette of India, Part-II Sec. 3(i), dated 6th September, 1975.
[2] Ins. By S.O. 251, dated 7th January, 1984 (w.e.f 21-1-1984)

**FORM A**

*{See rule 4(1)}*

**Computation of the Allocable surplus under section 2(4)**

Name of the establishments Accounting year ending on the …

| Gross profit For the Accounting Year (Rs.) | Sums deducted from gross profit: Depreciation under Section 6(a) | Development rebate or Development allowance Section 6(b) | Direct taxes section 6(c) | Further sums as are specified under the Third Schedule to the Act. |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 |
| | | | | |

| Total of sums deducted under Column 2,3,4, and 5 | Available surplus for the accounting Year (Column 1 minus Column 6) | Amount of allocable surplus [α] 67% ([*]60% of column 7) |
|---|---|---|
| 6 | 7 | 8 |
| | | |

[α] Section 2(4)(a)

[*] Section 2(4)(b)

## FORM B

{See rule 4(b)}

## Set-on and Set-off of Allocable surplus under section 15

| Accounting Year | Amount allocable as bonus (in Rs.) | Amount payable as bonus (in Rs.) | Amount of set on or set-off (in Rs.) | Total set-on or set-off carried forward |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 |

## FORM C

*{See rule 4(c)}*

**Bonus paid to employees for the accounting year ending on the …….**

Name of the establishment……
No. of working days in the year……..

| S. No. | Name of the Employee | Father's name | Whether he has completed 15 years of age at the beginning of accounting year | Designation | No. of days worked in the year | Total salary or wage in respect of the accounting year | Amount of bonus payable under section 10 or section 11 as the case may be | |
|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | |
| | | Deduction | | | Net amount payable (column 8 minus Column 12) | Amount actually paid | Date on which paid | Signature/ Thumb impression of the employee |
| Puja bonus or other customary bonus during the accounting year | Interim bonus or bonus paid advance | [1][Amount of income-tax deducted ] | Deduction on account of financial loss, if any caused by misconduct of of the employee | [2][Total sum deducted under Columns,9 10,10 A and 11] | | | | |
| 9 | 10 | [1](10 A) | 11 | 12 | 13 | 14 | 15 | 16 |

[2] Ins by G.S.R 1147 dated 23rd August, 1979 ( w.e.f 8-9-1979)

## [1]FORM D

*{See rule 5}*

**Annual Return – Bonus paid to employees for the accounting year ending on the …….**

1. Name of the establishment and its complete postal address:
2. Name of industry:
3. Name of the employer:
4. Total number of employees:
5. Number of employees benefited by bonus payments:

| Total amount payable as bonus under section 10 or 11 of the Payment of Bonus Act, 1965 as the case may be | Settlement, if any, reached under section 18(1) of 12(3) of the Industrial Disputes Act, 1947 with date | Percentage of bonus declared to be paid |
|---|---|---|
| 1 | 2 | 3 |
| | | |

| Total amount of bonus actually paid | Date on which payment made | Whether bonus has been paid to all the employees, if not, reasons for non-payment | Remarks |
|---|---|---|---|
| 4 | 5 | 6 | 7 |
| | | | |

Signature of the employer of his agent

[1] Ins. by S.O. 251 dated 7th January,1984,(w.e.f. 21.1.1984)

# PAYMENT OF GRATUITY ACT,1972

[Act No. 39 of Year 1972] 21 August 1972

An Act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows: -

## 1. Short title, extent, application and commencement

(1) This Act may be called the Payment of Gratuity Act, 1972.

(2) It extends to the whole of India:

Provided that in so far as it relates to plantations or ports, it shall not extend to the State of Jammu and Kashmir.

(3) It shall apply to-

(a) every factory, mine, oilfield, plantation, port and railway company;

(b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;

(c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf.

(Motor Transport Undertaking-8/4/74)

[1][(3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.]

(4) [2][It shall come into force on such date] as the Central Government may by notification, appoint.(DOEnforcment 16/9/72 notif NoS.O.60(E),16/9/72 goi gzt part II,S.3(ii)Dt16/9/72.)

## 2. Definitions

In this Act, unless the context otherwise requires:

(a) "appropriate government" means,-

(i) in relation to an establishment-

(a) belonging to, or under the control of, the Central Government,

(b) having branches in more than one State

(c) of a factory belonging to, or under the control of, the Central Government,

(d) of a major port, mine, oilfield or railway company, the Central Government,

(ii) in any other case, the State Government;

(b) "completed year of service" means continuous service for one year;

[3][(c) "continuous service" means continuous service as defined in section 2A;]

(d) "controlling authority" means an authority appointed by the appropriate government under section 3;(Asst col not.No

(e) "employee" means any person (other than an apprentice) employed on wages, [4][***] in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are expressed or implied [5][and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity].

[6][* * *]

(f) "employer" means, in relation to any establishment, factory, mine, oilfield, plantation, port, railway company or shop-

(i) belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by the appropriate government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned,

(ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,

(iii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;

(g) "factory" has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948).

(h) "family", in relation to an employee, shall be deemed to consist of-

(i) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents [7][and the dependent parents of his wife and the widow] and children of his predeceased son, if any,

(ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any:

[8][***]

*Explanation*: Where the personal law of an employee permits the adoption by him of a child, any child lawfully adopted by him shall be deemed to be included in his family,

and where a child of an employee has been adopted by another person and such adoption is, under the personal law of the person making such adoption, lawful, such child shall be deemed to be excluded from the family of the employee;

(i) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(j) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);

(k) "notification" means a notification published in the Official Gazette;

(l) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948;

(m) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);

(n) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(o) "prescribed" means prescribed by rules made under this Act;

(p) "railway company" has the meaning assigned to it in clause (5) of section 3 of the Indian Railways Act, 1890, (9 of 1890);

(q) "retirement" means termination of the service of an employee otherwise than on superannuation;

[9][(r) "superannuation" in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment;]

(s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not

include any bonus, commission, house rent allowance, overtime wages and any other allowance.

[10][2A. Continuous service

(1) For the purposes of this Act, an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order [11][***] treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act;

(2) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer-

(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) one hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week and

(ii) two hundred and forty days, in any other case;

(b) for the said period of six months, if the employee during the period of six calender months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than-

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

(ii) one hundred and twenty days, in any other case.

[12][*Explanation* : For the purposes of clause (2), the number of days on which an employee has actually worked under an employer shall include the days on which-

(a) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947, (14 of 1947), or under any other law applicable to the establishment;

(ii) he has been on leave with full wages, earned in the previous year;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.]

(3) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent of the number of days on which the establishment was in operation during such period.

### 3. Controlling authority

The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

## 4. Payment of gratuity

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,-

(a) on his superannuation, or

(b) on his retirement or resignation, or

(c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

[13][provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.]

*Explanation*: For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

PROVIDED that in the case of a piece rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

PROVIDED FURTHER that in the case of [14][an employee who is employed in a **seasonal establishment** and who is not so employed throughout the year], the employer shall pay the gratuity at the rate of **seven days'** wages for each season.

[12][*Explanation* : In the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.]

(3) The amount of gratuity payable to an employee shall not exceed [15][three lakhs and fifty thousand] rupees.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement, shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(b) the gratuity payable to an employee [16][may be wholly or partially forfeited]-

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

[17][ * * *]

**[18][4A. Compulsory insurance**

(1) With effect from such date as may be notified by the appropriate government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (2), obtain an insurance in the manner prescribed, for his liability for payment towards the gratuity under this Act, from the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (31 of 1956) or any other prescribed insurer:

PROVIDED that different dates may be appointed for different establishments or class of establishments or for different areas.

(2) The appropriate government may, subject to such conditions as may be prescribed, exempt every employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement, and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed from the provisions of sub-section (1).

**(3) For the purpose of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed get his establishment registered**

with the controlling authority in the prescribed manner and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).

(4) The appropriate government may, by notification, make rules to give effect to the provisions of this section and such rules may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the controlling authority of the amount of the gratuity payable to an employee from the Life Insurance Corporation of India or any other insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund.

(5) Where an employer fails to make any payment by way of premium to the insurance referred to in sub-section (1) or by way of contribution to an approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Act (including interest, if any, for delayed payments) forthwith to the controlling authority.

(6) Whoever contravenes the provisions of sub-section (5) shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence with a further fine which may extend to one thousand rupees for each day during which the offence continues.

*Explanation*: In this section "approved gratuity fund" shall have the same meaning as in clause (5) of section 2 of the Income-tax Act, 1961, (43 of 1961).]

### 5. Power to exempt

[19][(1)] The appropriate government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, factory, mine, oilfield,

plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act if, in the opinion of the appropriate government, the employees in such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.

[10][(2) The appropriate government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.]

[12][(3) A notification issued under sub-section (1) or sub-section (2) may be issued retrospectively a date not earlier than the date of commencement of this Act, but no such notification shall be issued so as to prejudicially affect the interests of any person.]

## 6. Nomination

(1) Each employee, who has completed **one year of service**, shall make within such time, in such form and in such manner, as may be prescribed, nomination for the purpose of the second proviso to sub-section (1) of section 4.

(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Act amongst more than one nominee.

(3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, **and any nomination made by such employee in favour of a person who is not a member of his family shall be void**.

(4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed, a fresh nomination in favour of one or more members of his family.

(5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed, of his intention to do so.

(6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the prescribed form, in respect of such interest.

(7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

**7. Determination of the amount of gratuity**

(1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity-

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.

[20][(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

PROVIDED that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.]

(4) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.

[21][***]

[22][(b) Where there is a dispute with regard to any matter or matters specified in clause (a) the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.]

[23][(c) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.]

[24][(d) The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

[25][(e) As soon as may be after a deposit is made under clause (a), the controlling authority shall pay the amount of the deposit-

(i) to the applicant where he is the employee, or

(ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses.

(6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code, 1860 (45 of 1860).

**Appeal**

(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate government or such other authority as may be specified by the appropriate government in this behalf:

PROVIDED that the appropriate government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from

preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

[22][PROVIDED FURTHER that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.]

(8) The appropriate government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority.

### [22][7A. Inspectors

(1) The appropriate government may, by notification, appoint as many Inspectors, as it deems fit, for the purposes of this Act.

(2) The appropriate government may, by general or special order, define the area to which the authority of an Inspector so appointed shall extend and where two or more Inspectors are appointed for the same areas, also provide, by such order, for the distribution or allocation of work to be performed by them under this Act.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

### 7B. Powers of Inspectors

(1) Subject to any rules made by the appropriate government in this behalf, an Inspector may, for the purpose of ascertaining whether any of the provisions of this Act or the conditions, if any, of any exemption granted thereunder, have been complied with, exercise all or any of the following powers, namely-

(a) require an employer to furnish such information as he may consider necessary;

(b) enter and inspect, at all reasonable hours, with such assistant (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any premises of or place in any factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act, applies for the purpose of examining any register, record or notice or other document required to be kept or exhibited under this Act or the rules made thereunder, or otherwise kept or exhibited in relation to the employment of any person or the payment of gratuity to the employees, and require the production thereof for inspection;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer or any person whom he finds in such premises or place and who, he has reasonable cause to believe, is an employee employed therein;

(d) make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit, such register, record, notice or other document as he may consider relevant in respect of that offence;

(e) exercise such other powers as may be prescribed.

(2) Any person required to produce any register, record, notice or other document or to give any information by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code (45 of 1860).

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of l974) shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code.]

## 8. Recovery of gratuity

If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon [26][at such rate as the Central Government may, by notification, specify], from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto:

[12][PROVIDED that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate:

PROVIDED FURTHER that the amount of interest payable under this section shall, in no case, exceed the amount of gratuity payable under this Act.]

## 9. Penalties

(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to [27][ten thousand rupees] or with both.

(2) An employer who contravenes, or make default in complying with, any of the provisions of this Act or any rule or order made thereunder shall be punishable with imprisonment for a term [28][which shall not be less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both]:

PROVIDED that where the offence relates to non payment of any gratuity payable under this Act, the employer shall be punishable with imprisonment for a term which shall not be less than [29][six months but which may extend to two years] unless the court trying the offence, for reasons to be recorded by it in writing, is of opinion that a lesser term of imprisonment or the imposition of a fine would meet the ends of justice.

**10. Exemption of employer from liability in certain cases**

Where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days' notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court-

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence:

PROVIDED that in seeking to prove as aforesaid, the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

PROVIDED FURTHER that if the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual

offender cannot still be brought before the court, the court shall proceed to hear the charge against the employer and shall, if the offence be proved, convict the employer.

### 11. Cognizance of offences

(1) No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate government:

PROVIDED that where the amount of gratuity has not been paid, or recovered, within six months from the expiry of the prescribed time, the appropriate government shall authorise the controlling authority to make a complaint against the employer, whereupon the controlling authority shall, **within fifteen days** from the date of such authorisation, make such complaint to a magistrate having jurisdiction to try the offence.

(2) No court inferior to that of a [30][Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence punishable under this Act.

### 12. Protection of action in good faith

No suit or other legal proceedings shall lie against the controlling authority or any other person in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

### 13. Protection of gratuity

No gratuity payable under this Act [22][and no gratuity payable to an employee employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop exempted under section 5] shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

## 14. Act to override other enactments, etc.

The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.

## 15. Power to make rules

(1) The appropriate government may, by notification, make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## Foot Notes

1 Inserted by Act No. 26 of 1984.

2 Notification No. S.O. 601 (E), dated 16th. September, 1972, vide Gazette of India, Extraordinary, 1972, Part II, section 3, sub-section (ii), page 1641.

3 Substituted by Act No. 26 of 1984, w.e.f. 11th. February, 1981.

4 Omitted by Act No. 34 of 1994, by Notification No. S.O. 863(E), dated 26th. November, 1992, for the words "two thousand and five hundred rupees per mensem".

Earlier sub-section substituted by Act No. 22 of 1987, for words "one thousand and six hundred rupees per mensem."

5 Substituted by Act No. 25 of 1984, w.e.f. 1st. July, 1984.

6 Explanation omitted by Act No. 34 of 1994.

7 Substituted by Act No. 22 of 1987, for the words "and the widow" w.e.f. 1st. October, 1987.

8 Proviso omitted by Act No. 22 of 1987, w.e.f. 1st. October, 1987.

9 Substituted by Act No. 25 of 1984, w.e.f. 1st. July, 1984.

10 Inserted by Act No. 26 of 1984, w.e.f. 11th. February, 1981.

11 The words "imposing a punishment of penalty or" omitted by Act No. 22 of 1987, w.e.f. 1st. October, 1987.

12 Added by Act No. 22 of 1987, w.e.f. 1st. October, 1987.

13 Substituted by Act No. 22 of 1987, w.e.f. 1st. February, 1991.

14 Substituted for the words "an employee employed in seasonal establishment" by Act No. 22 of 1987, w.e.f. 1st. July, 1984.

15 Substituted by Amendment Act No. 11 of 1998, dated 22-6-1998, w.e.f. 24th. September, 1997.

16 Substituted for the words "shall be wholly forfeited" by Act No. 25 of 1984, w.e.f. 1st. July, 1984.

17 Omitted by Act No. 34 of 1994, w.e.f. 24th. May, 1994.

18 Inserted by Act No. 22 of 1987.

19 Section 5 re-numbered as sub-section (1) thereof by Act No. 26 of 1984.

20 Substituted by Act No. 22 of 1987, for sub-section (3) w.e.f. 1st. October, 1987.

21 Explanation omitted by Act No. 25 of 1984, w.e.f. 1st. July, 1984.

22 Inserted by Act No. 25 of 1984, w.e.f. 1st. July, 1984.

23 Substituted by Act No. 25 of 1984, for cl. (c) re-lettered by that section w.e.f. 1st. July, 1984.

24 Cls. (c) and (d) re-lettered as cls. (d) and (e) respectively by Act No. 25 of 1984, section 4 w.e.f. 1st. July, 1984.

25 Substituted by Act No. 25 of 1984, for the words "nominee or" w.e.f. 1st. July, 1984.

26 Substituted by Act No. 22 of 1987, for the words "at the rate of nine per cent per annum" w.e.f. 1st. October, 1987.

27 Substituted by, ibid, for the words "one thousand rupees" w.e.f. 1st. October, 1987.

28 Substituted by, ibid, for certain words w.e.f. 1st. October, 1987.

29 Substituted by, ibid, for the words "three months" w.e.f. 1st. October, 1987.

30 Substituted by Payment of Gratuity (Amendment) Act No. 34 of 1994, w.e.f. 24th. May, 1994.

# PAYMENT OF WAGES ACT, 1936

[Act No. 4 of Year 1936]

*An Act to regulate the payment of wages of certain classes of [1][employed persons]*

Whereas it is expedient to regulate the payment of wages to certain classes of [1][employed persons];

It is hereby enacted as follows: -

## 1. Short title, extent, commencement and application

(1) This Act may be called the Payment of Wages Act, 1936.

[2][(2) It extends to the whole of India [3][* * *]].

(3) It shall come into force on such [4][date] as the Central Government may, by notification in the Official Gazette, appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any [5][factory, to persons] employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration, [6][and to persons employed in an industrial or other establishment specified in sub-clauses (a) to (g) of clause (ii) of section 2.]

(5) The State Government may, after giving three months' notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of [7][this Act] or any of them to the payment of wages to any class of persons employed in [8][any establishment or class of establishments specified by the Central Government or a State Government under sub-clause (h) of clause (ii) of section 2]:

[9][PROVIDED that in relation to any such establishment owned by the Central Government no such notification shall be issued except with the concurrence of that governments.]

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average [10][one thousand six hundred rupees] a month or more.

## 2. Definitions

In this Act, unless there is anything repugnant in the subject or context,-

[11][(i) "employed person" includes the legal representative of a deceased employed person;

(ia) "employer" includes the legal representative of a deceased employer;

(ib) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948) and includes any place to which the provisions of that Act have been applied under sub-section (1) of section 85 thereof;]

(ii) [12]["industrial or other establishment"] means any-

[11][(a) tramway service , or motor transport service engaged in carrying passengers or goods or both by road for hire or reward;

(aa) air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India;]

(b) dock, wharf or jetty;

[13][(c) inland vessel, mechanically propelled;]

(d) mine, quarry or oil-field;

(e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

[14][(g) establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation, or to the supply of water or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on;]

[6][(h) any other establishment or class of establishments which the Central Government or a State Government may, having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances, specify, by notification in the Official Gazette.]

[15][(iia) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);]

[11][(iii) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);]

(iv) "prescribed" means prescribed by rules made under this Act;

(v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890 (9 of 1890); and

[13][(vi) "wages" means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes-

(a) any remuneration payable under any award or settlement between the parties or order of a court;

(b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;

(c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

(d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

(e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force,but does not include-

(1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;

(2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;

(3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(4) any travelling allowance or the value of any travelling concession;

(5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or

(6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).]

### 3. Responsibility for payment of wages

Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

PROVIDED that, in the case of persons employed (otherwise than by a contractor)-

(a) in factories, if a person has been named as the manager of the factory under [16][clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948)];

[17][(b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments;]

(c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned.

The person so named, the person so responsible to the employer, or the person so nominated, as the case may be [18][shall also be responsible] for such payment.

### 4. Fixation of wage-periods

(1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

### 5. Time of payment of wages

(1) The wages of every person employed upon or in-

(a) any railway, factory or [12][industrial or other establishment] upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,

(b) any other railway, factory or [12][industrial or other establishment], shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable:

[PROVIDED that in the case of persons employed on a dock, wharf or jetty or in a mine, the balance of wages found due on completion of the final tonnage account of the ship or wagons loaded or unloaded, as the case may be, shall be paid before the expiry of the seventh day from the day of such completion.]

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages, earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated:

[PROVIDED that where the employment of any person in an establishment is terminated due to the closure of the establishment for any reason other than a weekly or other recognised holiday, the wages earned by him shall be paid before the expiry of the second day from the day on which his employment is so terminated]

(3) The State Government may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory ) [15][or to persons employed as daily-rated workers in the Public Works Department of the Central Government or the State Government] from the operation of this section in respect of wages of any such persons or class of such persons:

[15][PROVIDED that in the case of persons employed as daily-rated workers as aforesaid, no such order shall be made except in consultation with the Central Government.]

(4) [19][Save as otherwise provided in sub-section (2), all payments] of wages shall be made on a working day.

### 6. Wages to be paid in current coin or currency notes

All wages shall be paid in current coin or currency notes or in both:

[20][PROVIDED that the employer may, after obtaining the written authorisation of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.]

### 7. Deductions which may be made from wages

(1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890 (9 of 1890), the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

[21]*[Explanation I ]*: Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

[14]*[Explanation II:* Any loss of wages resulting from the imposition, for good and sufficient cause, upon a person employed of any of the following penalties, namely:-

(i) the withholding of increment or promotion (including the stoppage of increment at an efficiency bar);

(ii) the reduction to a lower post or time scale or to a lower stage in a time scale; or

(iii) suspension;

shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in this behalf by the State Government by notification in the Official Gazette.]

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:

(a) fines;

(b) deductions for absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

[13][(d) deductions for house-accommodation supplied by the employer or by government or any housing board set up under any law for the time being in force (whether the government or the board is the employer or not) or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette;]

(e) deductions for such amenities and services supplied by the employer as the [22][***] State Government [15][or any officer specified by it in this behalf] may, by general or special order, authorise.

*Explanation:* The word "services" in [23][this clause] does not include the supply of tools and raw materials required for the purposes of employment;

[11][(f) deductions for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payments of wages;

(ff) deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by the State Government, and the interest due in respect thereof;

(fff) deductions for recovery of loans granted for house-building or other purposes approved by the State Government and the interest due in respect thereof;]

(g) deductions of income-tax payable by the employed person;

(h) deductions required to be made by order of a court or other authority competent to make such order;

(i) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies or any recognised provident fund as defined in [24][section 58A of the Indian Income Tax Act, 1922 (11 of 1922)], or any provident fund approved in this behalf by the State Government, during the continuance of such approval; [25][***]

[26][(j) deductions for payments to co-operative societies approved by the State Government [15][or any officer specified by it in this behalf] or to a scheme of insurance maintained by the Indian Post Office, [27][and]

[13][(k) deductions, made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation Act of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such government.]]

[6][(kk) deductions, made with the written authorisation of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Union Act, 1926 (16 of 1926), for the welfare of the employed persons or the members of their families, or both, and approved by the State Government or any officer specified by it in this behalf, during the continuance of such approval;

(kkk) deductions, made with the written authorisation of the employed person, for payment of the fees payable by him for the membership of any trade union registered under the Trade Union Act, 1926 (16 of 1926);]

[15][(l) deductions, for payment of insurance premia on Fidelity Guarantee Bonds;

(m) deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes;

(n) deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration whether in respect of fares, freight, demurrage, wharfage and cranage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise;

(o) deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default;]

[20][(p) deductions, made with the written authorisation of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other Fund as the Central Government may, by notification in the Official Gazette, specify;]

[28][(q) deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees.]

[15][(3) Notwithstanding anything contained in this Act, the total amount of deductions which may be made under sub-section (2) in any wage-period from the wages of any employed person shall not exceed-

(i) in cases where such deductions are wholly or partly made for payments to co-operative societies under clause (j) of sub-section (2), seventy-five per cent of such wages, and

(ii) in any other case, fifty per cent of such wages:

PROVIDED that where the total deductions authorised under sub-section (2) exceed seventy five per cent or, as the case may be, fifty per cent of the wages, the excess may be recovered in such manner as may be prescribed.

(4) Nothing contained in this section shall be construed as precluding the employer from recovering from the wages of the employed person or otherwise any amount payable By such person under any law for the time being in force other than the Indian Railways Act, 1890 (9 of 1890).]

### 8. Fines

(1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the State Government or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to [29][three per cent] of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

*Explanation :* When the persons employed upon or in any railway, factory or [12][industrial or other establishment] are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

### 9. Deductions for absence from duty

(1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made in a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

PROVIDED that, subject to any rules made in this behalf by the State Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

[30][*Explanation :* For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.]

### 10. Deductions for damage or loss

[11][(1) A deduction under clause (c) or clause (o) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.

(1A) A deduction shall not be made under clause (c) or clause (m) or clause (n) or clause (o) of sub-section (2) of section 7 until the employed person has been given an opportunity of showing cause against the deduction or otherwise than in accordance with such procedure as may be prescribed for the making of such deduction.]

(2) All such deduction and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

### 11. Deductions for services rendered

A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person, unless the house-accommodation amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and, in the case of deduction under the said clause (e), shall be subject to such conditions as [22][***] the State Government may impose.

## 12. Deductions for recovery of advances

Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

[15][(aa) recovery of an advance of money given after employment began shall be subject to such conditions as the State Government may impose;]

(b) recovery of advances of wages not already earned shall be subject to any rules made by the State Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

## [15][12A. Deductions for recovery of loans

Deductions for recovery of loans granted under clause (fff) of sub-section (2) of section 7 shall be subject to any rules made by the State Government regulating the extent to which such loans may be granted and the rate of interest payable thereon.]

## 13. Deductions for payments to co-operative societies and insurance schemes

Deductions under clause (j) [27][and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as the State Government may impose.

## [15][13A. Maintenance of registers and records

(1) Every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every register and record required to be maintained under this section shall, for the purposes of this Act, be preserved for a period of three years after the date of the last entry made therein].

## 14. Inspectors

(1) An Inspector of Factories appointed under [31][sub-section (1) of section 8 of the Factories Act, 1948 (63 of 1948)], shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) The State Government may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The State Government may, by notification in the Official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and [12][industrial or other establishments] in respect of which they shall exercise their functions.

[11][(4) An Inspector may,

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises of any railway, factory or [12][industrial or other establishment] at any reasonable time for the purpose of carrying out the objects of this Act;

(c) supervise the payment of wages to persons employed upon any railway or in any factory or [12][industrial or other establishment];

(d) require by a written order the production at such place, as may be prescribed, of any register maintained in pursuance of this Act and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;

(e) seize or take copies of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;

(f) exercise such other powers as may be prescribed:

PROVIDED that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.]

(4A) The provisions of the [32][Code of Criminal Procedure, 1973 (2 of l974)]shall, so far as may be, apply to any search or seizure under this sub-section as they apply to any search or seizure made under the authority of a warrant issued under [33][section 94] of the said Code].

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (45 of 1860).

### [15][14A. Facilities to be afforded to Inspectors

Every employer shall afford an Inspector all reasonable facilities for making any entry, inspection, supervision, examination or inquiry under this Act.]

### 15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims

(1) The State Government may, by notification in the Official Gazette, appoint [15][a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 (14 of 1947), or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State or] any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a Stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, [34][of persons employed or paid in that area, including all matters, incidental to such claims:

PROVIDED that where the State Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.]

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

PROVIDED that every such application shall be presented within [35][twelve months] from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

PROVIDED FURTHER that any application may be admitted after the said period [35][twelve months] when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such
further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and [36][not exceeding twenty-five rupees in the latter, and even if the amount deducted or the delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding twenty-five rupees]:

PROVIDED that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to-

(a) a bona fide error or bona fide dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

[11][(4) If the authority hearing an application under this section is satisfied-

(a) that the application was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application; or

(b) that in any case in which compensation is directed to be paid under sub-section (3), the applicant ought not to have been compelled to seek redress under this section, the authority may direct that a penalty not exceeding fifty rupees be paid to the State Government by the employer or other person responsible for the payment of wages.

(4A) Where there is any dispute as to the person or persons being the legal representative or representatives of the employer or of the employed person, the decision of the authority on such dispute shall be final.

(4B) Any inquiry under this section shall be deemed to be a judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).]

(5) Any amount directed to be paid under this section may be recovered-

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and

(b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

### 16. Single application in respect of claims from unpaid group

(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if [15][deductions have been made from their wages in contravention of this Act for the same cause and during the same wage-period or periods or if] their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section l5 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case [11][every person on whose behalf such application is presented may be awarded maximum compensation to the extent specified in sub-section (3) of section 15].

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

### 17. Appeal

(1) [37][An appeal against an order dismissing either wholly or in part an application made under sub-section (2) of section 15, or against a direction made under sub-section (3) or sub-section (4) of that section] may be preferred, within thirty days of the date on which [38] [the order or direction] was made, in a Presidency-town [39] [***] before the Court of Small Causes and elsewhere before the District Court-

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees [15] [or such direction has the effect of imposing on the employer or the other person a financial liability exceeding one thousand rupees], or

[11][(b) by an employed person or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act, or any other person permitted by the authority to make an application under sub-section (2) of section 15, if the total amount of wages claimed to have been withheld from the employed person exceeds twenty rupees or from the unpaid group to which the employed person belongs or belonged exceeds fifty rupees, or]

(c) by any person directed to pay a penalty under sub-section (4) of section 15.

[15][(1A) No appeal under clause (a) of sub-section (1) shall lie unless the memorandum of appeal is accompanied by a certificate by the authority to the effect that the appellant has deposited the amount payable under the direction appealed against.]

[13] [(2) Save as provided in sub-section (1) any order dismissing either wholly or in part an application made under sub-section (2) of section 15, or a direction made under sub-section (3) or sub-section (4) of that section shall be final.]

[65][(3) Where an employer prefers an appeal under this section the authority against whose decision the appeal has been preferred may, and if so directed by the court referred to in sub-section (1) shall, pending the decision of the appeal, withhold payment of any sum in deposit with it.

(4) The court referred to in sub-section (1) may if it thinks fit submit any question of law for the decision of the High Court and, if it so does, shall decide the question in conformity with such decision.]

**[14][17A. Conditional attachment of property of employer or other person responsible for payment of wages**

(1) Where at any time after an application has been made under sub-section (2) of section 15 the authority, or where at any time after an appeal has been filed under section 17 by an employed person or [11][any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act or any other person permitted by the authority to make an application under sub-section (2) of section 15] the Court referred to in that section, is satisfied that the employer or other person responsible for the payment of wages under section 3 is likely to evade payment of any amount that may be directed to be paid under section 15 or section 17, the authority or the court, as the case may be, except in cases where the authority or court is of the opinion that the ends of justice would be defeated by the delay, after giving the employer or other person an opportunity of being heard, may

direct the attachment of so much of the property of the employer or other person responsible for the payment of wages as is, in the opinion of the authority or court, sufficient to satisfy the amount which may be payable under the direction.

(2) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to attachment before judgement under that Code shall, so far as may be, apply to any order for attachment under sub-section (1).]

### 18. Powers of authorities appointed under section 15

Every authority appointed under sub-section (1) of section 15 shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil court for all the purposes of section 195 and of [40] [Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

### 19. Power to recover from employer in certain cases [Repealed by the Payment of Wages (Amendment) Act, 1964 (53 of 1964), w.e.f. 1st. February, 1965 ]

### 20. Penalty for offences under the Act

(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, [41][section 5 except sub-section (4) thereof, section 7, section 8 except sub-section (8) thereof, section 9, section 10 except sub-section (2) thereof, and section 11 to 13], both inclusive, shall be punishable with fine [42] [which shall not be less than two hundred rupees but which may extend to one thousand rupees.]

(2) Whoever contravenes the provisions of section 4, [43][sub-section (4) of section 5, section 6, sub-section (8) of section 8, sub-section (2) of section 10] or section 25 shall be punishable with fine which may extend to [44][five hundred rupees.]

[15] [(3) Whoever being required under this Act to maintain any records or registers or to furnish any information or return-

(a) fails to maintain such register or record; or

(b) wilfully refuses or without lawful excuse neglects to furnish such information or return; or

(c) wilfully furnishes or causes to be furnished any information or return which he knows to be false; or

(d) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act,

shall, for each such offence, be punishable with fine [45] [which shall not be less than two hundred rupees but which may extend to one thousand rupees].

(4) Whoever-

(a) wilfully obstructs an Inspector in the discharge of his duties under this Act; or

(b) refuses or wilfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision, or inquiry authorised by or under this Act in relation to any railway, factory or [12][industrial or other establishment]; or

(c) wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act; or

(d) prevents or attempts to prevent or does anything which he has any reason to believe is likely to prevent any person from appearing before or being examined by an Inspector acting in pursuance of his duties under this Act;

shall be punishable with fine [45][which shall not be less than two hundred rupees but which may extend to one thousand rupees.]

(5) If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term [46][which shall not be less than one month but which may extend to six months and with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees]:

PROVIDED that for the purpose of this sub-section no cognizance shall be taken of any conviction made more than two years before the date on which the commission of the offence which is being punished came to the knowledge of the Inspector.

(6) If any person fails or wilfully neglects to pay the wages of any employed person by the date fixed by the authority in this behalf, he shall, without prejudice to any other action that may be taken against him, be punishable with an additional fine which may extend to [47][one hundred rupees] for each day for which such failure or neglect continues.]

### 21. Procedure in trial of offences

(1) No court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20 unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to-

(a) a bona fide error or bona fide dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

[15][(3A) No Court shall take cognizance of any offence punishable under sub- section (3) or sub-section (4) of section 20 except on a complaint made by or with the sanction of an Inspector under this Act.]

(4) In imposing any fine for an offence under sub-section (1) of section 20 the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

### 22. Bar of suits

No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed-

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or

(d) could have been recovered by an application under section 15.

### [15][22A. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the government or any officer of the government for anything which is in good faith done or intended to be done under this Act.]

### 23. Contracting out

Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

[48][24. Application of Act to railways, air transport services, mines and oilfields

The powers by this act conferred upon the State Government shall, in relation to [49][railways], [15][air transport services,] mines and oilfields, be powers of the Central Government.]

25. Display by notice of abstracts of the Act

The person responsible for the payment of wages to persons ; [50][employed in a factory or an industrial or other establishment] shall cause to be [51][displayed in such factory or industrial or other establishment] a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed [52][in the factory, or industrial or other establishment], as may be prescribed.

[53][25A. Payment of undisbursed wages in case of death of employed person

(1) Subject to the other provisions of the Act all amounts payable to an employed person as wages shall, if such amounts could not or cannot be paid on account of his death before payment or on account of his whereabouts not being known,-

(a) be paid to the person nominated by him in this behalf in accordance with the rules made under this Act; or

(b) where no such nomination has been made or where for any reasons such amounts cannot be paid to the person so nominated, be deposited with the prescribed authority who shall deal with the amounts so deposited in such manner as may be prescribed.

(2) Where, in accordance with the provisions of sub-section (1), all amounts payable to an employed person as wages-

(a) are paid by the employer to the person nominated by the employed person; or

(b) are deposited by the employer with the prescribed authority,

the employer shall be discharged of his liability to pay those wages.]

26. Rule-making power

(1) The State Government may make rules to regulate the procedure to be followed by the authorities and courts referred to in sections 15 and 17.

(2) The State Government may, [89] [***] by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may-

(a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act [54][prescribe the form thereof and the particulars to be entered in such registers or records];

(b) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;

(c) Provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;

(d) prescribe the manner of giving notice of the days on which wages will be paid;

(e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed;

(f) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10;

(g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9;

(h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;

(i) prescribe the extent to which advances may be made and the instalments by which they may be recovered with reference to clause (b) of section 12;

[15][(ia) prescribe the extent to which loans may be granted and the rate of interest payable thereon with reference to section 12A,.

(ib) prescribe the powers of Inspectors for the purposes of this Act;]

(j) regulate the scale of costs which may allowed in proceedings under this Act;

(k) prescribe the amount of court-fees payable in respect of any proceedings under this Act, [55] [***]

(l) prescribe the abstracts to be contained in the notices required by section 25; [56] [***]

[6][(la) prescribe the form and manner in which nominations may be made for the purposes of sub-section (1) of section 25A, the cancellation or variation of any such nomination, or the making of any fresh nomination in the event of the nominee predeceasing the person making nomination, and other matters connected with such nominations;

(lb) specify the authority with whom amounts required to be deposited under clause (b) of sub-section (1) of section 25A shall be deposited, and the manner in which such authority shall deal with the amounts deposited with it under that clause;]

[6][(m) provide for any other matter which is to be or may be prescribed.]

(4) In making any rule under this section the State Government may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), shall not be less than three months from the date on which the draft of the proposed rules was published.

[6][(6) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in [57][two or more successive sessions,] and if, before the expiry of the session [58][immediately following the session or the successive sessions aforesaid,] both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

**Foot Notes**

1 Substituted by Act No. 38 of 1982, for the words "persons employed in industry" w.e.f. 15th. October, 1982.
2 Substituted for sub-section (2) by the Adaptation of Laws Order, 1950.
3 Omitted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.
4 28-3-1937, see Gazette of India, 1937, Part I, page 626.
5 Substituted by Act No. 38 of 1982, for the words "factory and to persons" w.e.f. 15th. October, 1982.
6 Inserted by Act No. 38 of 1982, w.e.f. 15th. October, 1982.
7 Substituted by Act No. 68 of 1957, for the words "the Act" w.e.f. 1st. April, 1958.
8 Substituted for the words "any industrial establishment or in any class or group of industrial establishments" by Act No. 38 of 1982, w.e.f. 15th. October, 1982.
9 Substituted by Act No. 38 of 1982, for the proviso w.e.f. 15th. October, 1982.
10 Substituted by Act No. 38 of 1982, for the words "one thousand rupees" , w.e.f. 15th. October, 1982.
11 Substituted by Act No. 53 of 1964, w.e.f. 1st. February, 1965.
12 Substituted by Act No. 38 of 1982, for the words "industrial establishment", w.e.f. 15th. October, 1982.
13 Substituted by Act No. 68 of 1957, w.e.f. 1st. April, 1958.
14 Inserted by Act No. 68 of 1957, w.e.f. 1st. April, 1958.
15 Inserted by Act No. 53 of 1964, w.e.f. 1st. February, 1965.
16 Substituted by Act No. 68 of 1957, for the words, brackets and figures "clause (e) of sub-section (1) of section 9 of Factories Act, 1934", w.e.f. 1st. April, 1958.
17 Substituted by Act No. 38 of 1982, w.e.f. 15th. October, 1982.
18 Substituted by Act No. 53 of 1964, for the words "shall be responsible" w.e.f. 1st. February, 1965.
19 Substituted by Act No. 53 of 1964 for the words "All payments" w.e.f. 1st. February, 1965.
20 Inserted by Act No. 29 of 1976, w.e.f. 12-11-1975.
21 Explanation re-numbered as Explanation 1 by Act No. 68 of 1957, w.e.f. 1st. April, 1958.

22 The words "Governor- General in Council or" omitted by Govt. of India (Adap. of Indian Laws) Order, 1937.
23 Substituted by Act No. 56 of 1974, Sch. II, for the words "this sub-clause".
24 Refer to corresponding provision of Income Tax Act, 1961.
25 The word "and" omitted by Ordinance 3 of 1940.
26 When the Defence of India Act, 1971 is in existence, section 7 of the Act would have full effect as if after clause (i) the following clause (ii) stood in force:
"(ii) deductions made with the written authorisation of-
(i) The employed person; or
(ii) the president or secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed, for contribution to the National Defence Fund or to any Defence Savings Scheme approved by the State Government;".
27 Inserted by Ordinance 3 of 1940.
28 Inserted by Act No. 19 of 1977
29 Substituted by Act No. 38 of 1982, for the words "half -an-anna in the rupee", w.e.f. 15th. October, 1982.
30 Added by Act No. 22 of 1937.
31 Substituted by Act No. 68 of 1957, for the words, brackets and figures "sub-section (1) of section 10 of the Factories Act, 1934" w.e.f. 1st. April, 1958.
32 Substituted by Act No. 38 of 1982, for the figures "Cr. P. C., 1898", w.e.f. 15th. October, 1982.
33 Substituted by Act No. 38 of 1982, for the words "section 98" w.e.f. 15th. October, 1982.
34 Substituted by Act No. 53 of 1964 for the words "of persons employed or paid in that area" w.e.f. 1st. February, 1965.
35 Substituted by Act No. 53 of 1964, for the words "six months" w.e.f. 1st. February, 1965.
36 Substituted by Act No. 53 of 1964, for the words "not exceeding ten rupees in the latter", w.e.f. 1st. February, 1965.
37 Substituted by Act No. 68 of 1957, for the words, brackets and figures "An appeal against a direction made under sub-section (3) or sub-section (4) of section 15" w.e.f. 1st. April, 1958.
38 Substituted by Act No. 68 of 1957 for the words "the direction", w.e.f. 1st. April, 1958.
39 The words "or in Rangoon" omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.
40 Substituted for "Chapter XXXV of the Code of Criminal Procedure, 1898" by Act No. 38 of 1982, w.e.f. 15th. October, 1982 .
41 Substituted by Act No. 53 of 1964, for the words and figures "section 5 and sections 7 to 13" w.e.f. 1st. February, 1965.
42 Substituted by Act No. 38 of 1982, for the words "which may extend to five hundred rupees" w.e.f. 15th. October, 1982.

43 Substituted by Act No. 53 of 1964, for the word and figure "section 6" w.e.f. 1st. February, 1965.
44 Substituted by Act No. 38 of 1982, for the words "two hundred rupees" w.e.f. 15th. October, 1982.
45 Substituted by Act No. 38 of 1982, for the words "which may extend to five hundred rupees" w.e.f. 15th. October, 1982.
46 Substituted by Act No. 38 of 1982, for the words "which may extend to three months or with fine which may extend to one thousand rupees or with both" w.e.f. 15th. October, 1982.
47 Substituted for the words "fifty rupees" by Act No. 38 of 1982, w.e.f. 15th. October, 1982.
48 Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, for the original section 24.
49 Substituted by the Adaptation of Laws Order, 1950, for the words, brackets and figures "Federal railways (within the meaning of the Government of India Act, 1935)".
50 Substituted by Act No. 38 of 1982, for the words "employed in a factory" w.e.f. 15th. October, 1982.
51 Substituted by Act No. 38 of 1982, for the words "displayed in such factory" w.e.f. 15th. October, 1982.
52 Substituted by Act No. 38 of 1982, for the words "in the factory" w.e.f. 15th. October, 1982.
53 Inserted by Act No. 38 of 1982, w.e.f. 1st. March, 1994 vide GSR 287 (E) dated 1st. March, 1994.
54 Substituted by Act No. 53 of 1964, for the words "and prescribe the form thereof" w.e.f. 1st. February, 1965.
55 The word "and" omitted by Act No. 53 of 1964, w.e.f. 1st. February, 1965.
56 The word "and" omitted by Act No. 38 of 1982 w.e.f. 15th. October, 1982.
57 Substituted by Act No. 38 of 1982, for the words "two successive sessions" w.e.f. 15th. October, 1982.
58 Substituted by Act No. 38 of 1982, for the words "in which it is so laid or session immediately following" w.e.f. 15th. October, 1982.

# SECURITISATIONAND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002

[54 of 2002]

An Act to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India asfollows :—

## Chapter I

### Preliminary

### Short title, extent and commencement.

**1.** (1) This Act may be called the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 21st day of June,2002.

### Definitions.

**2.** (1) In this Act, unless the context otherwise requires,—

(a) "Appellate Tribunal" means a Debts Recovery Appellate Tribunal established under sub-section (1) of section 8 of the Recovery of Debts Due to Banks andFinancial Institutions Act, 1993 (51 of 1993);

(b) "asset reconstruction" means acquisition by any securitisation company or reconstruction company of any right or interest of any bank or financial institution in any financial assistance for the purpose of realisation of such financial assistance;

(c) "bank"means—

(i) abanking company; or

(ii) a corresponding new bank; or

(iii) the State Bank of India; or

(iv) a subsidiary bank; or

(v) such other bank which the Central Government may, by notification, specify for the purposes of this Act;

(d) “banking company” shall have the meaning assigned to it in clause (c) of section5 of the Banking Regulation Act, 1949 (10 of 1949);

(e) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(f) “borrower” means any person who has been granted financial assistance by any bank or financial institution or who has given any guarantee or created any mortgage or pledge as security for the financial assistance granted by any bank or financial institution and includes a person who becomes borrower of a securitisation company or reconstruction company consequent upon acquisition by it of any rights or interest of any bank or financial institution in relation to such financial assistance;

(g) “Central Registry” means the registry set up or cause to be set up under sub-section (1)of section 20;

(h) “corresponding new bank” shall have the meaning assigned to it in clause (d a) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(i) “Debts Recovery Tribunal” means the Tribunal established under sub-section (1) of section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act,1993 (51 of 1993);

(j) “default” means non-payment of any principal debt or interest thereon or any other amount payable by a borrower to any secured creditor consequent upon which the account f such borrower is classified as non-performing asset in the books of account of the secured creditor in accordance with the directions or guidelines issued by the Reserve Bank;

(k) “financial assistance” means any loan or advance granted or any debentures or bonds subscribed or any guarantees given or letters of credit established or any other credit facility extended by any bank or financial institution;

(l) “financial asset” means debt or receivables and includes—

(i) a claim to any debt or receivables or part thereof, whether secured or unsecured; or

(ii) any debt or receivables secured by, mortgage of, or charge on, immovable property; or

(iii) a mortgage, charge, hypothecation or pledge of movable property; or

(iv) any right or interest in the security, whether full or part underlying such debt or receivables; or

(v) any beneficial interest in property, whether movable or immovable, or in such debt, receivables, whether such interest is existing, future, accruing, conditional or contingent; or

(vi) any financial assistance;

(m) “financial institution” means—

(i) a public financial institution within the meaning of section 4A of the Companies Act, 1956 (1 of 1956);

(ii) any institution specified by the Central Government under sub-clause (ii) of clause (h) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993);

(iii) the International Finance Corporation established under the International Finance Corporation (Status, Immunities and Privileges) Act, 1958 (42 of 1958);

(iv) any other institution or non-banking financial company as defined in clause (f)of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934), which the Central Government may, by notification, specify as financial institution forthe purposes of this Act;

(n) “hypothecation” means a charge in or upon any movable property, existing or future, created by a borrower in favour of a secured creditor without delivery of possession of the movable property to such creditor, as a security for financial assistance and includes floating charge and crystallization of such charge into fixed charge on movable property;

(o) “non-performing asset” means an asset or account of a borrower, which has been classified by a bank or financial institution as sub-standard, doubtful or loss asset, in accordance with the directions or under guidelines relating to assets classifications issued by the Reserve Bank;

(p) “notification” means a notification published in the Official Gazette;

(q) “obliger” means a person liable to the originator, whether under a contract or otherwise, to pay a financial asset or to discharge any obligation in respect of a financial asset, whether existing, future, conditional or contingent andincludes the borrower;

(r) “originator” means the owner of a financial asset which is acquired by a securitisation company or reconstruction company for the purpose of securitisation or assetre construction;

(s) “prescribed” means prescribed by rules made under this Act;

(t) “property” means—

(i) immovable property;

(ii) movable property;

(iii) any debt or any right to receive payment of money, whether secured or unsecured;

(iv) receivables, whether existing or future;

(v) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature;

(u) "qualified institutional buyer" means a financial institution, insurance company, bank, state financial corporation, state industrial development corporation, trustee or any asset management company making investment on behalf of mutual fund or provident fund or gratuity fund or pension fund or a foreign institutional investor registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made there under, or any other body corporate as may be specified by the Board;

(v) "reconstruction company" means a company formed and registered under the Companies Act, 1956 (1of 1956) for the purpose of asset reconstruction;

(w) "Registrar of Companies" means the Registrar defined in clause (40) of section 2 of the Companies Act, 1956 (1 of 1956);

(x) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);

(y) "scheme means a scheme inviting subscription to security receipts proposed to be issued by a securitisation company or reconstruction company under that scheme;

(z) "securitisation" means acquisition of financial assets by any securitisation company or reconstruction company from any originator, whether by raising of funds by such securitisation company or reconstruction company from qualified institutional buyers by issue of security receipts representing undivided interest in such financial assets or otherwise;

(z a) "securitisation company" means any company formed and registered under the Companies Act, 1956(1 of 1956) for the purpose of securitisation;

(zb) "security agreement" means an agreement, instrument or any other document or arrangement under which security interest is created in favour of the secured creditor including the creation of mortgage by deposit of title deeds with the secured creditor;

(zc) "secured asset" means the property on which security interest is created;

(zd) “secured creditor” means any bank or financial institution or any consortium or group of banks or financial institutions and includes—

(i) debenture trustee appointed by any bank or financial institution; or

(ii) securitisation company or reconstruction company; or

(iii) any other trustee holding securities on behalf of a bank or financial institution,

in whose favour security interest is created for due repayment by any borrower of any financial assistance;

(ze) “secured debt” means a debt which is secured by any security interest;

(zf) “security interest” means right, title and interest of any kind whatsoever upon property, created in favour of any secured creditor and includes any mortgage, charge, hypothecation, assignment other than those specified in section 31;

(zg) “securityreceipt” means a receipt or other security, issued by a securitisation companyor reconstruction company to any qualified institutional buyer pursuant to ascheme, evidencing the purchase or acquisition by the holder thereof, of anundivided right, title or interest in the financial asset involved insecuritisation;

(zh) “sponsor”means any person holding not less than ten per cent of the paid-up equity capital of a securitisation company orreconstruction company;

(zi) “StateBank of India” means the State Bank of India constituted under section 3 of theState Bank of India Act, 1955 (23 of 1955);

(zj) “subsidiarybank” shall have the meaning assigned to it in clause (k) of section 2of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959).

(2) Words and expressions used and not defined in this Act but definedin the Indian Contract Act, 1872 (9 of 1872) or the Transfer of Property Act,1882 (4 of 1882) or the Companies Act, 1956 (1 of 1956) or the Securities andExchange Board of India Act, 1992 (15 of 1992) shall have the same meaningsrespectively assigned to them in those Acts.

## CHAPTERII

Regulation of securitisation and reconstructionof financial assets of banks and financial institutions

### Registration of securitisation companies orreconstruction companies.

**3.** (1) No securitisation company or reconstruction company shall commenceor carry on the business of securitisation or asset reconstruction without—

(a) obtaininga certificate of registration granted under this section; and

(b) havingthe owned fund of not less than two crore rupees or such other amount notexceeding fifteen per cent of total financial assets acquired or to be acquiredby the securitisation company or reconstruction company, as the Reserve Bankmay, by notification, specify:

**Provided** that the Reserve Bank may, by notification, specify different amountsof owned fund for different class or classes of securitisation companies orreconstruction companies:

**Provided further** that a securitisation company orreconstruction company, existing on the commencement of this Act, shall make anapplication for registration to the Reserve Bank before the expiry of six monthsfrom such commencement and notwithstanding anything contained in thissub-section may continue to carry on the business of securitisation or assetreconstruction until a certificate of registration is granted to it or, as thecase may be, rejection of application for registration is communicated to it.

(2) Every securitisation company or reconstruction company shall makean application for registration to the Reserve Bank in such form and manner asit may specify.

(3) The Reserve Bank may, for the purpose of considering theapplication for registration of a securitisation company or reconstructioncompany to commence or carry on the business of securitisation or assetreconstruction, as the case may be, require to be satisfied, by an inspectionof records or books of such securitisation company or reconstruction company,or otherwise, that the following conditions are fulfilled, namely:—

(a) thatthe securitisation company or reconstruction company has not incurred losses inany of the three preceding financial years;

(b) thatsuch securitisation company or reconstruction company has made adequatearrangements for realisation of the financial assets acquired for the purposeof securitisation or asset reconstruction and shall be able to pay periodicalreturns and redeem on respective due dates on the investments made in thecompany by the qualified institutional buyers or other persons;

(c) thatthe directors of securitisation company or reconstruction company haveadequate professional experience in matters related to finance, securitisationand reconstruction;

(d) thatthe board of directors of such securitisation company or reconstruction companydoes not consist of more than half of its total number of directors who areeither nominees of any sponsor or associated in any manner with the sponsor orany of its subsidiaries;

(e) thatany of its directors has not been convicted of any offence involving moralturpitude;

(f) thata sponsor, is not a holding company of the securitisation company orreconstruction company, as the case may be, or, does not otherwise hold anycontrolling interest in such securitisation company or reconstruction company;

(g) thatsecuritisation company or reconstruction company has complied with or is in aposition to comply with prudential norms specified by the Reserve Bank.

(4) The Reserve Bank may, after being satisfied that the conditionsspecified in sub-section (3) are fulfilled, grant a certificate ofregistration to the securitisation company or the reconstruction company tocommence or carry on business of securitisation or asset reconstruction,subject to such conditions, which it may consider, fit to impose.

(5) The Reserve Bank may reject the application made under sub-section(2) if it is satisfied that the conditions specified in sub-section (3) are notfulfilled:

**Provided** that before rejecting the application, the applicant shall be given areasonable opportunity of being heard.

(6) Every securitisation company or reconstruction company, shallobtain prior approval of the Reserve Bank for any substantial change in itsmanagement or change of location of its registered office or change in itsname:

**Provided** that the decision of the Reserve Bank, whether the change inmanagement of a securitisation company or a reconstruction company is asubstantial change in its management or not, shall be final.

Explanation.—For the purposes of this section, the expression“substantial change in management” means the change in the management by wayof transfer of shares or amalgamation or transfer of the business of thecompany.

**Cancellation of certificate of registration.**

**4.** (1) The Reserve Bank may cancel a certificate of registration grantedto a securitisation company or a reconstruction company, if such company—

(a) ceasesto carry on the business of securitisation or asset reconstruction; or

(b) ceasesto receive or hold any investment from a qualified institutional buyer; or

(c) hasfailed to comply with any conditions subject to which the certificate ofregistration has been granted to it; or

(d) atany time fails to fulfil any of the conditions referred to in clauses (a)to (g) of sub-section (3) of section 3; or

(e) failsto—

(i) complywith any direction issued by the Reserve Bank under the provisions of this Act;or

(ii) maintainaccounts in accordance with the requirements of any law or any direction ororder issued by the Reserve Bank under the provisions of this Act; or

(iii) submitor offer for inspection its books of account or other relevant documents whenso demanded by the Reserve Bank; or

(iv) obtainprior approval of the Reserve Bank required under sub-section (6) of section 3:

**Provided** that before cancelling a certificate of registration on the groundthat the securitisation company or reconstruction company has failed to complywith the provisions of clause (c) or has failed to fulfil any of theconditions referred to in clause (d) or sub-clause (iv) of clause(e), the Reserve Bank, unless it is of the opinion that the delay incancelling the certificate of registration granted under sub-section (4) ofsection 3 shall be prejudicial to the public interest or the interests of theinvestors or the securitisation company or the reconstruction company, shallgive an opportunity to such company on such terms as the Reserve Bank mayspecify for taking necessary steps to comply with such provisions or fulfilmentof such conditions.

(2) A securitisation company or reconstruction company aggrieved by theorder of rejection of application for registration or cancellation ofcertificate of registration may prefer an appeal, within a period of thirtydays from the date on which such order of rejection or cancellation iscommunicated to it, to the Central Government :

**Provided** that before rejecting an appeal such company shall be given areasonable opportunity of being heard.

(3) A securitisation company or reconstruction company, which isholding investments of qualified institutional buyers and whose application forgrant of certificate of registration has been rejected or certificate ofregistration has been cancelled shall, notwithstanding such rejection orcancellation, be deemed to be a securitisation company or reconstructioncompany until it repays the entire investments held by it (together withinterest, if any) within such period as the Reserve Bank may direct.

**Acquisition of rights or interest infinancial assets.**

**5.** (1) Notwithstanding anything contained in any agreement or any otherlaw for the time being in force, any securitisation company or reconstructioncompany may acquire financial assets of any bank or financial institution,—

(a) byissuing a debenture or bond or any other security in the nature of debenture,for consideration agreed upon between such company and the bank or financialinstitution, incorporating therein such terms and conditions as may be agreedupon between them; or

(b) byentering into an agreement with such bank or financial institution for thetransfer of such financial assets to such company on such terms and conditionsas may be agreed upon between them.

(2) If the bank or financial institution is a lender in relation to anyfinancial assets acquired under sub-section (1) by the securitisation companyor the reconstruction company, such securitisation company or reconstructioncompany shall, on such acquisition, be deemed to be the lender and all therights of such bank or financial institution shall vest in such company inrelation to such financial assets.

(3) Unless otherwise expressly provided by this Act, all contracts,deeds, bonds, agreements, powers-of-attorney, grants of legal representation,permissions, approvals, consents or no-objections under any law or otherwiseand other instruments of whatever nature which relate to the said financialasset and which are subsisting or having effect immediately before theacquisition of financial asset under sub-section (1) and to which the concernedbank or financial institution is a party or which are in favour of such bank orfinancial institution shall, after the acquisition of the financial assets, beof as full force and effect against or in favour of the securitisation companyor reconstruction company, as the case may be, and may be enforced or actedupon as fully and effectually as if, in the place of the said bank or financialinstitution, securitisation company or reconstruction company, as the case maybe, had been a party thereto or as if they had been issued in favour ofsecuritisation company or reconstruction company, as the case may be.

(4) If, onthe date of acquisition of financial asset under sub-section (1), any suit, appealor other proceeding of whatever nature relating to the said financial asset ispending by or against the bank or financial institution, save as provided inthe third proviso to sub-section (1) of section 15 of the Sick IndustrialCompanies (Special Provisions) Act, 1985 (1 of 1986), the same shall not abate,or be discontinued or be, in any way, prejudicially affected by reason of theacquisition of financial asset by thesecuritisation company or reconstruction company, as the case may be, but the suit,appeal or other proceeding may be continued, prosecuted and enforced by oragainst the securitisation company or reconstruction company, as the case maybe.

**Notice toobligor and discharge of obligation of such obligor.**

**6.** (1) The bank or financial institution may,if it considers appropriate, give a notice of acquisition of financial assetsby any securitisation company or reconstruction company, to the concernedobligor and any other concerned person and to the concerned registeringauthority (including Registrar of Companies) in whose jurisdiction themortgage, charge, hypothecation, assignment or other interest created on thefinancial assets had been registered.

(2) Where anotice of acquisition of financial asset under sub-section (1) is given by abank or financial institution, the obligor, on receipt of such notice, shallmake payment to the concerned securitisation company or reconstruction company,as the case may be, and payment made to such company in discharge of any of theobligations in relation to the financial asset specified in the notice shall bea full discharge to the obligor making the payment from all liability inrespect of such payment.

(3) Where nonotice of acquisition of financial asset under sub-section (1) is given by any bankor financial institution, any money or other properties subsequently receivedby the bank or financial institution, shall constitute monies or propertiesheld in trust for the benefit of and on behalf of the securitisation company orreconstruction company, as the case may be, and such bank or financialinstitution shall hold such payment or property which shall forthwith be madeover or delivered to such securitisation company or reconstruction company, asthe case may be, or its agent dulyauthorised in this behalf.

**Issue ofsecurity by raising of receipts or funds by securitisation company orreconstruction company.**

**7.** (1) Without prejudice to the provisionscontained in the Companies Act, 1956 (1 of 1956), the Securities Contracts(Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board ofIndia Act, 1992 (15 of 1992), any securitisation company or reconstructioncompany, may, after acquisition of any financial asset under sub-section (1) ofsection 5, offer security receipts to qualified institutional buyers (otherthan by offer to public) for subscription in accordance with the provisions ofthose Acts.

(2) Asecuritisation company or reconstruction company may raise funds from thequalified institutional buyers by formulating schemes for acquiring financialassets and shall keep and maintain separate and distinct accounts in respectof each such scheme for every financial asset acquired out of investments madeby a qualified institutional buyer and ensure that realisations of suchfinancial asset is held and applied towards redemption of investments andpayment of returns assured on such investments under the relevant scheme.

(3) In theevent of non-realisation under sub-section (2) of financial assets, thequalified institutional buyers of a securitisation company or reconstructioncompany, holding security receipts of not less than seventy-five per

cent ofthe total value of the security receipts issued by such company, shall be entitledto call a meeting of all the qualified institutional buyers and everyresolution passed in such meeting shall be binding on the company.

(4) Thequalified institutional buyers shall, at a meeting called under sub-section(3), follow the same procedure, as nearly as possible as is followed atmeetings of the board of directors of the securitisation company orreconstruction company, as the case may be.

**Exemptionfrom registration of security receipt.**

**8.** Notwithstanding anything contained insub-section (1) of section 17 of the Registration Act, 1908 (16 of 1908),—

(a) any security receipt issued by the securitisation company or reconstruction company, as the case may be, under sub-section (1) of section 7, and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except insofar as it entitles the holder of the security receipt to an undivided interest afforded by a registered instrument;

or

(b) any transfer ofsecurity receipts,

shall not require compulsory registration.

**Measures for assets reconstruction.**

**9.** Without prejudice to the provisionscontained in any other law for the time being in force, a securitisationcompany or reconstruction company may, for the purposes of assetreconstruction, having regard to the guidelines framed by the Reserve Bank inthis behalf, provide for any one or more of the following measures, namely :—

(a) the propermanagement of the business of the borrower, by change in, or take over of, themanagement of the business of the borrower;

(b) the sale or leaseof a part or whole of the business of the borrower;

(c) rescheduling ofpayment of debts payable by the borrower;

(d) enforcement ofsecurity interest in accordance with the provisions of this Act;

(e) settlement of duespayable by the borrower;

(f) taking possessionof secured assets in accordance with the provisions of this Act.

**Otherfunctions of securitisation company or reconstruction company.**

**10.** (1) Any securitisation company orreconstruction company registered under section 3 may—

(a) act as an agentfor any bank or financial institution for the purpose of recovering their duesfrom the borrower on payment of such fees or charges as may be mutually agreedupon between the parties;

(b) act as a managerreferred to in clause (c) of sub-section (4) of section 13 on such feeas may be mutually agreed upon between the parties;

(c) act as receiver ifappointed by any court or tribunal :

**Provided** that no securitisation company orreconstruction company shall act as a manager if acting as such gives rise toany pecuniary liability.

(2) Save asotherwise provided in sub-section (1), no securitisation company orreconstruction company which has been granted a certificate of registrationunder sub-section (4) of section 3, shall commence or carry on, without priorapproval of the Reserve Bank, any business other than that of securitisation orasset reconstruction :

**Provided** that a securitisation company orreconstruction company which is carrying on, on or before the commencement of thisAct, any business other than the business of securitisation or assetreconstruction or business referred to in sub-section (1), shall cease to carryon any such business within one year from the date of commencement of this Act.

Explanation.—For the purposes of this section,“securitisation company” or “reconstruction company” does not include itssubsidiary.

**Resolutionof disputes.**

**11.** Where any dispute relating tosecuritisation or reconstruction ornon-payment of any amount due including interest arises amongst any of theparties, namely, the bank or financial institution or a securitisation companyor reconstruction company or qualified institutional buyer, such dispute shallbe settled by conciliation or arbitration as provided in the Arbitration andConciliation Act, 1996 (26 of 1996), as if the parties to the dispute haveconsented in writing for determination of such dispute by conciliation orarbitration and the provisions of that Act shall apply accordingly.

**Power ofReserve Bank to determine policy and issue directions.**

**12.** (1) If the Reserve Bank is satisfied that inthe public interest or to regulate financial system of the country to itsadvantage or to prevent the affairs of any securitisation company orreconstruction company from being conducted in a manner detrimental to theinterest of investors or in any manner prejudicial to the

interest of suchsecuritisation company or reconstruction company, it is necessary or expedientso to do, it may determine the policy and give directions to all or anysecuritisation company or reconstruction company in matters relating to incomerecognition, accounting standards, making provisions for bad and doubtfuldebts, capital adequacy based on risk weights for assets and also relating todeployment of funds by the securitisation company or reconstruction company, asthe case may be, and such company shall be bound to follow the policy sodetermined and the directions so issued.

(2) Withoutprejudice to the generality of the power vested under sub-section (1), theReserve Bank may give directions to any securitisation company orreconstruction company generally or to a class of securitisation companies or reconstruction companies or to anysecuritisation company or reconstruction company in particular as to—

(a) the type offinancial asset of a bank or financial institution which can be acquired andprocedure for acquisition of such assets and valuation thereof;

(b) the aggregatevalue of financial assets which may be acquired by any securitisation companyor reconstruction company.

## CHAPTERIII

Enforcement of Security Interest

**Enforcement of security interest.**

**13.** (1) Notwithstanding anything contained in section 69 or section 69A of the Transfer of Property Act, 1882 (4 of 1882),any security interest created in favour of any secured creditor may been forced, without the intervention of the court or tribunal, by such creditor in accordance with the provisions of this Act.

(2) Where any borrower, who is under a liability to a secured creditor under a security agreement, makes any default in repayment of secured debt or any installment there of, and his account in respect of such debt is classified by the secured creditor as non-performing asset, then, the secured creditor may require the borrower by notice in writing to discharge in full his liabilities to the secured creditor within sixty days from the date of notice failing which the secured creditor shall be entitled to exercise all or any of the rights under sub-section (4).

(3) The notice referred to in sub-section (2) shall give details of the amount payable by the borrower and the secured assets intended to be enforced by the secured creditor in the event of non-payment of secured debts by the borrower.

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely :—

(a) take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset;

(b) take over the management of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale and realise the secured asset;

(c) appoint any person(hereafter referred to as the manager), to manage the secured assets the possession of which has been taken over by the secured creditor;

(d) require at anytime by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom any money is due or may become due to the borrower, to pay the secured creditor, so much of the money as is sufficient to pay the secured debt.

(5) Any payment made by any person referred to in clause (d) of sub-section (4)to the secured creditor shall give such person a valid discharge as if he has made payment to the borrower.

(6) Any transfer of secured asset after taking possession thereof or take over of management under sub-section (4), by the secured creditor or by the manager on behalf of the secured creditor shall vest in the transferee all rights in, or in relation to, the secured asset transferred as if the transfer had been made by the owner of such secured asset.

(7) Where any action has been taken against a borrower under the provisions of sub-section(4), all costs, charges and expenses which, in the opinion of the secured creditor, have been properly incurred by him or any expenses incidental thereto, shall be recoverable from the borrower and the money which is received by the secured creditor shall, in the absence of any contract to the contrary, be held by him in trust, to be applied, firstly, in payment of such costs, charges and expenses and secondly, in discharge of the dues of the secured creditor and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(8) If the dues of the secured creditor together with all costs, charges and expenses incurred by him are tendered to the secured creditor at any time before the date fixed for sale or transfer, the secured asset shall not be sold or transferred by the secured creditor, and no further step shall be taken by him for transfer or sale of that secured asset.

(9) In the case of financing of a financial asset by more than one secured creditors or joint financing of a financial asset by secured creditors, no secured creditor shall be entitled to exercise any or all of the rights conferred on him under or pursuant to sub-section (4) unless exercise of such right is agreed upon by the secured

creditors representing not less than three-fourth in value of the amount outstanding as on a record date and such action shall be binding on all the secured creditors :

**Provided** that in the case of a company in liquidation, the amount realised from the sale of secured assets shall be distributed in accordance with the provisions of section 529A of the Companies Act, 1956 (1 of 1956) :

**Provided further** that in the case of a company being wound up on or after the commencement of this Act, the secured creditor of such company, who opts to realise his security instead of relinquishing his security and proving his debt under proviso to sub-section(1) of section 529 of the Companies Act, 1956 (1 of 1956), may retain the sale proceeds of his secured assets after depositing the workmen's dues with the liquidator in accordance with the provisions of section 529A of that Act :

**Provided also** that the liquidator referred to in the second proviso shall intimate the secured creditor the workmen's dues in accordance with the provisions of section 529A of the Companies Act, 1956 (1 of 1956) and in case such workmen's dues cannot be ascertained, the liquidator shall intimate the estimated amount of workmen's dues under that section to the secured creditor and in such case the secured creditor may retain the sale proceeds of the secured assets after depositing the amount of such estimated dues with the liquidator :

**Provided also** that in case the secured creditor deposits the estimated amount of workmen's dues, such creditor shall be liable to pay the balance of the workmen's dues or entitled to receive the excess amount, if any, deposited by the secured creditor with the liquidator :

**Provided also** that the secured creditor shall furnish an undertaking to the liquidator to pay the balance of the workmen's dues, if any.

Explanation.—For the purposes of this sub-section,—

(a) "record date" means the date agreed upon by the secured creditors representing not less than three-fourth in value of the amount outstanding on such date;

(b) "amount outstanding" shall include principal, interest and any other dues payable by the borrower to the secured creditor in respect of secured asset as per the books of account of the secured creditor.

(10) Where dues of the secured creditor are not fully satisfied with the sale proceeds of the secured assets, the secured creditor may file an application in the form and manner as may be prescribed to the Debts Recovery Tribunal having jurisdiction or a competent court, as the case may be, for recovery of the balance amount from the borrower.

(11) Without prejudice to the rights conferred on the secured creditor under or by this section, the secured creditor shall be entitled to proceed against the guarantors or sell the pledged assets without first taking any of the measures specified in clauses (a) to (d) of sub-section (4) in relation to the secured assets under this Act.

(12) The rights of a secured creditor under this Act may be exercised by one or more of his officers authorised in this behalf in such manner as may be prescribed.

(13) No borrower shall, after receipt of notice referred to in sub-section (2),transfer by way of sale, lease or otherwise (other than in the ordinary course of his business) any of his secured assets referred to in the notice, without prior written consent of the secured creditor.

**Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.**

**14.** (1) Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him—

(a) take possession of such asset and documents relating thereto; and

(b) forward such asset and documents to the secured creditor.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

**Manner and effect of take over of management.**

**15.** (1) When the management of business of a borrower is taken over by a secured creditor, the secured creditor may, by publishing a notice in a newspaper published in English language and in a news paper published in an Indian language in circulation in the place where the principal office of the borrower is situated, appoint as many persons as it thinks fit—

(a) in a case in which the borrower is a company as defined in the Companies Act, 1956 (1 of 1956), to be the directors of that borrower in accordance with the provisions of that Act; or

(b) in any other case, to be the administrator of the business of the borrower.

(2) On publication of a notice under sub-section (1),—

(a) in any case where the borrower is a company as defined in the Companies Act, 1956 (1 of 1956),all persons holding office as directors of the company and in any other case, all persons holding any office having power of superintendence, direction and control of the business of the borrower immediately before the publication of the notice under sub-section (1), shall be deemed to have vacated their offices as such;

(b) any contract of management between the borrower and any director or manager thereof holding office as such immediately before publication of the notice under sub-section(1), shall be deemed to be terminated;

(c) the directors or the administrators appointed under this section shall take such steps as may be necessary to take into their custody or under their control all the property, effects and actionable claims to which the business of the borrower is, or appears to be, entitled and all the property and effects of the business of the borrower shall be deemed to be in the custody of the directors or administrators, as the case may be, as from the date of the publication of the notice;

(d) the directors appointed under this section shall, for all purposes, be the directors of the company of the borrower and such directors or as the case may be, the administrators appointed under this section, shall alone be entitled to exercise all the powers of the directors or as the case may be, of the persons exercising powers of superintendence, direction and control, of the business of the borrower whether such powers are derived from the memorandum or articles of association of the company of the borrower or from any other source whatsoever.

(3) Where the management of the business of a borrower, being a company as defined in the Companies Act, 1956 (1 of 1956), is taken over by the secured creditor, then, not withstanding anything contained in the said Act or in the memorandum or articles of association of such borrower,—

(a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed at any meeting of the shareholders of such company shall be given effect to unless approved by the secured creditor;

(c) no proceeding for the winding up of such company or for the appointment of a receiver in respect there of shall lie in any court, except with the consent of the secured creditor.

(4) Where the management of the business of a borrower had been taken over by the secured creditor, the secured creditor shall, on realisation of his debt in full, restore the management of the business of the borrower to him.

**No compensation to directors for loss of office.**

**16.** (1) Notwithstanding anything to the contrary contained in any contract or in any other law for the time being in force, no managing director or any other director or a manager or any person in charge of management of the business of the borrower shall be entitled to any compensation for the loss of office or for the premature termination under this Act of any contract of management entered into by him with the borrower.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing director or any other director or manager or any such person in charge of management to recover from the business of the borrower, moneys recoverable otherwise than by way of such compensation.

**Right to appeal.**

**17.** (1) Any person (including borrower),aggrieved by any of the measures referred to in sub-section (4) of section 13taken by the secured creditor or his authorised officer under this Chapter, ma prefer an appeal to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measures had been taken.

(2) Where an appeal is preferred by a borrower, such appeal shall not be entertained by the Debts Recovery Tribunal unless the borrower has deposited with the Debts Recovery Tribunal seventy-five per cent of the amount claimed in the notice referred to in sub-section (2) of section 13 :

**Provided** that the Debts Recovery Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

(3) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder.

**Appeal to Appellate Tribunal.**

**18.** (1) Any person aggrieved, by any order made by the Debts Recovery Tribunal under section 17, may prefer an appeal to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal.

(2) Save as otherwise provided in this Act, the Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder.

**Right of borrower to receive compensation and costs in certain cases.**

**19.** If the Debts Recovery Tribunal or the Appellate Tribunal, as the case may be, on an appeal filed under section 17 or section 18 holds the possession of secured assets by the secured creditor as wrongful and directs the secured creditor to return such secured assets to the concerned borrower, such borrower shall be entitled to payment of such compensation and costs as may be determined by such Tribunal or the Appellate Tribunal.

## CHAPTERIV

Central Registry

**Central Registry.**

**20.** (1) The Central Government may, by notification, set-up or cause to be set-up from such date as it may specify in such notification, a registry to be known as the Central Registry with its own seal for the purposes of registration of transaction of securitisation and reconstruction of financial assets and creation of security interest under this Act.

(2) The head office of the Central Registry shall be at such place as the Central Government may specify and for the purpose of facilitating registration of transactions referred to in sub-section (1), there may be established at such other places as the Central Government may think fit, branch offices of the Central Registry.

(3) The Central Government may, by notification, define the territorial limits within which an office of the Central Registry may exercise its functions.

(4) The provisions of this Act pertaining to the Central Registry shall be in addition to and not in derogation of any of the provisions contained in the Registration Act, 1908 (16 of 1908), the Companies Act, 1956 (1 of 1956), the Merchant Shipping Act, 1958 (44 of 1958), the Patents Act, 1970 (39 of 1970), the Motor Vehicles Act, 1988 (59 of 1988) and the Designs Act, 2000 (16 of 2000) or any other law requiring registration of charges and shall not affect the priority of charges or validity thereof under those Acts or laws.

**Central Registrar.**

**21.** (1) The Central Government may, by notification, appoint a person for the purpose of registration of transactions relating to securitisation, reconstruction of financial assets and security interest created over properties, to be known as the Central Registrar.

(2) The Central Government may appoint such other officers with such designations as it thinks fit for the purpose of discharging under the superintendence and direction of the Central Registrar, such functions of the Central Registrar under this Act as he may, from time to time, authorise them to discharge.

**Register of securitisation, reconstruction and security interest transactions.**

**22.** (1) For the purposes of this Act, a record called the Central Register shall be kept at the head office of the Central Registry for entering the particulars of the transactions relating to—

(a) securitisation of financial assets;

(b) reconstruction of financial assets; and

(c) creation of security interest.

(2)Notwithstanding anything contained in sub-section (1), it shall be lawful for the Central Registrar to keep the records wholly or partly in computer, floppies, diskettes or in any other electronic form subject to such safeguards as may be prescribed.

(3) Where such register is maintained wholly or partly in computer, floppies, diskettes or in any other electronic form, under sub-section (2), any reference in this Act to entry in the Central Register shall be construed as a reference to any entry as maintained in computer or in any other electronic form.

(4) The register shall be kept under the control and management of the Central Registrar.

**Filing of transactions of securitisation, reconstruction and creation of security interest.**

**23.** The particulars of every transaction of securitisation, asset reconstruction or creation of security interest shall be filed, with the Central Registrar in the manner and on payment of such fee as may be prescribed, within thirty days after the date of such transaction or creation of security, by the securitisation company or reconstruction company or the secured creditor, as the case may be:

**Provided** that the Central Registrar may allow the filingof the particulars of such transaction or creation of security interest withinthirty days next following the expiry of the said period of thirty days onpayment of such additional fee not exceeding ten times the amount of such fee.

**Modificationof security interest registered under this Act.**

**24.** Whenever the terms or conditions, or theextent or operation, of any security interest registered under this Chapter,are, or is, modified, it shall be the duty of the securitisation company or thereconstruction company or the secured creditor, as the case may be, to send tothe Central Registrar, the particulars of such modification, and the provisionsof this Chapter as to registration of a security interest shall apply to suchmodification of such security interest.

**Securitisationcompany or reconstruction company or secured creditor to report satisfaction ofsecurity interest.**

**25.** (1) The securitisation company or thereconstruction company or the secured creditor as the case may be, shall giveintimation to the Central Registrar of the payment or satisfaction in full, ofany security interest relating to the securitisation company or thereconstruction company or the secured creditor and requiring registrationunder this Chapter, within thirty days from the date of such payment orsatisfaction.

(2) TheCentral Registrar shall, on receipt of such intimation, cause a notice to besent to the securitisation company or reconstruction company or the securedcreditor calling upon it to show cause within a time not exceeding fourteendays specified in such notice, as to why payment or satisfaction should not berecorded as intimated to the Central Registrar.

(3) If nocause is shown, the Central Registrar shall order that a memorandum of satisfactionshall be entered in the Central Register.

(4) If causeis shown, the Central Registrar shall record a note to that effect in theCentral Register, and shall inform the borrower that he has done so.

**Right toinspect particulars of securitisation, reconstruction and security interesttransactions.**

**26.** (1) The particulars of securitisation orreconstruction or security interest entered in the Central Register of suchtransactions kept under section 22 shall be open during the business hours forinspection by any person on payment of such fee as may be prescribed.

(2) TheCentral Register, referred to in sub-section (1) maintained in electronicform, shall also be open during the business hours for the inspection by anyperson through electronic media on payment of such fee as may be prescribed.

## CHAPTERV

Offences and penalties

**Penalties.**

**27.** If a default is made—

(a) infiling under section 23, the particulars of every transaction of anysecuritisation or asset reconstruction or security interest created by asecuritisation company or reconstruction company or secured creditor; or

(b) insending under section 24, the particulars of the modification referred to inthat section; or

(c) ingiving intimation under section 25,

every companyand every officer of the company or the secured creditor and every officer ofthe secured creditor who is in default shall be punishable with fine which mayextend to five thousand rupees for every day during which the defaultcontinues.

**Penaltiesfor non-compliance of direction of Reserve Bank.**

**28.** If any securitisation company orreconstruction company fails to comply with any direction issued by the ReserveBank under section 12, such company and every officer of the company who is indefault, shall be punishable with fine which may extend to five lakh rupees andin the case of a continuing offence, with an additional fine which may extendto ten thousand rupees for every day during which the default continues.

**Offences.**

**29.** If any person contravenes or attempts tocontravene or abets the contravention of the provisions of this Act or of anyrules made thereunder, he shall be punishable with imprisonment for a termwhich may extend to one year, or with fine, or with both.

**Cognizanceof offence.**

**30.** No court inferior to that of a MetropolitanMagistrate or a Judicial Magistrate of the First Class shall try any offencepunishable under this Act.

## CHAPTERVI

Miscellaneous

**Provisionsof this Act not to apply in certain cases.**

**31.** The provisions of this Act shall not applyto—

(a) a lien on anygoods, money or security given by or under the Indian Contract Act, 1872 (9 of1872) or the Sale of Goods Act, 1930 (3 of 1930) or any other law for the timebeing in force;

(b) a pledge ofmovables within the meaning of section 172 of the Indian Contract Act, 1872 (9of 1872);

(c) creation of anysecurity in any aircraft as defined in clause (1) of section 2 of theAircraft Act, 1934 (24 of 1934);

(d) creation ofsecurity interest in any vessel as defined in clause (55) of section 3of the Merchant Shipping Act, 1958 (44 of 1958);

(e) any conditionalsale, hire-purchase or lease or any other contract in which no securityinterest has been created;

(f) any rights ofunpaid seller under section 47 of the Sale of Goods Act, 1930 (3 of 1930);

(g) any properties notliable to attachment or sale under the first proviso to sub-section (1) ofsection 60 of the Code of Civil Procedure, 1908 (5 of 1908);

(h) any securityinterest for securing repayment of any financial asset not exceeding one lakhrupees;

(i) any securityinterest created in agricultural land;

(j) any case in whichthe amount due is less than twenty per cent of the principal amount and interestthereon.

**Protectionof action taken in good faith.**

**32.** No suit, prosecution or other legalproceedings shall lie against any secured creditor or any of his officers ormanager exercising any of the rights of the secured creditor or borrower foranything done or omitted to be done in good faith under this Act.

**Offencesby companies.**

**33.** (1) Where an offence under this Act has beencommitted by a company, every person who at the time the offence was committedwas in charge of, and was responsible to, the company, for the conduct of thebusiness of the company, as well as the company, shall be deemed to be guiltyof the offence and shall be liable to be proceeded against and punishedaccordingly:

**Provided** that nothing contained in this sub-sectionshall render any such person liable to any punishment provided in this Act, ifhe proves that the offence was

committed without his knowledge or that he hadexercised all due diligence to prevent the commission of such offence.

(2)Notwithstanding anything contained in sub-section (1), where an offence underthis Act has been committed by a company and it is proved that the offence hasbeen committed with the consent or connivance of, or is attributable to anyneglect on the part of, any director, manager, secretary or other officer ofthe company, such director, manager, secretary or other officer shall also bedeemed to be guilty of the offence and shall be liable to be proceeded againstand punished accordingly.

Explanation—For the purposes of this section,—

(a) "company" means any body corporate andincludes a firm or other association of individuals; and

(b) "director", in relation to a firm, means apartner in the firm.

**Civil Court not to have jurisdiction.**

**34.** No civil court shall have jurisdiction to entertain any suit orproceeding in respect of any matter which a Debts Recovery Tribunal or theAppellate Tribunal is empowered by or under this Act to determine and noinjunction shall be granted by any court or other authority in respect of any action taken or to betaken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks andFinancial Institutions Act, 1993 (51 of 1993).

**The provisions of this Act to override otherlaws.**

**35.** The provisions of this Act shall have effect, notwithstandinganything inconsistent therewith contained in any other law for the time beingin force or any instrument having effect by virtue of any such law.

**Limitation.**

**36.** No secured creditor shall be entitled to take all or any of the measuresunder sub-section (4) of section 13, unless his claim in respect of thefinancial asset is made within the period of limitation prescribed under theLimitation Act, 1963 (36 of 1963).

**Application of other laws not barred.**

**37.** The provisions of this Act or the rules made thereunder shall be inaddition to, and not in derogation of, the Companies Act, 1956 (1 of 1956), theSecurities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities andExchange Board of India Act, 1992 (15 of 1992), the Recovery of Debts Due toBanks and Financial Institutions Act, 1993 (51 of 1993) or any other law forthe time being in force.

**Power of Central Government to make rules.**

**38.** (1) The Central Government may, by notification and in the ElectronicGazette as defined in clause (s) of section 2 of the InformationTechnology Act, 2000 (21 of 2000), make rules for carrying out the provisionsof this Act.

(2) In particular, and without prejudice to the generality of theforegoing power, such rules may provide for all or any of the followingmatters, namely :—

(a) the form and manner in which an applicationmay be filed under sub-section (10) of section 13;

(b) the manner in which the rights of a securedcreditor may be exercised by one or more of his officers under sub-section (12)of section 13;

(c) the safeguards subject to which the recordsmay be kept under sub-section (2) of section 22;

(d) themanner in which the particulars of every transaction of securitisation shallbe filed under section 23 and fee for filing such transaction;

(e) thefee for inspecting the particulars of transactions kept under section 22 andentered in the Central Register under sub-section (1) of section 26;

(f) thefee for inspecting the Central Register maintained in electronic form undersub-section (2) of section 26;

(g) anyother matter which is required to be, or may be, prescribed, in respect ofwhich provision is to be, or may be, made by rules.

(3) Everyrule made under this Act shall be laid, as soon as may be after it is made,before each House of Parliament, while it is in session, for a total period ofthirty days which may be comprised in one session or in two or more successivesessions, and if, before the expiry of the session immediately following thesession or the successive sessions aforesaid, both Houses agree in making anymodification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter haveeffect only in such modified form or be of no effect, as the case may be;so, however, that any such modificationor annulment shall be without prejudice to the validity of anything previouslydone under that rule.

**Certainprovisions of this Act to apply after Central Registry is set up or cause to beset up.**

**39.** The provisions of sub-sections (2), (3) and(4) of section 20 and sections 21, 22, 23, 24, 25, 26 and 27 shall apply afterthe Central Registry is set up or cause to be set up under sub-section (1) ofsection 20.

**Power toremove difficulties.**

**40.** (1) If any difficulty arises in givingeffect to the provisions of this Act, the Central Government may, by orderpublished in the Official Gazette, make such provisions not inconsistent withthe provisions of this Act as may appear to be necessary for removing thedifficulty :

**Provided** that no order shall be made under this section after the expiry of a periodof two years from the commencement of this Act.

(2) Everyorder made under this section shall be laid, as soon as may be after it ismade, before each House of Parliament.

**Amendmentsto certain enactments.**

**41.** The enactments specified in the Scheduleshall be amended in the manner specified therein.

**Repeal andsaving.**

**42.** (1) The Securitisation and Reconstruction ofFinancial Assets and Enforcement of Security Interest (Second) Ordinance, 2002(Ord. 3 of 2002) is hereby repealed.

(2)Notwithstanding such repeal, any thing done or any action taken under the said Ordinanceshall be deemed to have been done or taken under the corresponding provisionsof this Act.

The Schedule

(See section 41)

| Year | Act No. | Short title | Amendment |
|---|---|---|---|
| 1956 | 1 | The Companies Act, 1956. | In section 4A, in sub-section (1), after clause (vi), insert the following :— |
| | | | "(vii) the securitisation company or the reconstruc-tion company which has obtained a certificate of registration under sub-section (4) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.". |
| 1956 | 42 | The Securities Contracts (Regulation) Act, 1956. | In section 2, in clause (h) after sub-clause (ib), insert the following :— |
| | | | "(ic) security receipt as defined in clause (zg) of |

| | | | |
|---|---|---|---|
| | | | section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.". |
| 1986 | 1 | The Sick Industrial Companies (Special Provisions) Act, 1985. | In section 15, in sub-section (1), after the proviso, insert the following :—<br><br>"**Provided further** that no reference shall be made to the Board for Industrial and Financial Reconstruction after the commencement of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, where financial assets have been acquired by any securitisation company or reconstruction company under sub-section (1) of section 5 of that Act :<br><br>**Provided also** that on or after the commencement of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, where a reference is pending before the Board for Industrial and Financial Reconstruction, such reference shall abate if the secured creditors, representing not less than three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower of such secured creditors, have taken any measures to recover their secured debt under sub-section (4) of section 13 of that Act.". |

# SECURITISATIONAND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002

[54 of 2002]

An Act to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India asfollows :—

## Chapter I

## Preliminary

### Short title, extent and commencement.

**1.** (1) This Act may be called the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 21st day of June,2002.

### Definitions.

**2.** (1) In this Act, unless the context otherwise requires,—

(a) "Appellate Tribunal" means a Debts Recovery Appellate Tribunal established under sub-section (1) of section 8 of the Recovery of Debts Due to Banks andFinancial Institutions Act, 1993 (51 of 1993);

(b) "asset reconstruction" means acquisition by any securitisation company or reconstruction company of any right or interest of any bank or financial institution in any financial assistance for the purpose of realisation of such financial assistance;

(c) "bank"means—

(i) abanking company; or

(ii) a corresponding new bank; or

(iii) the State Bank of India; or

(iv) a subsidiary bank; or

(v) such other bank which the Central Government may, by notification, specify for the purposes of this Act;

(d) “banking company” shall have the meaning assigned to it in clause (c) of section5 of the Banking Regulation Act, 1949 (10 of 1949);

(e) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(f) “borrower” means any person who has been granted financial assistance by any bank or financial institution or who has given any guarantee or created any mortgage or pledge as security for the financial assistance granted by any bank or financial institution and includes a person who becomes borrower of a securitisation company or reconstruction company consequent upon acquisition by it of any rights or interest of any bank or financial institution in relation to such financial assistance;

(g) “Central Registry” means the registry set up or cause to be set up under sub-section (1)of section 20;

(h) “corresponding new bank” shall have the meaning assigned to it in clause (d a) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(i) “Debts Recovery Tribunal” means the Tribunal established under sub-section (1) of section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act,1993 (51 of 1993);

(j) “default” means non-payment of any principal debt or interest thereon or any other amount payable by a borrower to any secured creditor consequent upon which the account f such borrower is classified as non-performing asset in the books of account of the secured creditor in accordance with the directions or guidelines issued by the Reserve Bank;

(k) “financial assistance” means any loan or advance granted or any debentures or bonds subscribed or any guarantees given or letters of credit established or any other credit facility extended by any bank or financial institution;

(l) “financial asset” means debt or receivables and includes—

(i) a claim to any debt or receivables or part thereof, whether secured or unsecured; or

(ii) any debt or receivables secured by, mortgage of, or charge on, immovable property; or

(iii) a mortgage, charge, hypothecation or pledge of movable property; or

(iv) any right or interest in the security, whether full or part underlying such debt or receivables; or

(v) any beneficial interest in property, whether movable or immovable, or in such debt, receivables, whether such interest is existing, future, accruing, conditional or contingent; or

(vi) any financial assistance;

(m) "financial institution" means—

(i) a public financial institution within the meaning of section 4A of the Companies Act, 1956 (1 of 1956);

(ii) any institution specified by the Central Government under sub-clause (ii) of clause (h) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993);

(iii) the International Finance Corporation established under the International Finance Corporation (Status, Immunities and Privileges) Act, 1958 (42 of 1958);

(iv) any other institution or non-banking financial company as defined in clause (f)of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934), which the Central Government may, by notification, specify as financial institution forthe purposes of this Act;

(n) "hypothecation" means a charge in or upon any movable property, existing or future, created by a borrower in favour of a secured creditor without delivery of possession of the movable property to such creditor, as a security for financial assistance and includes floating charge and crystallization of such charge into fixed charge on movable property;

(o) "non-performing asset" means an asset or account of a borrower, which has been classified by a bank or financial institution as sub-standard, doubtful or loss asset, in accordance with the directions or under guidelines relating to assets classifications issued by the Reserve Bank;

(p) "notification" means a notification published in the Official Gazette;

(q) “obliger” means a person liable to the originator, whether under a contract or otherwise, to pay a financial asset or to discharge any obligation in respect of a financial asset, whether existing, future, conditional or contingent andincludes the borrower;

(r) “originator” means the owner of a financial asset which is acquired by a securitisation company or reconstruction company for the purpose of securitisation or assetre construction;

(s) “prescribed” means prescribed by rules made under this Act;

(t) “property” means—

(i) immovable property;

(ii) movable property;

(iii) any debt or any right to receive payment of money, whether secured or unsecured;

(iv) receivables, whether existing or future;

(v) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature;

(u) “qualified institutional buyer” means a financial institution, insurance company, bank, state financial corporation, state industrial development corporation, trustee or any asset management company making investment on behalf of mutual fund or provident fund or gratuity fund or pension fund or a foreign institutional investor registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made there under, or any other body corporate as may be specified by the Board;

(v) “reconstruction company” means a company formed and registered under the Companies Act, 1956 (1of 1956) for the purpose of asset reconstruction;

(w) “Registrar of Companies” means the Registrar defined in clause (40) of section 2 of the Companies Act, 1956 (1 of 1956);

(x) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);

(y) “scheme means a scheme inviting subscription to security receipts proposed to be issued by a securitisation company or reconstruction company under that scheme;

(z) “securitisation” means acquisition of financial assets by any securitisation company or reconstruction company from any originator, whether by raising of funds by such securitisation company or reconstruction company from qualified institutional buyers by issue of security receipts representing undivided interest in such financial assets or otherwise;

(z a) “securitisation company” means any company formed and registered under the Companies Act, 1956(1 of 1956) for the purpose of securitisation;

(zb) “security agreement” means an agreement, instrument or any other document or arrangement under which security interest is created in favour of the secured creditor including the creation of mortgage by deposit of title deeds with the secured creditor;

(zc) “secured asset” means the property on which security interest is created;

(zd) “secured creditor” means any bank or financial institution or any consortium or group of banks or financial institutions and includes—

(i) debenture trustee appointed by any bank or financial institution; or

(ii) securitisation company or reconstruction company; or

(iii) any other trustee holding securities on behalf of a bank or financial institution,

in whose favour security interest is created for due repayment by any borrower of any financial assistance;

(ze) “secured debt” means a debt which is secured by any security interest;

(zf) “security interest” means right, title and interest of any kind whatsoever upon property, created in favor of any secured creditor and includes any mortgage, charge, hypothecation, assignment other than those specified in section 31;

(zg) “securityreceipt” means a receipt or other security, issued by a securitisation companyor reconstruction company to any qualified institutional buyer pursuant to ascheme, evidencing the purchase or acquisition by the holder thereof, of anundivided right, title or interest in the financial asset involved insecuritisation;

(zh) “sponsor”means any person holding not less than ten per cent of the paid-up equity capital of a securitisation company orreconstruction company;

(zi) “StateBank of India” means the State Bank of India constituted under section 3 of theState Bank of India Act, 1955 (23 of 1955);

(zj) “subsidiarybank” shall have the meaning assigned to it in clause (k) of section 2of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959).

(2) Words and expressions used and not defined in this Act but definedin the Indian Contract Act, 1872 (9 of 1872) or the Transfer of Property Act,1882 (4 of 1882) or the Companies Act, 1956 (1 of 1956) or the Securities andExchange Board of India Act, 1992 (15 of 1992) shall have the same meaningsrespectively assigned to them in those Acts.

## CHAPTERII

Regulation of securitisation and reconstructionof financial assets of banks and financial institutions

### Registration of securitisation companies orreconstruction companies.

**3.** (1) No securitisation company or reconstruction company shall commenceor carry on the business of securitisation or asset reconstruction without—

(a) obtaininga certificate of registration granted under this section; and

(b) havingthe owned fund of not less than two crore rupees or such other amount notexceeding fifteen per cent of total financial assets acquired or to be acquiredby the securitisation company or reconstruction company, as the Reserve Bankmay, by notification, specify:

**Provided** that the Reserve Bank may, by notification, specify different amountsof owned fund for different class or classes of securitisation companies orreconstruction companies:

**Provided further** that a securitisation company orreconstruction company, existing on the commencement of this Act, shall make anapplication for registration to the Reserve Bank before the expiry of six monthsfrom such commencement and notwithstanding anything contained in thissub-section may continue to carry on the business of securitisation or assetreconstruction until a certificate of registration is granted to it or, as thecase may be, rejection of application for registration is communicated to it.

(2) Every securitisation company or reconstruction company shall makean application for registration to the Reserve Bank in such form and manner asit may specify.

(3) The Reserve Bank may, for the purpose of considering theapplication for registration of a securitisation company or reconstructioncompany to commence or carry on the business of securitisation or assetreconstruction, as the case may be, require to be satisfied, by an inspectionof records or books of such securitisation company or reconstruction company,or otherwise, that the following conditions are fulfilled, namely:—

(a) thatthe securitisation company or reconstruction company has not incurred losses inany of the three preceding financial years;

(b) thatsuch securitisation company or reconstruction company has made adequatearrangements for realisation of the financial assets acquired for the purposeof securitisation or asset reconstruction and shall be able to pay periodicalreturns and redeem on respective due dates on the investments made in thecompany by the qualified institutional buyers or other persons;

(c) thatthe directors of securitisation company or reconstruction company haveadequate professional experience in matters related to finance, securitisationand reconstruction;

(d) thatthe board of directors of such securitisation company or reconstruction companydoes not consist of more than half of its total number of directors who areeither nominees of any sponsor or associated in any manner with the sponsor orany of its subsidiaries;

(e) thatany of its directors has not been convicted of any offence involving moralturpitude;

(f) thata sponsor, is not a holding company of the securitisation company orreconstruction company, as the case may be, or, does not otherwise hold anycontrolling interest in such securitisation company or reconstruction company;

(g) thatsecuritisation company or reconstruction company has complied with or is in aposition to comply with prudential norms specified by the Reserve Bank.

(4) The Reserve Bank may, after being satisfied that the conditionsspecified in sub-section (3) are fulfilled, grant a certificate ofregistration to the securitisation company or the reconstruction company tocommence or carry on business of securitisation or asset reconstruction,subject to such conditions, which it may consider, fit to impose.

(5) The Reserve Bank may reject the application made under sub-section(2) if it is satisfied that the conditions specified in sub-section (3) are notfulfilled:

**Provided** that before rejecting the application, the applicant shall be given areasonable opportunity of being heard.

(6) Every securitisation company or reconstruction company, shallobtain prior approval of the Reserve Bank for any substantial change in itsmanagement or change of location of its registered office or change in itsname:

**Provided** that the decision of the Reserve Bank, whether the change inmanagement of a securitisation company or a reconstruction company is asubstantial change in its management or not, shall be final.

Explanation.—For the purposes of this section, the expression"substantial change in management" means the change in the management by wayof transfer of shares or amalgamation or transfer of the business of thecompany.

**Cancellation of certificate of registration.**

**4.** (1) The Reserve Bank may cancel a certificate of registration grantedto a securitisation company or a reconstruction company, if such company—

(a) ceasesto carry on the business of securitisation or asset reconstruction; or

(b) ceasesto receive or hold any investment from a qualified institutional buyer; or

(c) hasfailed to comply with any conditions subject to which the certificate ofregistration has been granted to it; or

(d) atany time fails to fulfil any of the conditions referred to in clauses (a)to (g) of sub-section (3) of section 3; or

(e) failsto—

(i) complywith any direction issued by the Reserve Bank under the provisions of this Act;or

(ii) maintainaccounts in accordance with the requirements of any law or any direction ororder issued by the Reserve Bank under the provisions of this Act; or

(iii) submitor offer for inspection its books of account or other relevant documents whenso demanded by the Reserve Bank; or

(iv) obtainprior approval of the Reserve Bank required under sub-section (6) of section 3:

**Provided** that before cancelling a certificate of registration on the groundthat the securitisation company or reconstruction company has failed to complywith the provisions of clause (c) or has failed to fulfil any of theconditions referred to in clause (d) or sub-clause (iv) of clause(e), the Reserve Bank, unless it is of the opinion that the delay incancelling the certificate of registration granted under sub-section (4) ofsection 3 shall be prejudicial to the public interest or the interests of theinvestors or the securitisation company or the reconstruction company, shallgive an opportunity to such company on such terms as the Reserve Bank mayspecify for taking necessary steps to comply with such provisions or fulfilmentof such conditions.

(2) A securitisation company or reconstruction company aggrieved by theorder of rejection of application for registration or cancellation ofcertificate of registration may prefer an appeal, within a period of thirtydays from the date on which such order of rejection or cancellation iscommunicated to it, to the Central Government :

**Provided** that before rejecting an appeal such company shall be given areasonable opportunity of being heard.

(3) A securitisation company or reconstruction company, which isholding investments of qualified institutional buyers and whose application forgrant of certificate of registration has been rejected or certificate ofregistration has been cancelled shall, notwithstanding such rejection orcancellation, be deemed to be a securitisation company or reconstructioncompany until it repays the entire investments held by it (together withinterest, if any) within such period as the Reserve Bank may direct.

**Acquisition of rights or interest infinancial assets.**

**5.** (1) Notwithstanding anything contained in any agreement or any otherlaw for the time being in force, any securitisation company or reconstructioncompany may acquire financial assets of any bank or financial institution,—

(a) byissuing a debenture or bond or any other security in the nature of debenture,for consideration agreed upon between such company and the bank or financialinstitution, incorporating therein such terms and conditions as may be agreedupon between them; or

(b) byentering into an agreement with such bank or financial institution for thetransfer of such financial assets to such company on such terms and conditionsas may be agreed upon between them.

(2) If the bank or financial institution is a lender in relation to anyfinancial assets acquired under sub-section (1) by the securitisation companyor the reconstruction company, such securitisation company or reconstructioncompany shall, on such acquisition, be deemed to be the lender and all therights of such bank or financial institution shall vest in such company inrelation to such financial assets.

(3) Unless otherwise expressly provided by this Act, all contracts,deeds, bonds, agreements, powers-of-attorney, grants of legal representation,permissions, approvals, consents or no-objections under any law or otherwiseand other instruments of whatever nature which relate to the said financialasset and which are subsisting or having effect immediately before theacquisition of financial asset under sub-section (1) and to which the concernedbank or financial institution is a party or which are in favour of such bank orfinancial institution shall, after the acquisition of the financial assets, beof as full force and effect against or in favour of the securitisation companyor reconstruction company, as the case may be, and may be enforced or actedupon as fully and effectually as if, in the place of the said bank or financialinstitution, securitisation company or reconstruction company, as the case maybe, had been a party thereto or as if they had been issued in favour ofsecuritisation company or reconstruction company, as the case may be.

(4) If, onthe date of acquisition of financial asset under sub-section (1), any suit, appealor other proceeding of whatever nature relating to the said financial asset ispending by or against the bank or financial institution, save as provided inthe third proviso to sub-section (1) of section 15 of the Sick IndustrialCompanies (Special Provisions) Act, 1985 (1 of 1986), the same shall not abate,or be discontinued or be, in any way, prejudicially affected by reason of theacquisition of financial asset by thesecuritisation company or reconstruction company, as the case may be, but the suit,appeal or other proceeding may be continued, prosecuted and enforced by oragainst the securitisation company or reconstruction company, as the case maybe.

**Notice toobligor and discharge of obligation of such obligor.**

**6.** (1) The bank or financial institution may,if it considers appropriate, give a notice of acquisition of financial assetsby any securitisation company or reconstruction company, to the concernedobligor and any other concerned person and to the concerned registeringauthority (including Registrar of Companies) in whose jurisdiction themortgage, charge, hypothecation, assignment or other interest created on thefinancial assets had been registered.

(2) Where anotice of acquisition of financial asset under sub-section (1) is given by abank or financial institution, the obligor, on receipt of such notice, shallmake payment to the concerned securitisation company or reconstruction company,as the case may be, and payment made to such company in discharge of any of theobligations in relation to the financial asset specified in the notice shall bea full discharge to the obligor making the payment from all liability inrespect of such payment.

(3) Where nonotice of acquisition of financial asset under sub-section (1) is given by any bankor financial institution, any money or other properties subsequently receivedby the bank or financial institution, shall constitute monies or propertiesheld in trust for the benefit of and on behalf of the securitisation company orreconstruction company, as the case may be, and such bank or financialinstitution shall hold such payment or property which shall forthwith be madeover or delivered to such securitisation company or reconstruction company, asthe case may be, or its agent dulyauthorised in this behalf.

**Issue ofsecurity by raising of receipts or funds by securitisation company orreconstruction company.**

**7.** (1) Without prejudice to the provisionscontained in the Companies Act, 1956 (1 of 1956), the Securities Contracts(Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board ofIndia Act, 1992 (15 of 1992), any securitisation company or reconstructioncompany, may, after acquisition of any financial asset under sub-section (1) ofsection 5, offer security receipts to qualified institutional buyers (otherthan by offer to public) for subscription in accordance with the provisions ofthose Acts.

(2) Asecuritisation company or reconstruction company may raise funds from thequalified institutional buyers by formulating schemes for acquiring financialassets and shall keep and maintain separate and distinct accounts in respectof each such scheme for every financial asset acquired out of investments madeby a qualified institutional buyer and ensure that realisations of suchfinancial asset is held and applied towards redemption of investments andpayment of returns assured on such investments under the relevant scheme.

(3) In theevent of non-realisation under sub-section (2) of financial assets, thequalified institutional buyers of a securitisation company or reconstructioncompany, holding security receipts of not less than seventy-five per cent ofthe total value of the security receipts issued by such company, shall be entitledto call a meeting of all the qualified institutional buyers and everyresolution passed in such meeting shall be binding on the company.

(4) Thequalified institutional buyers shall, at a meeting called under sub-section(3), follow the same procedure, as nearly as possible as is followed atmeetings of the board of directors of the securitisation company orreconstruction company, as the case may be.

**Exemptionfrom registration of security receipt.**

**8.** Notwithstanding anything contained insub-section (1) of section 17 of the Registration Act, 1908 (16 of 1908),—

(a) any security receipt issued by the securitisation company or reconstruction company, as the case may be, under sub-section (1) of section 7, and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except insofar as it entitles the holder of the security receipt to an undivided interest afforded by a registered instrument;

or

(b) any transfer ofsecurity receipts,

shall not require compulsory registration.

**Measures for assets reconstruction.**

**9.** Without prejudice to the provisionscontained in any other law for the time being in force, a securitisationcompany or reconstruction company may, for the purposes of assetreconstruction, having regard to the guidelines framed by the Reserve Bank inthis behalf, provide for any one or more of the following measures, namely :—

(a) the propermanagement of the business of the borrower, by change in, or take over of, themanagement of the business of the borrower;

(b) the sale or leaseof a part or whole of the business of the borrower;

(c) rescheduling ofpayment of debts payable by the borrower;

(d) enforcement ofsecurity interest in accordance with the provisions of this Act;

(e) settlement of duespayable by the borrower;

(f) taking possessionof secured assets in accordance with the provisions of this Act.

**Otherfunctions of securitisation company or reconstruction company.**

**10.** (1) Any securitisation company orreconstruction company registered under section 3 may—

(a) act as an agentfor any bank or financial institution for the purpose of recovering their duesfrom the borrower on payment of such fees or charges as may be mutually agreedupon between the parties;

(b) act as a managerreferred to in clause (c) of sub-section (4) of section 13 on such feeas may be mutually agreed upon between the parties;

(c) act as receiver ifappointed by any court or tribunal :

**Provided** that no securitisation company orreconstruction company shall act as a manager if acting as such gives rise toany pecuniary liability.

(2) Save asotherwise provided in sub-section (1), no securitisation company orreconstruction company which has been granted a certificate of registrationunder sub-section (4) of section 3, shall commence or carry on, without priorapproval of the Reserve Bank, any business other than that of securitisation orasset reconstruction :

**Provided** that a securitisation company orreconstruction company which is carrying on, on or before the commencement of thisAct, any business other than the business of securitisation or assetreconstruction or business referred to in sub-section (1), shall cease to carryon any such business within one year from the date of commencement of this Act.

Explanation.—For the purposes of this section,“securitisation company” or “reconstruction company” does not include itssubsidiary.

**Resolutionof disputes.**

**11.** Where any dispute relating tosecuritisation or reconstruction ornon-payment of any amount due including interest arises amongst any of theparties, namely, the bank or financial institution or a securitisation companyor reconstruction company or qualified institutional buyer, such dispute shallbe settled by conciliation or arbitration as provided in the Arbitration andConciliation Act, 1996 (26 of 1996), as if the parties to the dispute haveconsented in writing for determination of such dispute by conciliation orarbitration and the provisions of that Act shall apply accordingly.

**Power ofReserve Bank to determine policy and issue directions.**

**12.** (1) If the Reserve Bank is satisfied that inthe public interest or to regulate financial system of the country to itsadvantage or to prevent the affairs of any securitisation company orreconstruction company from being conducted in a manner detrimental to theinterest of investors or in any manner prejudicial to the interest of suchsecuritisation company or reconstruction company, it is necessary or expedientso to do, it may determine the policy and give directions to all or anysecuritisation company or reconstruction company in matters relating to incomerecognition, accounting standards, making provisions for bad and doubtfuldebts, capital adequacy based on risk weights for assets and also relating todeployment of funds by the securitisation company or reconstruction company, asthe case may be, and such company shall be bound to follow the policy sodetermined and the directions so issued.

(2) Withoutprejudice to the generality of the power vested under sub-section (1), theReserve Bank may give directions to any securitisation company orreconstruction company generally or to a class of securitisation companies or reconstruction companies or to anysecuritisation company or reconstruction company in particular as to—

(a) the type offinancial asset of a bank or financial institution which can be acquired andprocedure for acquisition of such assets and valuation thereof;

(b) the aggregatevalue of financial assets which may be acquired by any securitisation companyor reconstruction company.

## CHAPTERIII

Enforcement of Security Interest

**Enforcementof security interest.**

**13.** (1) Notwithstanding anything contained insection 69 or section 69A of the Transfer of Property Act, 1882 (4 of 1882),any security interest created in favour of any secured creditor may beenforced, without the intervention of the court or tribunal, by such creditorin accordance with the provisions of this Act.

(2) Where anyborrower, who is under a liability to a secured creditor under a securityagreement, makes any default in repayment of secured debt or any instalmentthereof, and his account in respect of such debt is classified by the securedcreditor as non-performing asset, then, the secured creditor may require theborrower by notice in writing to discharge in full his liabilities to thesecured creditor within sixty days from the date of notice failing which thesecured creditor shall be entitled to exercise all or any of the rights undersub-section (4).

(3) Thenotice referred to in sub-section (2) shall give details of the amount payableby the borrower and the secured assets intended to be enforced by the securedcreditor in the event of non-payment of secured debts by the borrower.

(4) In casethe borrower fails to discharge his liability in full within the periodspecified in sub-section (2), the secured creditor may take recourse to one ormore of the following measures to recover his secured debt, namely :—

(a) take possession ofthe secured assets of the borrower including the right to transfer by way oflease, assignment or sale for realising the secured asset;

(b) take over themanagement of the secured assets of the borrower including the right totransfer by way of lease, assignment or sale and realise the secured asset;

(c) appoint any person(hereafter referred to as the manager), to manage the secured assets thepossession of which has been taken over by the secured creditor;

(d) require at anytime by notice in writing, any person who has acquired any of the securedassets from the borrower and from whom any money is due or may become due tothe borrower, to pay the secured creditor, so much of the money as issufficient to pay the secured debt.

(5) Anypayment made by any person referred to in clause (d) of sub-section (4)to the secured creditor shall give such person a valid discharge as if he hasmade payment to the borrower.

(6) Anytransfer of secured asset after taking possession thereof or take over ofmanagement under sub-section (4), by the secured creditor or by the manager onbehalf of the secured creditor shall vest in the transferee all rights in, orin relation to, the secured asset transferred as if the transfer had been madeby the owner of such secured asset.

(7) Where anyaction has been taken against a borrower under the provisions of sub-section(4), all costs, charges and expenses which, in the opinion of the secured creditor, have been properlyincurred by him or any expenses incidental thereto, shall be recoverable fromthe borrower and the money which is received by the secured creditor shall, inthe absence of any contract to the contrary, be held by him in trust, to beapplied, firstly, in payment of such costs, charges and expenses and secondly,in discharge of the dues of the secured creditor and the residue of the moneyso received shall be paid to the person entitled thereto in accordance with hisrights and interests.

(8) If thedues of the secured creditor together with all costs, charges and expensesincurred by him are tendered to the secured creditor at any time before thedate fixed for sale or transfer, the secured asset shall not be sold ortransferred by the secured creditor, and no further step shall be taken by himfor transfer or sale of that secured asset.

(9) In thecase of financing of a financial asset by more than one secured creditors orjoint financing of a financial asset by secured creditors, no secured creditorshall be entitled to exercise any or all of the rights conferred on him underor pursuant to sub-section (4) unless exercise of such right is agreed upon bythe secured creditors representing not less than three-fourth in value of theamount outstanding as on a record date and such action shall be binding on all thesecured creditors :

**Provided** that in the case of a company inliquidation, the amount realised from the sale of secured assets shall bedistributed in accordance with the provisions of section 529A of the CompaniesAct, 1956 (1 of 1956) :

**Providedfurther** that in the case ofa company being wound up on or after the commencement of this Act, the securedcreditor of such company, who opts to realise his security instead ofrelinquishing his security and proving his debt under proviso to sub-section(1) of section 529 of the Companies Act, 1956 (1 of 1956), may retain the saleproceeds of his secured assets after depositing the workmen's dues with theliquidator in accordance with the provisions of section 529A of that Act :

**Providedalso** that the liquidatorreferred to in the second proviso shall intimate the secured creditor theworkmen's dues in accordance with the provisions of section 529A of the CompaniesAct, 1956 (1 of 1956) and in case such workmen's dues cannot be ascertained,the liquidator shall intimate the estimated amount of workmen's dues under thatsection to the secured creditor and in such case the secured creditor mayretain the sale proceeds of the secured assets after depositing the amount ofsuch estimated dues with the liquidator :

**Providedalso** that in case thesecured creditor deposits the estimated amount of workmen's dues, such creditorshall be liable to pay the balance of the workmen's dues or entitled to receivethe excess amount, if any, deposited by the secured creditor with theliquidator :

**Providedalso** that the securedcreditor shall furnish an undertaking to the liquidator to pay the balance ofthe workmen's dues, if any.

Explanation.—For the purposes of this sub-section,—

(a) “record date”means the date agreed upon by the secured creditors representing not less thanthree-fourth in value of the amount outstanding on such date;

(b) “amountoutstanding” shall include principal, interest and any other dues payable bythe borrower to the secured creditor in respect of secured asset as per thebooks of account of the secured creditor.

(10) Wheredues of the secured creditor are not fully satisfied with the sale proceeds ofthe secured assets, the secured creditor may file an application in the formand manner as may be prescribed to the Debts Recovery Tribunal havingjurisdiction or a competent court, as the case may be, for recovery of the balanceamount from the borrower.

(11) Withoutprejudice to the rights conferred on the secured creditor under or by this section,the secured creditor shall be entitled to proceed against the guarantors orsell the pledged assets without first taking any of the measures specified inclauses (a) to (d) of sub-section (4) in relation to the securedassets under this Act.

(12) Therights of a secured creditor under this Act may be exercised by one or more ofhis officers authorised in this behalf in such manner as may be prescribed.

(13) Noborrower shall, after receipt of notice referred to in sub-section (2),transfer by way of sale, lease or otherwise (other than in the ordinary courseof his business) any of his secured assets referred to in the notice, withoutprior written consent of the secured creditor.

**ChiefMetropolitan Magistrate or District Magistrate to assist secured creditor intaking possession of secured asset.**

**14.** (1) Where the possession of any securedasset is required to be taken by the secured creditor or if any of the securedasset is required to be sold or transferred by the secured creditor under theprovisions of this Act, the secured creditor may, for the purpose of takingpossession or control of any such secured asset, request, in writing, the ChiefMetropolitan Magistrate or the District Magistrate within whose jurisdictionany such secured asset or other documents relating thereto may be situated orfound, to take possession thereof, and the Chief Metropolitan Magistrate or, asthe case may be, the District Magistrate shall, on such request being made tohim—

(a) take possession ofsuch asset and documents relating thereto; and

(b) forward such assetand documents to the secured creditor.

(2) For thepurpose of securing compliance with the provisions of sub-section (1), theChief Metropolitan Magistrate or the District Magistrate may take or cause tobe taken such steps and use, or cause to be used, such force, as may, in hisopinion, be necessary.

(3) No act ofthe Chief Metropolitan Magistrate or the District Magistrate done in pursuanceof this section shall be called in question in any court or before anyauthority.

**Manner andeffect of take over of management.**

**15.** (1) When the management of business of aborrower is taken over by a secured creditor, the secured creditor may, by publishinga notice in a newspaper published in English language and in a newspaperpublished in an Indian language in circulation in the place where the principaloffice of the borrower is situated, appoint as many persons as it thinks fit—

(a) in a case in whichthe borrower is a company as defined in the Companies Act, 1956 (1 of 1956), tobe the directors of that borrower in accordance with the provisions of thatAct; or

(b) in any other case,to be the administrator of the business of the borrower.

(2) Onpublication of a notice under sub-section (1),—

(a) in any case wherethe borrower is a company as defined in the Companies Act, 1956 (1 of 1956),all persons holding office as directors of the company and in any other case,all persons holding any office having power of superintendence, direction andcontrol of the business of the borrower immediately before the publication ofthe notice under sub-section (1), shall be deemed to have vacated their officesas such;

(b) any contract ofmanagement between the borrower and any director or manager thereof holdingoffice as such immediately before publication of the notice under sub-section(1), shall be deemed to be terminated;

(c) the directors orthe administrators appointed under this section shall take such steps as may benecessary to take into their custody or under their control all the property,effects and actionable claims to which the business of the borrower is, orappears to be, entitled and all the property and effects of the business of theborrower shall be deemed to be in the custody of the directors oradministrators, as the case may be, as from the date of the publication of thenotice;

(d) the directorsappointed under this section shall, for all purposes, be the directors of thecompany of the borrower and such directors or as the case may be, theadministrators appointed under this section, shall alone be entitled toexercise all the powers of the directors or as the case may be, of the personsexercising powers of superintendence, direction and control, of the business ofthe borrower whether such powers are derived from the memorandum or articles ofassociation of the company of the borrower or from any other source whatsoever.

(3) Where themanagement of the business of a borrower, being a company as defined in theCompanies Act, 1956 (1 of 1956), is taken over by the secured creditor, then,notwithstanding anything contained in the said Act or in the memorandum or articlesof association of such borrower,—

(a) it shall not belawful for the shareholders of such company or any other person to nominate orappoint any person to be a director of the company;

(b) no resolutionpassed at any meeting of the shareholders of such company shall be given effectto unless approved by the secured creditor;

(c) no proceeding forthe winding up of such company or for the appointment of a receiver in respectthereof shall lie in any court, except with the consent of the securedcreditor.

(4) Where themanagement of the business of a borrower had been taken over by the securedcreditor, the secured creditor shall, on realisation of his debt in full,restore the management of the business of the borrower to him.

**Nocompensation to directors for loss of office.**

**16.** (1) Notwithstanding anything to the contrarycontained in any contract or in any other law for the time being in force, nomanaging director or any other director or a manager or any person in charge ofmanagement of the business of the borrower shall be entitled to anycompensation for the loss of office or for the premature termination under thisAct of any contract of management entered into by him with the borrower.

(2) Nothingcontained in sub-section (1) shall affect the right of any such managingdirector or any other director or manager or any such person in charge ofmanagement to recover from the business of the borrower, moneys recoverableotherwise than by way of such compensation.

**Right toappeal.**

**17.** (1) Any person (including borrower),aggrieved by any of the measures referred to in sub-section (4) of section 13taken by the secured creditor or his authorised officer under this Chapter, mayprefer an appeal to the Debts Recovery Tribunal having jurisdiction in thematter within forty-five days from the date on which such measures had beentaken.

(2) Where anappeal is preferred by a borrower, such appeal shall not be entertained by theDebts Recovery Tribunal unless the borrower has deposited with the DebtsRecovery Tribunal seventy-five per cent of the amount claimed in the noticereferred to in sub-section (2) of section 13 :

**Provided** that the Debts Recovery Tribunal may, forreasons to be recorded in writing, waive or reduce the amount to be depositedunder this section.

(3) Save asotherwise provided in this Act, the Debts Recovery Tribunal shall, as far asmay be, dispose of the appeal in accordance with the provisions of the Recoveryof Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) andrules made thereunder.

**Appeal toAppellate Tribunal.**

**18.** (1) Any person aggrieved, by any order madeby the Debts Recovery Tribunal under section 17, may prefer an appeal to theAppellate Tribunal within thirty days from the date of receipt of the order ofDebts Recovery Tribunal.

(2) Save asotherwise provided in this Act, the Appellate Tribunal shall, as far as may be,dispose of the appeal in accordance with the provisions of the Recovery ofDebts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rulesmade thereunder.

**Right ofborrower to receive compensation and costs in certain cases.**

**19.** If the Debts Recovery Tribunal or theAppellate Tribunal, as the case may be, on an appeal filed under section 17 orsection 18 holds the possession of secured assets by the secured creditor aswrongful and directs the secured creditor to return such secured assets to theconcerned borrower, such borrower shall be entitled to payment of suchcompensation and costs as may be determined by such Tribunal or the AppellateTribunal.

## CHAPTERIV

Central Registry

**CentralRegistry.**

**20.** (1) The Central Government may, bynotification, set-up or cause to be set-up from such date as it may specify insuch notification, a registry to be known as the Central Registry with its ownseal for the purposes of registration of transaction of securitisation andreconstruction of financial assets and creation of security interest underthis Act.

(2) The headoffice of the Central Registry shall be at such place as the Central Governmentmay specify and for the purpose of facilitating registration of transactionsreferred to in sub-section (1), there may be established at such other placesas the Central Government may think fit, branch offices of the CentralRegistry.

(3) TheCentral Government may, by notification, define the territorial limits withinwhich an office of the Central Registry may exercise its functions.

(4) Theprovisions of this Act pertaining to the Central Registry shall be in additionto and not in derogation of any of the provisions contained in the RegistrationAct, 1908 (16 of 1908), the Companies Act, 1956 (1 of 1956), the MerchantShipping Act, 1958 (44 of 1958), the Patents Act, 1970 (39 of 1970), the MotorVehicles Act, 1988 (59 of 1988) and the Designs Act, 2000 (16 of 2000) or anyother law requiring registration of charges and shall not affect the priorityof charges or validity thereof under those Acts or laws.

**CentralRegistrar.**

**21.** (1) The Central Government may, bynotification, appoint a person for the purpose of registration of transactionsrelating to securitisation, reconstruction of financial assets and securityinterest created over properties, to be known as the Central Registrar.

(2) TheCentral Government may appoint such other officers with such designations as itthinks fit for the purpose of discharging under the superintendence anddirection of the Central Registrar, such functions of the Central Registrarunder this Act as he may, from time to time, authorise them to discharge.

**Registerof securitisation, reconstruction and security interest transactions.**

**22.** (1) For the purposes of this Act, a recordcalled the Central Register shall be kept at the head office of the CentralRegistry for entering the particulars of the transactions relating to—

(a) securitisation offinancial assets;

(b) reconstruction offinancial assets; and

(c) creation ofsecurity interest.

(2)Notwithstanding anything contained in sub-section (1), it shall be lawful forthe Central Registrar to keep the records wholly or partly in computer,floppies, diskettes or in any other electronic form subject to such safeguardsas may be prescribed.

(3) Wheresuch register is maintained wholly or partly in computer, floppies, diskettesor in any other electronic form, under sub-section (2), any reference in thisAct to entry in the Central Register shall be construed as a reference to anyentry as maintained in computer or in any other electronic form.

(4) Theregister shall be kept under the control and management of the CentralRegistrar.

**Filing oftransactions of securitisation, reconstruction and creation of securityinterest.**

**23.** The particulars of every transaction ofsecuritisation, asset reconstruction or creation of security interest shall befiled, with the Central Registrar in the manner and on payment of such fee asmay be prescribed, within thirty days after the date of such transaction orcreation of security, by the securitisation company or reconstruction companyor the secured creditor, as the case may be:

**Provided** that the Central Registrar may allow the filingof the particulars of such transaction or creation of security interest withinthirty days next following the expiry of the said period of thirty days onpayment of such additional fee not exceeding ten times the amount of such fee.

**Modificationof security interest registered under this Act.**

**24.** Whenever the terms or conditions, or theextent or operation, of any security interest registered under this Chapter,are, or is, modified, it shall be the duty of the securitisation company or thereconstruction company or the secured creditor, as the case may be, to send tothe Central Registrar, the particulars of such modification, and the provisionsof this Chapter as to registration of a security interest shall apply to suchmodification of such security interest.

**Securitisationcompany or reconstruction company or secured creditor to report satisfaction ofsecurity interest.**

**25.** (1) The securitisation company or thereconstruction company or the secured creditor as the case may be, shall giveintimation to the Central Registrar of the payment or satisfaction in full, ofany security interest relating to the securitisation company or thereconstruction company or the secured creditor and requiring registrationunder this Chapter, within thirty days from the date of such payment orsatisfaction.

(2) TheCentral Registrar shall, on receipt of such intimation, cause a notice to besent to the securitisation company or reconstruction company or the securedcreditor calling upon it to show cause within a time not exceeding fourteendays specified in such notice, as to why payment or satisfaction should not berecorded as intimated to the Central Registrar.

(3) If nocause is shown, the Central Registrar shall order that a memorandum of satisfactionshall be entered in the Central Register.

(4) If causeis shown, the Central Registrar shall record a note to that effect in theCentral Register, and shall inform the borrower that he has done so.

**Right toinspect particulars of securitisation, reconstruction and security interesttransactions.**

**26.** (1) The particulars of securitisation orreconstruction or security interest entered in the Central Register of suchtransactions kept under section 22 shall be open during the business hours forinspection by any person on payment of such fee as may be prescribed.

(2) TheCentral Register, referred to in sub-section (1) maintained in electronicform, shall also be open during the business hours for the inspection by anyperson through electronic media on payment of such fee as may be prescribed.

## CHAPTERV

Offences and penalties

**Penalties.**

**27.** If a default is made—

(a) infiling under section 23, the particulars of every transaction of anysecuritisation or asset reconstruction or security interest created by asecuritisation company or reconstruction company or secured creditor; or

(b) insending under section 24, the particulars of the modification referred to inthat section; or

(c) ingiving intimation under section 25,

every companyand every officer of the company or the secured creditor and every officer ofthe secured creditor who is in default shall be punishable with fine which mayextend to five thousand rupees for every day during which the defaultcontinues.

**Penaltiesfor non-compliance of direction of Reserve Bank.**

**28.** If any securitisation company orreconstruction company fails to comply with any direction issued by the ReserveBank under section 12, such company and every officer of the company who is indefault, shall be punishable with fine which may extend to five lakh rupees andin the case of a continuing offence, with an additional fine which may extendto ten thousand rupees for every day during which the default continues.

**Offences.**

**29.** If any person contravenes or attempts tocontravene or abets the contravention of the provisions of this Act or of anyrules made thereunder, he shall be punishable with imprisonment for a termwhich may extend to one year, or with fine, or with both.

**Cognizanceof offence.**

**30.** No court inferior to that of a MetropolitanMagistrate or a Judicial Magistrate of the First Class shall try any offencepunishable under this Act.

CHAPTERVI

Miscellaneous

**Provisionsof this Act not to apply in certain cases.**

**31.** The provisions of this Act shall not applyto—

(a) a lien on anygoods, money or security given by or under the Indian Contract Act, 1872 (9 of1872) or the Sale of Goods Act, 1930 (3 of 1930) or any other law for the timebeing in force;

(b) a pledge ofmovables within the meaning of section 172 of the Indian Contract Act, 1872 (9of 1872);

(c) creation of anysecurity in any aircraft as defined in clause (1) of section 2 of theAircraft Act, 1934 (24 of 1934);

(d) creation ofsecurity interest in any vessel as defined in clause (55) of section 3of the Merchant Shipping Act, 1958 (44 of 1958);

(e) any conditionalsale, hire-purchase or lease or any other contract in which no securityinterest has been created;

(f) any rights ofunpaid seller under section 47 of the Sale of Goods Act, 1930 (3 of 1930);

(g) any properties notliable to attachment or sale under the first proviso to sub-section (1) ofsection 60 of the Code of Civil Procedure, 1908 (5 of 1908);

(h) any securityinterest for securing repayment of any financial asset not exceeding one lakhrupees;

(i) any securityinterest created in agricultural land;

(j) any case in whichthe amount due is less than twenty per cent of the principal amount and interestthereon.

**Protectionof action taken in good faith.**

**32.** No suit, prosecution or other legalproceedings shall lie against any secured creditor or any of his officers ormanager exercising any of the rights of the secured creditor or borrower foranything done or omitted to be done in good faith under this Act.

**Offencesby companies.**

**33.** (1) Where an offence under this Act has beencommitted by a company, every person who at the time the offence was committedwas in charge of, and was responsible to, the company, for the conduct of thebusiness of the company, as well as the company, shall be deemed to be guiltyof the offence and shall be liable to be proceeded against and punishedaccordingly:

**Provided** that nothing contained in this sub-sectionshall render any such person liable to any punishment provided in this Act, ifhe proves that the offence was

committed without his knowledge or that he hadexercised all due diligence to prevent the commission of such offence.

(2)Notwithstanding anything contained in sub-section (1), where an offence underthis Act has been committed by a company and it is proved that the offence hasbeen committed with the consent or connivance of, or is attributable to anyneglect on the part of, any director, manager, secretary or other officer ofthe company, such director, manager, secretary or other officer shall also bedeemed to be guilty of the offence and shall be liable to be proceeded againstand punished accordingly.

Explanation—For the purposes of this section,—

(a) "company" means any body corporate andincludes a firm or other association of individuals; and

(b) "director", in relation to a firm, means apartner in the firm.

**Civil Court not to have jurisdiction.**

**34.** No civil court shall have jurisdiction to entertain any suit orproceeding in respect of any matter which a Debts Recovery Tribunal or theAppellate Tribunal is empowered by or under this Act to determine and noinjunction shall be granted by any court or other authority in respect of any action taken or to betaken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks andFinancial Institutions Act, 1993 (51 of 1993).

**The provisions of this Act to override otherlaws.**

**35.** The provisions of this Act shall have effect, notwithstandinganything inconsistent therewith contained in any other law for the time beingin force or any instrument having effect by virtue of any such law.

**Limitation.**

**36.** No secured creditor shall be entitled to take all or any of the measuresunder sub-section (4) of section 13, unless his claim in respect of thefinancial asset is made within the period of limitation prescribed under theLimitation Act, 1963 (36 of 1963).

**Application of other laws not barred.**

**37.** The provisions of this Act or the rules made thereunder shall be inaddition to, and not in derogation of, the Companies Act, 1956 (1 of 1956), theSecurities

Contracts (Regulation) Act, 1956 (42 of 1956), the Securities andExchange Board of India Act, 1992 (15 of 1992), the Recovery of Debts Due toBanks and Financial Institutions Act, 1993 (51 of 1993) or any other law forthe time being in force.

**Power of Central Government to make rules.**

**38.** (1) The Central Government may, by notification and in the ElectronicGazette as defined in clause (s) of section 2 of the InformationTechnology Act, 2000 (21 of 2000), make rules for carrying out the provisionsof this Act.

(2) In particular, and without prejudice to the generality of theforegoing power, such rules may provide for all or any of the followingmatters, namely :—

(a) the form and manner in which an applicationmay be filed under sub-section (10) of section 13;

(b) the manner in which the rights of a securedcreditor may be exercised by one or more of his officers under sub-section (12)of section 13;

(c) the safeguards subject to which the recordsmay be kept under sub-section (2) of section 22;

(d) themanner in which the particulars of every transaction of securitisation shallbe filed under section 23 and fee for filing such transaction;

(e) thefee for inspecting the particulars of transactions kept under section 22 andentered in the Central Register under sub-section (1) of section 26;

(f) thefee for inspecting the Central Register maintained in electronic form undersub-section (2) of section 26;

(g) anyother matter which is required to be, or may be, prescribed, in respect ofwhich provision is to be, or may be, made by rules.

(3) Everyrule made under this Act shall be laid, as soon as may be after it is made,before each House of Parliament, while it is in session, for a total period ofthirty days which may be comprised in one session or in two or more successivesessions, and if, before the expiry of the session immediately following thesession or the successive sessions aforesaid, both Houses agree in making anymodification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter haveeffect only in such modified form or be of no effect, as the case may be;so, however, that any such modificationor annulment shall be without prejudice to the validity of anything previouslydone under that rule.

**Certainprovisions of this Act to apply after Central Registry is set up or cause to beset up.**

**39.** The provisions of sub-sections (2), (3) and(4) of section 20 and sections 21, 22, 23, 24, 25, 26 and 27 shall apply afterthe Central Registry is set up or cause to be set up under sub-section (1) ofsection 20.

**Power toremove difficulties.**

**40.** (1) If any difficulty arises in givingeffect to the provisions of this Act, the Central Government may, by orderpublished in the Official Gazette, make such provisions not inconsistent withthe provisions of this Act as may appear to be necessary for removing thedifficulty :

**Provided** that no order shall be made under this section after the expiry of a periodof two years from the commencement of this Act.

(2) Everyorder made under this section shall be laid, as soon as may be after it ismade, before each House of Parliament.

**Amendmentsto certain enactments.**

**41.** The enactments specified in the Scheduleshall be amended in the manner specified therein.

**Repeal andsaving.**

**42.** (1) The Securitisation and Reconstruction ofFinancial Assets and Enforcement of Security Interest (Second) Ordinance, 2002(Ord. 3 of 2002) is hereby repealed.

(2)Notwithstanding such repeal, any thing done or any action taken under the said Ordinanceshall be deemed to have been done or taken under the corresponding provisionsof this Act.

The Schedule

(See section 41)

| Year | Act No. | Short title | Amendment |
|---|---|---|---|
| 1956 | 1 | The Companies Act, 1956. | In section 4A, in sub-section (1), after clause (vi), insert the following :— |
| | | | “(vii) the securitisation company or the reconstruc- |

| | | | |
|---|---|---|---|
| | | | tion company which has obtained a certificate of registration under sub-section (4) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.". |
| 1956 | 42 | The Securities Contracts (Regulation) Act, 1956. | In section 2, in clause (h) after sub-clause (ib), insert the following :— |
| | | | "(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.". |
| 1986 | 1 | The Sick Industrial Companies (Special Provisions) Act, 1985. | In section 15, in sub-section (1), after the proviso, insert the following :—<br><br>"**Provided further** that no reference shall be made to the Board for Industrial and Financial Reconstruction after the commencement of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, where financial assets have been acquired by any securitisation company or reconstruction company under sub-section (1) of section 5 of that Act :<br><br>**Provided also** that on or after the commencement of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, where a reference is pending before the Board for Industrial and Financial Reconstruction, such reference shall abate if the secured creditors, representing not less than three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower of such secured creditors, have taken any measures to recover their secured debt under sub-section (4) of section 13 of that Act.". |

The Bombay Shops and Establishments Act, 1948

BOMBAY ACT NO. LXXIX OF 1948

[11th January 1948]

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified. It is hereby enacted as follows:-

## CHAPTER I
## Preliminary

1. Short title extent and operation. This Act may be called the Bombay Shops and Establishments Act, 1948.

[(2) It extends to the whole of the State of Maharashtra.]

(3) It shall in the first instance come into force in the local areas specified in schedule I:

^Provided that, on the commencement of the Bombay Shops and Establishments (Extension and Amendment) Act, I960, Mah. XXVI of 1961, all the provisions of this Act shall also come into force in each of the areas in which the Central Provinces and Berar Shops and Establishments Act, 1947, C.P. and Berar Act, XXII of 1947, or the Hyderabad Shops and Establishments Act, 1951, Hyd. X of 1951, was in force immediately before such commencement.]

(4) The State] Government shall by notification published in the Official Gazette direct that all or any of the provisions of this Act shall come into force in such other local areas having population of twenty-five thousand and more as may be specified in the notification.

(5) The 5 [State] Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population of less than twenty-five thousand as may be specified in the notification.

NOTES

Whether stands repealed by Motor Transport Workers Act, 1961 - According to ordinary principles of interpretation of statutes, repeal by implication is not favoured - None of the provisions of Bombay Shops and Establishments' Act can be said to be conflicting or inconsistent with the provisions of Motor Transport Workers Act - The former does not stand repealed by the latter.

Kishorbhai Khamanchand Goyal v. State of Gujarat &, Anr. 1996 II CLR 266 (Guj.H.C.)

1. For Statement of Objects and Reasons, see Bombay Government Gazette, 1948, Part V, page 499.

2. This Act was extended to the rest of the State of Maharashtra by Mah. 26 of 1961, s.2.

3. Sub-sec. (2) was substituted by Mah. 26 of 1961, s.3(a).

4. This proviso was added, ibid s.3(b).

5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order,
1950.

**2. Definitions.-In** this Act, unless there is anything repugnant in the subject or context,-

(1) "Apprentice" means a person who is employed/whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;

[6] [(2) "Child" means a person who has not completed his fifteenth year of age;
but does not include a person who has, before the date of commencement of the Bombay Shops and Establishments (Amendment) Act, 1977, completed his twelfth year of age even though he has not completed his fifteenth year of age, if he is on the day immediately preceding the said date an employee in any establishment to which this Act applies;]

7 (3) "Closed" means not open for the service of any customer, or for any business, of the establishment, or for work, by or with the help of any employee, of or connected with the establishment;]

(4) "Commercial establishment" means an establishment which carries on, any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession ^and includes establishment of any legal practitioner, medical practitioner, architect, engineer, accountant, tax consultant or any other technical or professional consultant and also includes] a society registered under the Societies Registration Act, 1866 (XXI of 1860), and a charitable or other trust, whether registered or not, which carries on [9] [whether

for purposes of gain or not] any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

**NOTES**

There is nothing in the definition of section 2(4) of "commercial establishment" which indicates that before an establishment can become a commercial establishment it must have a certain fixed place or abode, premises or location from where it operates. The idea of premises is not implicit in the definition of, "Commercial establishment".

The organisation to be a commercial establishment must not only be an organised activity for carrying on any business, trade or profession but the activity must be carried in a commercial manner. If these two conditions are satisfied it is wholly irrelevant that such an activity of which there is an employer and in which there are employees will be a commercial establishment only because it has no particular premises from which it operates.

A sales organisation with a regional officer" at the head of a region and having salesmen in different parts of the State, the organisation having no specific office or its own, would nonetheless be a commercial establishment if the organisation carries on any business, trade or profession, etc. (1973) I LLJ 447 Guj.

Commercial establishment is not only an establishment which carries on trade but also business, whether for the purpose of gain or not. The profit or intention to make profit is not an essential part of the legal definition of trade or business. Business includes trade. The occupation followed by the applicant can well come within the purview of the word "business" as well as "trade" and the applicant's premises is a "commercial establishment" as defined in section 2(4) (1971) II LLJ 31 (Bom.H.C.)

**Establishment of a Legal Practitioner -** Amendment to S.2(4) of 1948 Act effected by S.2 (b) of the amending Maharashtra Act 64 of 1977 sought to enlarge the definition of "Commercial establishment" by including the establishment of a legal practitioner, architect, engineer, accountant, tax consultant and certain other categories. But, there is no common properties or characteristics to be found in other commercial establishments and the establishment of a legal practitioner. There is no rational bases for herding them together and the conclusion that they have been brought together arbitrarily is inescapable. The inclusion of the establishment of a legal practitioner in

commercial establishment does not answer the test of reasonableness and the inclusion would therefore, be violative of Art. 14 of the Constitution.

Consequently, the provisions of the amending Act (Mah. Act 64 of 1977) insofar as they include the establishment of a legal practitioner in the Bombay Shops and Establishments Act, 1948 are struck down. *Narendra Kesharichand Fuladi v. The State ofMaharashtra* 1985 ILLN512(Bom.H.C.).

**Commercial Establishment-** The firm Khanna Construction House has put up a building and parts thereof have been let out to various business concerns paying rent which totals Rs.88000/- per month. The occupants are tenants of the firm. The firm has employed workmen to provide various facilities and amenities to the occupants and those visiting-the premises in their occupation. The Labour Court held that the business being carried on by the firm would amount to industry and there is no error in this finding. Commercial establishment as per S.2(4) of the Act includes an establishment which carries on any business. The very size of the establishment and the quantum of rent being recovered implies that the firm is in the business of providing accommodation plus service to residents who, in consideration thereof pay rent to it. -The enterprise amounts to "commercial establishment" within the meaning of the expression in the Act. *D.B. Khade v. Ramsingh Jaysing* 1986 (53) FLR 378 = 1986 I LLN 771 (Bom.H.C.)

The correct test of finding whether a professional activity falls within the definition 2(4) of the AeJ. is whether the activity is systematically and habitually undertaken for production or distribution of goods or for rendering material services to the community with the help of employees m<he manner of trade or business in such an undertaking. It is also necessary to construe the word, "profession" in section 2(4).

It is clear that; a professional activity must be an activity carried on by an individual by his personal skill and intellrgcnce. There is a fundamental distinction, therefore, between a professional activity and an" activity of a commercial character and unless the profession carried on by the appellant also partakes of the character of a commercial nature the applicant's dispensary cannot fall within the ambit of section 2(4) of the Act.

Dispensary would fall within the definition of section 2(4) if the activity of the appellant is organised in the manner in which a trade or business is generally organized or arranged and if the activity is systematically or habitually undertaken for rendering material services to the community at large or a part of such community with the help of the employees and if such an activity involves co-operation of employees.

To put it differently the manner in which the activity in question is organised or arranged; the condition of the co- operation between the employer and the employee being necessary for its success and its object being to render material service to the community, can be regarded as some of the features which render carrying on of a professional activity to fall within the ambit of section 2(4) of the Act. Tested in the light of these principles, the case of the doctor does not fall within the purview of the Act. *Devendra Surti v. State ofGujarat* (1969) II LLJ 116 - 1969 LIC 245.

The ordinary meaning of an establishment given in the dictionary as equable to a place where one is permanently fixed for residence or business; such as an office or place of business with its fixtures, is not a safe guide for interpretation of the expression commercial establishment. The criteria to decide whether a particular establishment is a commercial establishment is only to find whether a regular merchantile activity is carried on by a person on behalf of another or by an individual himself with the assistance of other and whether such activity is regular and is commercial in its outlook and purpose. If such a meaning is attributable to an activity in a particular area a fixed place or premises for carrying on such a commercial activity is not the *sine qua non* in order to make such an overall integrated operation as one of a part of his own abode for commercial activities connected with and incidental to the carried on by a person engaged in a commercial establishment. It is not disputed that the employee is carrying on the business of his employer but in his own home. The utilisation employer's trade is by itself an incident that there is commercial establishment. *Laxmi Vishnu Textile Mills Ltd.* v. *Balakrishnan* (1978) 52 FJR 104 (Mad.H.C.)

There is nothing in the definition of "commercial establishment" which indicates that before an establishment could be a commercial establishment it should have a certain fixed place oY 5 abode, premises or location from where it operates. The act is for the benefit of the "persons employed" in shops and establishments. On reorganisation of an establishment its head office was abolished and some clerical staff from the head office came to be attached to a factory of the establishment. The authorities under the Shops Act sought to apply the Act to these employees treating them as "clerical department" of the factory. Held that when it was not necessary for an establishment to have a definite location or abode even in order to be a "commercial establishment" it was not necessary that a department should function at a separate identifiable place. The functional division of work might constitute a department. There was a clerical department in the head office before it was abolished. The same work that was being done at the head office was being done from the factory premises by the clerical employees. These employees would therefore, constitute a "clerical department"

of the factory and Shops Act would be applicable to them. *Guest Keen Williams Ltd.* v. *State of West Bengal* (1977) 51 FJR 267 (Cal.-D.B).

The notification which seeks to cover under the Shops Act a Maternity Home run by medical practitioner is beyond the powers conferred by the act and therefore invalid. There is no evidence to show that the organisation is nothing more than consisting of employees who aid the respondent in her medical practice and the entire clientele depends on her personal skill and knowledge. *The State of Maharashtra v. Smt. Dhanalaxmi V. Meisheri* 1981 APS L.C, 97.

Amendment to S.2(4) of 1948 Act effected by S.2(b) of the Amending Maharashtra Act 64 of 1977 so as to include establishment of legal practitioner in the definition of "Commercial establishment" is unreasonable, irrational and arbitrary and also violative of Art. 14 of the Constitution.

The position of law as it stood in respect of the Shops Act prior to the amendment effected by Mah. Act 64 of 1977 was that the professional activity of a legal practitioner could not be included in the definition of 'commercial establishment' under section 2(4) of the unamended Act. This exclusion was made by the Courts on principle of interpretation. In *Sakharam Narayan Kha^ekar v. City ofNagpur Corporation* 1963 Mah.L.J. 533 the Court took the view that a lawyer who carries on his profession as an advocate is not an-'employer' within the meaning of S.2(7) of the Shops Act and he is not liable to have any establishment registered under S.7 of the Act. An activity to be a profession must be one carried on by an individual by his personal skill, intelligence and dependent on individual characteristics and it is the personal skill, intelligence, study, integrity which is a core of professional activity.. The very concept of activity which can justly be called commercial activity, must imply profession of law carried on by an advocate in any manner or to any extent cannot be said to partake *oʃц* commercial character or to be a commercial activity. The activity of an advocate carrying profession of law is radically distinguished from any other commercial activity. The ro1eoД an advocate in practising and discharging his duties is participation in administration justice, which is a regal function of the state.

Amending Mah. Act 64 of 1977 sought to enlarge the definition of 'Commercial establishment' by including the establishment of a legal practitioner, architect, engineer, accountant, tax-consultant and certain other categories. But, there are no common properties ot characteristics to be found on other commercial establishments and the establishment of legal practitioner which have been herded together. There is no rational basis for herding them together and the

conclusion that they have been brought together arbitrarily i inescapable. Therefore, the inclusion of the establishment of a legal practitioner in th context of the connotation of commercial establishment does not answer the test o reasonableness and the inclusion would therefore, be violative of Art. 14 of the Constitution of India also on the ground of unreasonableness, irrationality and arbitrariness.

Consequently, the provisions of the amending Act (Mah. Act 64 of 1977) insofar as the included the establishment of a legal practitioner in the Bombay Shops & Establishment Act 1948 are struck down. *Narindra Keshrichand Fuladi* v. *The State ofMaharashtra* 1986 I CLR 15 (Bot H.C.)

**Employees[9] State Insurance Act, 1948-** S.I sub-sections (4) and (5) - The place where the petitioner has been carrying on business is a shop and therefore the Act is applicable for it.

The petitioner, a partnership firm carrying on the business of playing music on occasions, such as, marriages and other social functions, questioned its liability to pay contribution under the provisions of the Act on two grounds (i) that the place where it was carrying on business was not a shop and (ii) that its business being one of intermittent or seasonal character the Act could not be extended to its business. The petitioner's petition under S.75 of the Act being rejected by the Employees' Insurance Court, Jaipur and the petitioner's appeal under S.82 of the Act being dismissed by the High Court of Rajasthan, the petitioner has filed this Special Leave Petition under Art. 136 of the Constitution of India.

Held: The place where the petitioner has been carrying on business is a shop. The Employees' State Insurance Act is applicable to it by virtue of the notification dated September 20, 1975 issued under sub-section (5) of S.I of the Act by the Government of Rajasthan extending all the provisions of the Act to shops employing 20 or more persons. The first contention of the petitioner, therefore, fails. The second contention of the petitioner is that as its business is of intermittent or seasonal character the Act could not be extended to the business. There is no much substance in this contention too. The petitioner cannot rely on sub-section (4) of S.I of the Act as that sub- section refers to factories only. In this case we arc concerned with a shop and not a factory. There is no merit in this Special Leave Petition. *Mis. Hindu Jea Band., Jaipur v, The. Regional Director, E.S.I.C., Jaipur* 1987 I CLR 228 (S.C.).

(5) "Day" means the period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

'"[(б) "Employee" means a person wholly or principally employed, whether directly or through any agency, and whether for wages or other consideration in or in connection with any establishment; and includes an apprentice, but does not include a member of the employer's family;]

(7) "Employer" means a person owning or having ultimate control over the affairs of an establishment;

(8) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the "[State] Government may, by notification in the *Official Gazette,* declare to be an establishment for the purposes of this Act;

(9) "Factory" means any premises which is a factory within the meaning of ^[clause (m) of section 2 of the Factories Act, 1948,(LX1II of 1948) or which is deemed to be a factory under section 85 of the said Act];

(10) "Goods" includes all materials, commodities and articles;

(11) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of ihis Act;

(12) "Inspector" means an Inspector appointed under section 48;

(13) "Leave" ^means leave provided for in Chapter VII of this Act;

(14) "Local area" means any area or combination of areas to which this Act applies;

(15)Local authority" means a body specified in Schedule I-A and includes any other body which the State Government may, by notification in the *Official Gazetpfe,* declare to be a local authority for the purposes of this Act];

(16) "Manager" means a person declared to be a manager under section 7;

(17) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer; I

(I18) "Opened" means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any employee of! or connected with the establishment;]

(19) "Period of work", means the time during which an employee are at the disposal of the employer;

(20) "Prescribed" means prescribed by rules made under this Act;

(21) "Prescribed authority" means the authority prescribed under the rules mat under this Act;

(22) " Register of establishment" means a register maintained for the registration of establishments under this Act;

(23) "Registration certificate" means a certificate showing the registration of an establishment;

(24) "Residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes 15 residential club

(25) " Restaurant or eating house" means any premises in which is carried wholly or principally the business of the supply of meal or refreshments to the public or a class of the public for consumption on the premises;

(26) "Schedule" means a Schedule appended to this Act;

(27) "Shop" means any premises where goods are sold, either by retail, wholesale or where services are rendered to customers, and includes an office a store-room, godown, warehouse or work place, whether in the same premises or otherwise, [mainly used] in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

NOTES'

It is not every establishment in the sense of premises or buildings where business, trade or profession is carried on that is intended to be governed by the Act, but only those premises though carrying on one or the other of these kinds of activities which are of a commercial nature..

A lawyer who caries on his profession as an advocate cannot answer the definition of an "employer" in Section 2(7) of the Act. Sakharam v. City ofNagpur Corporation 65 Bom.L.R. 627.

The Office of Chartered Accountant with article clerks and one salaries ordinary clerk is not a commercial establishment so as to attract the provisions of the Act. *N.E. Merchant v. State* 1968 LIC 1034 - AIR Born. 282 1968 Cri.LJ 1041.

The firm of lawyers is also not a Commercial establishment. *Sasidharan v. Peter and Karunakaran* 1978 LIC 1614.

The accused owned small workshop in which he employed 3 workmen. The method of his doing business was to go to the local mills, to collect orders from them for small parts of machinery, to manufacture those parts in his workshop, to deliver the parts to mills when ready, and to collect the money therefore from the mills. No buying or selling was done on the premises. A question arose whether the workshop was a shop, it was held that the workshop in question was not a shop within the meaning of Section 2(27) of the Act. *Kalidas Dhanjibhai v. State of Bombay* LR. 57 Bot. 703 (S.C.).

Where a works place is mainly used in connection with the business of rendering services to customers which is conducted on the premises, it falls within the inclusive part of the definition of the word "shop" in Section 2(27) of the Act,

*Homi Bhajiwala v. State* 62 Bom.LR1021.

(28) "Spread over" means the period between the commencement and the termination of the work of an employee on any day;

(29) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;.

(30) "Wages" means wages as defined in the Payment of Wages Act, 1936 (IV of 1936);

(31) "Week" means the period of seven days beginning at midnight of Saturday;

(32) "Year" means a year commencing on the first day of January

(33) "Young person" means a person who is not a child and has not completed his seventeenth year.

**3. Reference to time of day**.-References to the time of day in this Act are references to Indian standard time which is five and a half hours ahead of

Greenwich mean time.

4. Exemption.-Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule:

Provided that the [State] Government may, by notification published in the *Official Gazette,* add to, omit or alter any of the entries of the said Schedule [subject to such conditions, if any, as may be specified in such notification] and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

**NOTES**

The cumulative effect of all the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, shows that the nationalised banks are independent corporate entities having their own common seal and succession. Though the Central Government has control over the activities of the nationalised bank and the entire capital stands vested with it the bank is not an undertaking or an establishment of the Central Government. Entries in Schedule II of the Bombay Shops and Establishments Act, 1948 have exempted offices of the Reserve Bank and the State* Bank from the provisions of the Act showing that without specific exemptions the provisions of the Act arc applicable to those banks. There is no such specific exemption for nationalised banks. A nationalised bank, therefore, cannot claim exemption from the provisions of the Shops and Establishments Act and its failure to renew its registration is an offence punishable with fine.

*Corporation of the City ofNagpur v. Gopal Shastri* (1977) 50 FJR 231 (Bom.H.C.)

**Notification is a conditional legislation -** Initially the establishments of the Food Corporation of India in Maharashtra were subject to the Bombay Shops and Establishments Act as a whole. However, as a result of notification issued by the State Government these establishments are totally exempted from the provisions of the Act from 28.3.1985. The employees challenged the notification on the ground that they were not given hearing despite the fact that it affected their vital right; '

Held: The notification constituted a piece of legislation and in the matter of law no one could insist upon a notice of hearing before the law is formulated. There is nothing in S.4 to compel the inference that a notice and hearing were required, once it is held that the notification constituted conditional legislation. Objection held not legal. *Transport and Dock Workers' Union* v. *Food Corporation of India* 1986 II LLN 681 (Bot. H.C.).

**5. Application of Act to other establishments and persons.-(l)** Notwithstanding anything contained in this Act, the [State] Government may, by notification in the *Official Gazette,* declare any establishment or class of establishments to which, or any person or class of persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptation as may in the opinion of the ^[State] Government be necessary shall apply from such date as may be specified in the notification.

(2) On such declaration under sub-section (1), any such establishment or class of establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, this Act, applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employees

**NOTES**

A notification issued under Section 5(1) of the Act is made to apply to a class of workers who are not in the direct employment of the employer, the Notification itself being a deeming provision the concept of employment shall also be deemed in case of such workers. Being a special legislation, court cannot whittle down the full amplitude of the Section (1968) 70 Bom.LR. 817.

Section 5 is intended to include a one man shop.

Accordingly, where the owner of a one-man-shop keeps the shop open for business after 9 P.m. he renders himself liable to punishment under Section 30 read with Section 5 of the Act, *Emperor v. Mohammed* 43 Bom.LR 952.

**6. Suspension of all or any of the Provisions of this** Act.-The [State] Government may, by notification in the *Official Gazette,* suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

## CHAPTER II Registration of Establishments

**7. Registration of establishments.(1)** Within the period specified in sub-section (4), the employer of every establishment shall sent to the Inspector of the local area concerned a statement, in a prescribed form, together with such fees as may be prescribed, containing-

(a) the name of the employer and the manager, if any;

(b) the postal address of the establishment;

(c) the name, if any, of the establishment;

(d) the category of the establishment, i.e., whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and

(e) such other particulars as may be prescribed.

(2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(2-A) A registration certificate granted under sub-section (2), shall be valid up to the end of the year for which it is granted. An application for the renewal of a registration certificate shall be submitted not less than fifteen days before the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, and shall be accompanied by such fees, and the renewed registration certificate shall be in such form, as may be prescribed.]

(2-AA) If the application for the renewal of a registration certificate is submitted after the expiry of the period specified in sub-section (2A) but within thirty days after the dale of expiry of the registration certificate or of the renewed registration certificate, as the case may be, such application shall be accompanied by an additional fee as late fee equal to half the fee payable for the renewal of a registration certificate.

*[(2-B)* Notwithstanding anything contained in the preceding sub- sections o this section, any registration certificate granted under sub-section (2) or renewal under sub-section (2A) may, at the option of the employer, be granted or renewed for a period of three years at a time, on payment of the fees for that

period, so a to be valid up to the end of the third year from and including the year in which is granted or renewed, as the case may be.]

(3) In the event of any doubt or difference of opinion between an employer an the Inspector as to the category to which an establishment should belong, Inspector shall refer the matter to the prescribed authority which shall, after s inquiry as it thinks proper, decide the category of such establishment and decision shall be final for the purposes of this Act.

(4) Within thirty days from the date mentioned in column (2) below in respect of an establishment mentioned in column (1), the statement together with fees shall be sent to the Inspector under sub-section (1):.-

| Establishments | Date from which the period of 30 days to commence |
|---|---|
| (i) Establishments existing in local areas mentioned in Schedule I on the date on which this Act comes into force | The date on which this Act comes into force. |
| (ii) Establishments existing in local areas on the date on which this section comes into force. | The date on which this section comes into force in the loc areas. |
| (iii) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force. | The date on which the establishment commences its work, |

**NOTES**

A place where services are rendered to a customer is a shop for purpose of the Act and thi services may be of different kinds. But it cannot be said that where different kinds of servil are rendered for every kind of service which the employer chooses to embark upon after has registered his establishment, the employer must submit necessary information uni section 7 for a fresh registration. If his establishment is already registered and he chooses widen the nature of his activities in the same establishment, in such a case it is difficult see how section 7(1) which contemplates an initial registration of the establishment, required to be complied with on every subsequent occasion when the employer embarks a new venture on the same premises in addition to the original business.

It cannot be said that where different kinds of services are rendered in a shop for every kind of service which the employer chooses to embark upon after he has registered his establishment he must submit necessary information for fresh registration under section 7.

What is required to be registered under Section 7 is the establishment which the petitioner had already registered. If he widens his activities in the same establishment no fresh registration is essential. All that is required of the applicant is to intimate the authorities fact that he has started another business in the same premises under section 8 of the Act.

*Dayawanti Bai v. Corporation of the City ofNagpur* (1969) II LLJ 128 (Bom.H.C.).

If an establishment is already registered and the employer chooses to widen the nature of his activities in the same establishment in such a case section 7(1) which contemplates an initial registration of the establishment, is not required to be complied with on every subsequent occasion when the employer embarks on a new venture on the same premises in addition to the original business, 1969 MLJ 25 (Bom.H.C.).

**S.7 - *Prosecution for failure to register establishment under the Act***

The appellant, dealing in tea, had in the year 1968, godowns wherein tea was stored. One salesman used to take tea pockets on a pushcart manually operated and sales were offered from door to door. The appellant was prosecuted for not registering the said establishments under the Act. The challenge is to the constitutional validity of the order bringing the appellant within the Act. Dismissal of writ petition by the High Court has led to this appeal.

Without deciding the challenge, the Supreme Court had closed the matter in view of the fact that about 3 decades are to over shortly. The practice of operating pushcart for selling tea from door to door no longer exists. The prosecution is also now stale. In the circumstances learned counsel for the State was fair enough to state that appellant would not be prosecuted for the alleged lapses. As such the appeal is disposed of.

*Lipton India Ltd. v. State of Maharashtra* 1996 II LLJ 932 (S.C.)

**8. Change to be communicated to Inspector.-It** shall be the duty of an employer to notify to the Inspector, in prescribed form, ^[any change in any of the particulars contained in the statement submitted under section 7 within such period, after the change has taken place, as the State Government may prescribe in respect of any establishment or class of establishments]. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

**9. Closing of establishment to be communicated to Inspector.-The** employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information

and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate:

^[Provided that if the Inspector does not receive the information but he is otherwise satisfied that the establishment has been closed, he may remove such establishment from such register and cancel such certificate.

## CHAPTER III

## Shops and Commercial Establishments

**10. Opening hours of shops**.-(l) No shop-

(a) dealing wholly in milk, vegetable, fruits, fish, meat, bread or any other goods notified by the [State] Government shall on any day be opened earlier than 5 a.m.;

(b) *******] other than those specified in clause (a) of this sub-section, shall on any day be opened earlier than 7 a.m.

(2) Subject to the provisions of sub-section (1) the [State] Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year

**11. Closing hours of shops.-(l)** Notwithstanding anything contained in any other enactment for the time being in force, no shop-

(a) l****] other than those specified in clause (b) of this sub- section shall on any day be closed later than 8.30 p.m.;

(b) [dealing mainly in *pan bidi,* cigarettes, matches and other ancillary articles shall on any day be closed later than 11 p.m.:

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(2) Subject to the provisions of sub-section (1), the [State] Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year. |,

**12. Hawking prohibited before opening and after closing hours of shops**.-

(l) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate: [1]

[Provided that nothing in this sub-section shall apply to the sale of newspapers]

(2) Any person contravening the provisions of sub-section (1) shall be liable to have his goods seized by an Inspector.

(3) The goods seized under sub-section (2) shall be returned to the person from whom they were seized on his depositing rupees twenty-five as security for his appearance in the Court.

(4) If the person fails to make the deposit, the goods seized shall be produced without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit.

(5) Where no prosecution is instituted for contravention of the provisions of sub-section (I) within such period as the Magistrate may fix in this behalf, Magistrate shall direct their return to the person from whom they were seized.

(6) Subject to the provisions of the preceding sub-section, the provisions of Code of Criminal Procedure, 1898 (V of 1898), shall so far as they may applicable, apply to the disposal of the goods seized under this section.

**13. Opening and closing hours of commercial establishments. 1)** No commercial establishment shall on any day be opened earlier than 8.30 a.m. and closed later than 9.30 p.m.

(2) Subject to the provisions of sub-section (1), the [State] Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

**14. Daily and weekly hours of work in shops and commercial establishment.-**

(1) Subject to the [29] [other] provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(2) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed [six] hours in any week.

(3) On not more than six days in a year which the [State] Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (1), if such excess period does not exceed twenty-four hours.

[31] [15. **Interval for rest**.-The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period for continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour]:

[Provided that,-

(a) in the case of employees in a commercial establishment engaged in any manufacturing process, the interval for rest shall be .at least half an hour; and

(b)in the case of any other employee the State Government may, on an application made in that behalf [by the union recognised under any law for the time being in force where there is such union, or where there is no such union by a majority of the employees concerned] permit the reduction of the interval for rest to half an hour.]

**16. Spread-over in shops**.-The spread-over of an employee in a shop shall not exceed eleven hours in any day:

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day:

Provided also that where an employee works on any day in accordance with the provisions of sub-section (2) of section 14, the spread-over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (3) of the said section, the spread-over shall not exceed sixteen hours in any such day.

**17**. **Spread-over in commercial establishments.-The** spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day;

Provided that the [State]Government may increase the spread- over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

**18. Holidays in a week in shops and commercial establishments,-** [(l) Every Shop and commercial establishment shall remain closed on one day of the week. [Except where the day is fixed under the provisions of sub-section (1B), the employer shall prepare] a calendar or list of such closed days at the beginning of the year, notify such calendar or list to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment:

[Provided that, if no change is made in the calendar or list of closed days for any year, it shall not be necessary to notify again such calendar or list as aforesaid

Provided further that, where any shop or commercial establishment comes after the beginning of any year within the purview of this Act for the first time, the employer shall also prepare a calendar or list of such closed days for the remaining part of the year, and notify it to the Inspector within a month of the date on which the shop or establishment so comes within the purview of this Act.

(1-A) Notwithstanding anything contained in sub-section (1), [but except where the day is fixed under sub-section (1-B)], a shop or commercial establishment may remain open on any day notified as closed day under sub-section (1) if-

(a) it remains closed on any day of the week; and

(b) the employer has notified to the Inspector, his intention to close the shop or the commercial establishment, as the case may be, on the day substituted under clause (a), at least seven days before the substituted day or the day notified as closed day under sub-section (1), whichever is earlier.]

[(l-B) A local authority in respect of any area within its jurisdiction and State Government in any local area elsewhere, may, by order published in the prescribed manner, after consultation with representative associations or otherwise as appear to such authority or the State Government to be most appropriate for ascertaining the views of the employers and employees affected by the order, fix the day on which a shop or commercial establishment is to be closed, and any such order may either fix the same day for all shops or establishments therein, or may fix-

(a) different days for different classes of shops or establishments, or
(b) different days for different parts of the area or local area, or
(c) different days for different periods of the year,
and thereupon, every shop or commercial establishment shall, on such day so fixed remain closed; but nothing in this sub-section shall apply to a shop or commercial establishment the employer of which has notified to the Inspector at the beginning of the year his intention to close the shop or commercial establishment on a public holiday within the meaning of the Negotiable Instruments Act 1881, (XXVI 1881)]

(2) It shall not be lawful for an employer to call an employee at, or for employee to go to, his shop or commercial establishment or any other place for work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(3) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall nonetheless be paid his daily wage for the day on which such shop or commercial establishment remains closed. [If any employee is paid a piece rated wage, he shall nonetheless be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such closed day, exclusive of any earning in respect of overtime:]

[Provided that nothing in this sub-section shall apply to any person whose total period of continuous employment is less than six days.

**NOTES**

Both the employer and Employee are prohibited against service to customer or for doing any business of the establishment on a closed day and therefore owner of establishment giving service to his customers on a weekly holiday is guilty of contravention of section 18-(1) even though there were no employees.

*Jethalal Valand v. Vipinchandra Gandhi* 1971 LIC 803 /12 Guj. LR 58.

Under section 18(3) an employee is entitled to wage for the day for which the establishment remains closed in any week under section 18(1) of the Act, provided he has been employed for six days continuously in that week.

The question whether a worker was employed for six days continuously in any week will have to be decided in each case on the facts and circumstances of that case.

Under section 18(3) of the Act the only condition to be satisfied about the the period of employment and not about having worked a particular number of hours in the week or on each of the six days other than the closed days,

*Sitaldas* v. *Kalekar* 65 Bom. LR. 10.

.The effect of exempting-power-loom establishments from the applicability of section 18(1) of the Bombay Shops and Establishments Act is that they need not remain closed on any day of the week but could remain open on all the 365 days of the year. If no special provision were made for employees other than daily wage employees or piece-rated employees, they would have to work for all the 365 days unless they themselves took a holiday subject to deduction from their wages. No such considerations would arise in the case of daily wage employees or piece-rated employees since they are only to be paid cither according to the number of days they worked, or the amount of work they turned out. No provision at all was required to be made for providing a weekly holiday for them. That being the basic distinction between the daily wage employees and piece-rated employees on the one hand and other employees on the other, a special provision had to be made in column (3) of Entry No. 59 in Schedule II only in respect of such other employees, that they^ should be paid for weekly holiday. The purpose of giving them a day off without affecting their fixed earnings could thus be achieved. Clearly therefore the word deductions, in column (3) of Entry No. 59 has been used in order to restrict the applicability of that limitation in the manner stated above.

In view of this, the piece-rated employee in the power- loom industry is not entitled to be paid for weekly holidays,

*Buchayya Chandrayya v. G.S. Chindhade* 1976 LIC 1072 (Bom.-D.B.).

## CHAPTER IV

**Residential Hotels, Restaurants and Eating Houses 19. Opening and closing hours of restaurants and eating houses.- (**

Notwithstanding anything contained in any other enactment for the time being force, no restaurant or eating house shall on any day be opened earlier than 5 a.m. and closed later than twelve midnight for service:

Provided that an employee in such restaurant or eating house may be required commence work not earlier than 4.30 a.m. and shall not be required to work lat than [41] [00.30 a.m.]:

Provided also that any customer who was being served or waiting to be ser at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

(2) Subject to the provisions of sub-section (1), the [State] Government may fix later opening or earlier closing hours for different restaurants or eating house or for different areas or for different periods of the year.

(3) Notwithstanding anything contained in this section, or any other enactment for the time being in force, or not more than ten days in a year on festive or special occasions, the [State] Government may, by notification in the *Official*

*Gazette, fix* such opening and closing hours for different restaurants or eating houses or different areas, as it thinks proper.

**20. Restaurants and eating houses not to sell goods of the kind sold in before the opening and after the closing hours of shops**.-Before and after the hours fixed for the opening and closing of shops under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

**21. Daily and weekly] hours of work in residential hotels, restaurants and eating houses.-(l)** [Subject to the other provisions of this Act], no employee sl be required or allowed to work in any residential hotel, restaurant or eating ho for more than nine hours in any day/^and forty eight hours in any week].

(2) On the days which may be notified under sub-section (3) of section 19 employee may be required or allowed to work in a residential hotel, restaurant eating house in excess of the period fixed under sub-section (1), if such ex period does not exceed three hours in any day.

[46][22. **Interval for** rest.-The period of work of an employee in a residential hotel, restaurant or eating house each day shall be so fixed that no peril continuous work shall exceed five hours and that no employee shall be required allowed to work for more than five hours before he has had an interval for rest at least one hour]:

[Provided that, the State Government may, on an application made in that behalf [by the union recognised under any law for the time being in force where there is such union or where there is no such union by a majority of the employees concerned] permit the reduction of the interval for rest to half an hour.]

**23. Spread-over.**-The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed twelve] hours:

Provided that the [State] Government may increase the spread- over period subject to such conditions as it may impose on the days that may be notified under sub-section (3) of section 19.

**24**. **Holidays in a week.-**(l) Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday:

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (1). If an employee, is employed on a daily wage, he shall nonetheless be paid his daily wage for the holiday.

**25**. **Employer to furnish identity card to employee.-**The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an

Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely:

(a) the name of the employer;

(b) the name, if any, and the postal address, of the establishment;

(c) the name and age of the employee;

(d) the hours of work, the interval for rest and the holiday of the employee;

(e)[2] [the signature (with date) of the employer or manager].

## CHAPTER V

### Theatres or Other Places of Public Amusement or Entertainment

**26. Closing hours of theatres or other places of public amusement or entertainment.**-Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed later than [00.30 a.m.]

**27. Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops.-** After the hour fixed for the closing of shop under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

***28.*** **Daily [and weekly] hours of work in theatres or other places of public amusement or entertainment**.-(l) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day and forty-eight hours in any week].

(2) Any employee may be required or allowed to work in a theatre or other place of public amusement or entertainment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed six hours in any week].

[**29. Interval for rest**-The period of work of an employee in a theatre or other place of public amusement or entertainment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour]:

[Provided that, the State Government may, on an application made, in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.]

**30. Spread-over.-**The spread-over of an employee in a theatre or other pace of public amusement or entertainment shall not exceed eleven hours in any day:

Provided that the [State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

**31. Holiday in a** week.-(l) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday:

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wage, he shall nonetheless be paid his daily wage for the holiday given to him.

## CHAPTER VI

**32. Employment of Children, Young Persons and Women** . -No child shall be required or allowed to work whether as an employer or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

***33.*** **Opening and closing hours for young persons and women.(l)[**deleted]

(2) No such young person shall be required or allowed to work in any establishment after 7.00 p.m.

(3) No such woman shall be required or allowed to work in any establishment after 9.30 p.m.]

**34. Daily hours of work for young persons.-(l)** Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(2) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

**34-A. Prohibition of employment of young persons and women in dangerous work.-**No young person or woman working in any establishment, whether as an employee or otherwise, shall be required or allowed to perform such work as may be declared by the State Government by notification in the *Official Gazette,* to be work involving danger to life, health or morals.]

## CHAPTER VII

### Leave with Pay and Payment of Wages

**35.** Leave.-(1)(a) Subject to the provisions of clause (b), every employee who has been employed for not less than three months in any year, shall for every 60 days on which he has worked during the year be allowed leave, consecutive or otherwise, for a period of not more than five days:

(b) every employee who has worked for not less than two hundred and forty days during a year [irrespective of the date of commencement of his service,]

shall be allowed leave, consecutive or otherwise, for a period of not less than twenty-one days:

Provided that such leave may be accumulated up to a maximum period of forty-two days.

*Explanation:-The* leave allowed to an employee under clauses (a) and (b) shall be inclusive of the day or days during the period of such leave, on which a shop, or commercial establishment remains closed under sub-section (1) of section 18, or on which he is entitled to a holiday under sub-section (1) of section 24 or section 31.]

**[X XXX]deleted**

(2) If an employee entitled to leave under sub-section (1) [or (1-A)] is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(3) If an employee entitled to leave under sub-section (1) [or (1-A) is refused the leave, he may give intimation to the Inspector or any other officer authorised in this behalf by the [State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed. [16] [The employee shall also send a copy of such intimation to his employer and, thereupon, the employee shall be entitled to carry forward the unavailed leave without any limit.

(4) Notwithstanding anything contained in this section, every employee, irrespective of his period of employment, shall be entitled to additional holiday on the 26th January, 1st May, 15th August and 2nd October every year. For holiday on these days, he shall be paid wages at a rate equivalent to the daily average of his wages (excluding overtime), which he earns during the month in which such compulsory holidays falls:

Provided that the employer may require any employee to work in the establishment on all or any of these days, subject to the conditions that for such work the employee shall be paid double the amount of the daily average wages and also leave on any other day in lieu of the compulsory holiday.

**36**. **Pay during leave**.-Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

**37. Payment when to be made.-**An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

**38. Application and amendment of the Payment of Wages Act.**

(l) Notwithstanding anything contained in the Payment of Wages Act, 1936, (V of 1936) herein referred to as "the said Act", the[State] Government may, by

notification published in the Official Gazette, direct that subject to the provision of sub-section (2) of the said Act [shall, in such local areas as may be specific in the notification, apply! to all or any class of establishments or to all or any classes of employees to which or whom this Act for the time being applies.

(2) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of hei provisions of the said Act within the local limits of his jurisdiction.

**[38 A. Application of Act VIII of 1923 to employees of establishment.-**The provisions of the Workmen's Compensation Act, 1923 (VIII of 1923), and the rules made from time to time thereunder, shall, *mutatis mutandis,* apply to employees of an establishment to which this Act applies, as if they were workmen within t! meaning of the Workmen's Compensation Act, 1923.

## NOTES

**S.38-A - Compensation can be claimed under Workmen's Compensation Act, 1923.**

In this case, a Clerk in the establishment of Maharashtra State Electricity Board to whom admittedly the Bombay Shops and Establishments Act is applicable claimed compensation under the Workmen's Compensation Act, 1923 for the accidental injury sustained by him arising out of and in the course of his employment. The point is whether he is entitled to put up such a claim.

Their Lordships considered the scope and extent of S.38-A of the Bombay Act and held that the claim was quite legally maintainable. Under S.38A of the Bombay Act, the provisions of the Workmen's Compensation Act, 1923 and the Rules made thereunder shall 'mutatis mutandis' apply to the employees of an establishment to which Bombay Act applies, as if they were workmen within the meaning of the 1923 Act. This is a legislative device adopted by the legislature to enact the provisions of 1923 Act with reference to the employees covered under the Bombay Act. The definition workman under 1923 Act does not cover the clerical cadre, but the fiction created under S.38A would cover all categories of employees of the respondent Board except those who arc exempted under Sch.II of the Act.

*Yasudev Anant Kulkarni* v. *Executive Engineer, M.S.E.B.* 1994 II CLR 172 (Bom.-D.B.)

^[3B-B. **Application of Industrial Employment (Standing Orders) Act to . establishments.-**The provisions of the Industrial Employment (Standing Orders)

Act, 1946, in its application to the State of Maharashtra [(hereinafter in this section referred to as "the said Act"), and the rules and standing orders (including model standing orders) made thereunder from time to time, shall, *mutatis rnuimdis,* apply to all establishments wherein fifty or more employees are employed and to which this Act applies, as if they were industrial establishment within the meaning of the said Act.

**NOTES**

By reason of S.38(b) the provisions of the Industrial Employment (Standing Order) Aci, 1946 shall apply to all establishments to which the Bombay Shops and Establishments Act applies as if they were industrial establishments within the meaning of Industrial Employment (Standing Order) Act, 1946.

An appellant, who was employed as stenographer, was suspended on 20.3.78 pcплding disciplinary enquiry against him. He made an application claiming full back wages The Labour Court relying upon the provisions of the Industrial Employment (S.O.) Acl. declared that the appellant was entitled to 50% of his wages for three months from May 1978; 75% of his wages for subsequent three months and full wages for balance perod minus lawful deduction. Being dissatisfied with the order the appellant preferred writ petition this was dismissed and the order of the Labour Court was confirmed. The appellant challenged that order in this appeal.

Held: Section 38(B) of the Act does not make any provision for number of employees that an establishment should employ for the satisfaction of the conditions imposed by S.K3) of the Industrial Employment (Standing Orders) Act, 1946. By virtue of S.38(B) the provisions the Industrial Employment (Standing Orders) Act, 1946 are engrafted into the Bombay Shops and Establishment Act, 1946 with only the necessary consequential changes in points of details in so far as they are applicable. Hence, the order made by the Labour Court relying upon the provisions of the Industrial Employment (Standing Orders) Act, 1946 for paying wages during suspension period is legal and valid.

*C.N. Bhaskaran v. Shri S.A. Patil and Othors.* 1986 I LLJ 163 (Bom. H.C.).

Section 38-B of the Bombay Shops and Establishments Act makes no provision for the number of employees that the establishment (covered by the Bombay Shops and Establishments Act) should employ for the satisfaction of the condition imposed by S.1(3) of the The Industrial Employment (Standing Orders) Act. The interpretation placed by the learned Single Judge on S.38-B of the Bombay Shops and Establishments Act is perfectly legal. By S.38-B, in effect the provisions of the Industrial Employment (Standing Orders) Act, 1946 are engrafted into the Bombay Shops and Establishments Act, 1948 with only the

necessary consequential changes in points of detail in so far as they are applicable.

*C.N. Bhaskaran v,* J *Gannon Dunkerely & Co. & Ors.* 1986 I C.L.R. 313.

S.38-B - Industrial Employment (Standing Orders) Act, 1946 - S.10-A - Section 38-B of Bombay Shops and Establishments Act, 1948 does not confer on managerial cadre benefits restricted to 'workmen' by Industrial Employment (Standing Orders) Act, 1946 and Rules framed thereunder. Petitioner, who was Manager of respondent Bank drawing salary of Rs.4,500/- p.m., cannot, therefore, claim subsistence allowance under S.10-A of Industrial Employment (Standing Orders) Act, 1946.

*Kalyanpur Keshav Venkatrai Pai v. Corporation Bank* 1987 II C.L.R. 6 (Bom.H.C.).

**S.38-B - before its amendment in 1986 and Industrial Employment (Standing Orders) Act, 1946 -** *Applicability even if employees are less than 100.*

The question decided is that the provisions of Industrial Employment (Standing Orders) Act, 1946 in its application to the State of Maharashtra and the Rules and Standing Orders including Model Standing Orders mutatis mutandis apply to all establishments under Shops Act as if they were industrial establishment and that applicability is not restricted to establishments in which 100 or more employees are employed.

Fictionally, when establishments become Industrial Establishments by the thrust of S.38-B of the Shops Act, the Standing Orders issued under the Standing Orders Act, from time to time would apply mutatis mutandis to establishments under the Shops Act. Upto this time the fiction work. But there cannot be fiction over fiction. It cannot be suggested for a moment that shops and establishments on becoming industrial establishments must qualify thence forth to have 100 employees or more. Such an interpretation would destroy not only the purpose of S.38-B but the working of the Shops Act too and the purpose for which it was enacted.

*Indian Tobacco Co. Ltd., Nagpur v. Industrial Court, Nagpur* 1995 I LLJ 582 (S.C.)

**[33-C. Application of Maternity Benefit Act for women employees in establishment**.-Notwithstanding anything contained in the Maternity Benefit Act, 1961 (hereinafter in this section referred to as "the said Act"), the State Government may, by notification in the *Official Gazette,* direct that all or any of the

provisions of the said Act or the rules made thereunder shall apply to women employed for wages in all or any of the establishments to which his Act applies, For that purpose, such women employees shall be deemed to be women within the meaning of the said Act. On such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act also within the limits of his jurisdiction.]

## CHAPTER VIII

## Health and Safety

**39. Cleanliness.-The** premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfection and deodorising.

**40. Ventilation.-The** premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

**41. Lighting.-(l)** The premises of every establishment shall be sufficiently lighted during all working hours.

(2) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

**42. Precautions against fire.-In** every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

*^[42-A.* **First-Aid.-In** every establishment wherein a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948, (LXIII of 1948) is carried on, there shall be provided and maintained a first-aid box containing such articles as may be prescribed.]

## CHAPTER IX Enforcement and Inspection

**43. Powers and duties of local authorities.-Save** as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the ^[State] Government as may be prescribed:

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions, if any, as may be specified in the order, by its Chief Executive Officer or any other subordinate to it:

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the ^[State] Government to enforce the said provisions.

**44. Power to make by-laws.-**A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the [State Government make by-laws not inconsistent with the provisions of the Act, or the

rules or orders made by the ^[State] Government thereunder for the purpose of carrying out the provisions of this Act.

***[44- A.*** **Provisions for taking over administration of the Act from** local authorities.-Notwithstanding anything contained in sections 43 and 44, with a view to implementing the policy of the State Government of taking over the administration of this Act gradually from all the local authorities in the State, the State Government may, from time to time, by notification in the *Official Gazette,* without the necessity of giving any further notice or reasons, declare that any local authority or authorities or class of local authorities specified in such notification shall cease to perform the duty of enforcing the provisions of this Act from a date specified in that notification. From that date, it shall be the duty of the State Government to enforce the said provisions, in respect of the areas subject to the jurisdiction of such local authorities also.]

[26] [45. **Delegation of** powers.-The State Government may by order published in the *Official Gazette,* direct that any power exercisable by it under this Act or the rules made thereunder (except the power to make rules) shall in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercised also by any local authority, or by any officer subordinate to the State Government, as may be specified in the order.]

**46. Power of "State Government to provide for performance of duties** on **default by local authority.-(l)** If any local authority makes default in the performance of any duty imposed by or under this Act, the [State] Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

(2) If the expense and remuneration are not so paid, the ^[State] Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

**47**. **Expenses of local authority to be paid out of its fund.-** Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or a local board under and for the purposes this Act shall be paid out of the municipal or local fund, as the case may be.

**48. Appointment of Inspectors**.-(l) Every local authority shall appoint sufficient number of persons with the prescribed qualifications as Inspectors for! the area

subject to its jurisdiction as it may deem fit for the purpose of carrying out) the provisions of this Act.

(2) In areas which are. not subject to the jurisdiction of any local authority, the [State] Government shall appoint Inspectors with the prescribed qualifications [and in areas which are subject to the jurisdiction of any local authority, the State Government may appoint Inspectors with the prescribed qualifications for such supervision as the State Government may prescribe.]

[(3) A local authority or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any), as may be specified in the direction be exercised.

(a) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, and

(b) in the case of the State Government, by any officer subordinate to it.

(4) Notwithstanding anything contained in the Minimum Wages Act, 1948, (XI of 1948), Inspectors appointed, whether by a local authority, or the State Government under this Act in relation to any area, shall be deemed to be also Inspectors for the purposes of the Minimum Wages Act, 1948, in respect of establishments to which this Act applies, and the local limits within which an Inspector shall exercise his functions under that Act shall be the same as the area for which he is appointed under this Act XI of 1948.1

**49. Powers and duties of Inspectors**.-Subject to any rules made by the [State Government] in this behalf an Inspector may, within the local limits for which he is appointed.-

(a) enter, at all reasonable time and with such assistants, if any, being persons in the service of the ^[Government or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;

(b) make such examination of the premises and of any prescribed registers, records and notices, and lake on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purposes of this Act;[30] [******]

[(bb) if he has reason to suspect that any employer of an establishment to which this Act applies has committed an offence punishable under section 52 or 55 seize, with the previous permission of such authority as may be prescribed such registers, records or other documents of the employer, as he may consider necessary, and shall grant a receipt therefor and shall retain them only for so long as may be necessary for examination thereof, or for prosecution; and]

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act;

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

**50. Inspectors to be public servants.-**Every inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

**51. Employer [and manager to produce registers, records etc. for inspection.-**Every employer [and in his absence the manager shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purpose of this Act.

## CHAPTER X

## Offences and Penalties

**52**. **Contravention of certain provisions and offences.-(a)** If any employer fails to send to the Inspector a statement within the period specified in section 7 or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9; or [1]

(b) If in any establishment there is any contravention of any of the provisions of sections 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder, or

(c) If in any establishment any person is required or allowed to work in contravention of sections 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30, or 31, or

(d) If in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, 33 or 34; or

[(e) If any employer or manager contravenes the provisions of Section 51 or any employer contravenes the provisions of section 62 or 65; or]

(f) If in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished [for each offence] with fine which shall not be less than [one thousand rupees] and which may extend to [five thousand rupees]:

Provided that, if the contravention of the provisions of sub- section (1) section 7 is continued after the expiry of the tenth day after conviction, the employer shall on conviction be punished with a further fine which may extend one hundred rupees for each day on which the contravention is so continued.

**53. Contravention of section 12.**-If any person contravenes the provisions section 12, he shall, on conviction, [be punished for each offence with fine which shall not be less than one thousand rupees] and which may extend to [five thousand rupees.]

**54. Employee contravening section 18(2), 24, 31 and 65.-**If any employee contravenes the provisions of sub-section (2) of section 18, 24, 31 or 65 he shall on conviction [be punished for each offence with fine which shall not be less than five hundred rupees] and which may extend to [five thousand rupees]

**55**. **False entries by employer and manager.-**If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false in any material particular, or willfully omits or causes or allows to be omitted, from any such

register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or causes or allows to be sent, to an Inspector, any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder which, to his knowledge, is false in any material particular, he shall, on conviction, be punished with fine which shall not be ^[less than ^[one thousand rupees] and which may extend to ^[five thousand rupees]:

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the .same contravention shall not exceed ^[five thousand rupees.]

**56. Enhanced penalty in certain cases after previous conviction,- If any** employer and manager who have been convicted of any offence under sub-section (1) of sections 10, 11, 13, 14, 18, 19, 24, 31 or 34 or under sub-section (2) or (3) of section 14 or under section 55 or under sections 21, 26, 28, 32, 33, 51, 57, 62 or 65, are again guilty of an offence involving a contravention of the same provision, they shall each be punished on the second conviction with fine which shall not be ^[less than ^[one thousand rupees] and which may extend to five thousand rupees]; and if they are again so guilty, they shall each be punished on the third or any subsequent conviction with fine which shall not be less than [seven thousand and five hundred rupees] and which may extend to [ten thousand rupees]:

Provided that if both the employer and the manager are convicted the aggregate of the fine in respect of the same contravention shall not exceed ten thousand rupees] on second conviction and [Fifteen thousand rupees] on third or any subsequent conviction:

Provided further that, for the purposes of this section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished:

Provided also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course may after recording its reasons in writing impose a smaller fine than is required by this section.

**57**. **Penalty for obstructing Inspector**.-Whoever willfully obstructs an Inspector in the exercise of any power under section 49 or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than [one thousand rupees] and which may extend to '^[five thousand rupees].

**58. Determination of employer for the purpose of this** Act.-(l) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable:

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the [State] to be the employer for the purposes of this Act and such individual shall so long as he is so resident

be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the employer in the establishment is punishable:

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder who is resident in the State to be the employer in the establishment for the purposes of this Act, and such director or shareholder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

**59. Exemption of employer or manager from liability in certain cases.-(l)** Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court-

(a) that he has used due diligence to enforce the execution of this Act; and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings -

(a) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders, the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like fine as he were the employer or manager.

**60. Cognizance of offences**-(l) No prosecution under this Act or the rules o orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the [District Magistrate ' [Additional District Magistrate, Sub- Divisional Magistrate, Commissioner of Labour, Additional Commissioner of Labour or Deputy Commissioner of Labour, or the local authority, as the case may be [or, without any such sanction, by an aggrieved

person, or by a representative of the registered union of which the aggrieved person, is a member:

Provided that any local authority may direct that the powers conferred on it by this sub-section shall, in such circumstances and subject to such conditions, if any, as may be specified in the direction, be exercised by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner, [Deputy Municipal Commissioner or Assistant Municipal Commissioner.

(2) No court inferior to that of a [Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence against this Act or any rule or order made thereunder.

**61. Limitation of Prosecutions.** (1) No court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within [three months from the date on which the alleged commission of the offence came to the knowledge of an Inspector.

*[(2)* Notwithstanding anything contained in sub-section (1) the aggrieved person or a representative of the registered union of which the aggrieved person is a member, may within three months from the date on which the alleged commission of the offence took place give intimation of the offence to the Inspector and request him to institute prosecution. On receipt of such intimation and request, the Inspector may himself institute the prosecution within the period of limitation specified in sub-section (1) or inform the applicant before the expiry of the said period or as soon as possible thereafter that he does not propose to institute prosecution. On receipt of such intimation, the applicant shall be entitled to institute prosecution, and the Court shall take cognizance of the offence, if complaint thereof is made to it within two months from the date of receipt of the intimation of the Inspector by the applicant.

**NOTES**

The essence of Section 61 is that if any employer or Manager of any such establishment were to be prosecuted under section 52(a) read with section 7(1) of the Act, it must be so done within a period of three months from the existence of any such establishment came to be known to the Inspector-in-charge of the case. *State of Gujarat v. N. Vishwanatha,* 1970 Cri.L.J./ 1053; II Guj .L..R. 817.

## CHAPTER XI

## Miscellaneous and Supplemental

**62. Maintenance of registers and records and display of notices,-** Subject to the general or special orders of the [State Government an employer shall

maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

**63. Wages for overtime work**.-Where an employee in any establishment to which this Act applies is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, wages at the rate of twice his ordinary rate of wages.

*Explanation .For* the purposes of this section the expression "limit of hours of work" shall mean-

(a) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week;

(b) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day; and

(c) in the case of employees in any other establishment, such hours as may be prescribed.

[Provided that, the maximum limit for working overtime shall not exceed three; hours and the employer may, for the purpose of the work beyond the said overtime hours, engage additional number of employees.]

**NOTES**

The employee of a bakery who was a delivery man and whose work was to deliver bread and loaves prepared by the bakery to its customers, applied under section 63 of the Bombay Shops and Establishments Act, 1948, for payment of overtime wages alleging that he had worked more than forty-eight hours every week in respect of certain wage periods. On the question whether the application was maintainable in view of the fact that under Schedule II, item 8 of the Act, the prohibition contained in section 14 of the Act, prohibiting the employer from making the employee work beyond the limit of work prescribed therein is removed as regards delivery men it was held that if the employee established that he had worked overtime in any particular week, he was entitled to overtime wages as provided in section 63 of the Act.

The limit of work for the purpose of section 14 of the Bombay Shops and Establishments Act, 1948, is entirely different from the limit of work laid down for the purpose of Section 63 of the Act. Whereas the limit of work for the purpose of section 14 is laid down in order to prohibit the employer from requiring an employee to make him work beyond the limit, the limit of work laid down for the purpose of section 63 is purely for the purpose of computation of overtime wages. *Penambur Visnurnurthi v. Fernandes,* 58 Bom.L.R. 977.

**64. Evidence as to age.-**(l) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on accused to prove that such person is not under or over such age.

(2) A declaration in writing by a [qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

*Explanation.-For* the purposes of this section, a qualified medical practitioner) shall have the same meaning as in the Factories Act, [2][1948, (LXIII of 1948).

**65. Restriction on double employment on a holiday or during leave.-**No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

**6б.Notice of termination of service.-**No employer shall dispense with the services of an employee who has been in his continuous employment -

(a) for not less than a year, without giving such person at least thirty days' notice in writing, of wages in lieu of such notice:

(b) for less than a year but more than three months, without giving such person at least fourteen days' notice in writing, or wages in lieu of such notice:

Provided that, such notice shall not be necessary where the services of such employees are dispensed with for misconduct.

*[Explanation.-For* the purposes of this section, "misconduct" shall include-

(a) absence from service without notice in writing or without sufficient reasons for seven days or more;

(b) going on or abetting a strike in contravention of any law for the time being in force; and

(c) causing damage to the property of his employer.

**NOTE**

S.66 - Discharge of an employee without notice - Relief of reinstatement and back wages -Termination of an employee without notice is bad in law and therefore workman entitled to reinstatement and continuity of service with back wages. *N.L. Mehta Cinema Ent. P. Ltd,* v. *Vijay G. Shivgan &. Ors.* 1988 I C.L.R. 416 (Bom.H.C.)

*67.* **Rules.-(l)** The [State] Government may make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any .of the following matters, namely:-

(a) the appointment of prescribed authority under clause (21) of section 2;

(b) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6;

(c) the form of submitting a statement, the fees and other particulars under sub-section (1), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (2) of section 7 and the form and the period for notifying] a change and the fees under section 8;

(d) fixing six days in a year for additional overtime under sub-section (3) of section 14;

(e) fixing ten days in a year for overtime under sub- section (3) of section 19;

(f) further particulars to be prescribed for an identity card under section 25;

h) fixing times and methods for cleaning the establishments under section 69; fixing standards and methods for ventilation under section 40; prescribing such establishments as are to be exempted from the provisions of, and, precautions against fire to be taken under section 42.

ha) the articles which a first-aid-box maintained under section 42-A contain;

(i) the supervision which the State Government shall exercise over authorities under section 43;

(j) the qualification of Inspectors appointed under section 48 and their powers and duties under section 49;

(k) the registers and records to be maintained and notices to be displayed under section 62;

(l) the limit of hours of work under clause (c) of the explanation to section 63,

(m) any other matter which is or may be prescribed.

(3) The rules made under this section shall be subject to the condition of previous publication and when so made, shall be deemed to be part of this *Act.*

*[(4)* All rules made under this Act shall be laid before each House of the Legislature as soon as possible after they are made, and shall be subject to modifications as the State legislature may make during the session in which thay are so laid or the session immediately following and published in the *Gazette].*

**68. Protection to persons acting under this Act**.-No suit, prosecution or legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**69. Right and privileges under other law etc. not affected.-** Nothing in this Act shall affect any right or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

[11] [**70**. **Persons employed in factory to be governed by Factories Act and not by this Act**- Nothing in this Act shall be deemed to apply to a factory to which the provisions of the Factories Act, 1948 (LXIII of 1948,) apply:

Provided that, where any shop or commercial establishment situate within precincts of a factory is not connected with the manufacturing process of the factory the provisions of this Act shall apply to it:

Provided further that, the State Government may, by notification in the *Gazette,* apply all or any of the provisions of the Factories Act, 1948 (LXIII of 1948,) to any shop or commercial establishment situate within the precincts of factory and on the application of that Act to such shop or commercial establishment, the provisions of this Act shall cease to apply to it.

**71. Submission of annual report etc**.-It shall be the duty of every local authority to submit within two months after the close of the year, to the Commissioner of Labour, Bombay a report on the working of the Act within the local area under its jurisdiction during such year. It shall also submit to him from time to time such annual or periodical return as may be required.

**72 Repeal of Bombay Shops and Establishments Act**.-On and from the date of commencement of this Act, the Bombay Shops and Establishments Act, 1939 Bom. (XXIV of 1939), shall be repealed:

Provided that-

2(a) every appointment order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act.

(b) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

# THE CINE WORKERS AND CINEMA THEATRE WORKERS (REGULATION OF EMPLOYMENT) RULES, 1984

## CHAPTER I

*Preliminary*

**1. Short title and commencement.-** (1) These rules may be called the **Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984.**

(2) They shall come into force on 1st day of October, 1984.

**2. Definitions.--**In these rules, unless the context otherwise requires:-

(1) 'Act' means the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981);

(2) 'tribunal' means a cine-workers tribunal constituted under Section 7 of the Act ;

(3) 'Forms' means a Form appended to these rules;

(4) 'section' means a section of the Act;

(5) 'leave' means earned leave, medical leave, causal leave, maternity leave;

(6) 'leave not due' means leave which is not due to the cine-worker but which may be granted to him in anticipation of it being earned subsequently;

(7) 'quarantine leave' means leave of absence from duty by reason of the presence of an infectious disease in the family or house-hold of a cine-worker;

(8) 'study leave' means leave granted to a cine-worker to enable him to under go any special course of training which may be of use to him in his career.

## CHAPTER II

**3. From of agreement under Section 3.--**Agreement as envisaged in Section 3 of the Act shall be as in Form 'A'.

## CHAPTER III

*Procedure for reference of disputes to a Conciliation Officer or a Tribunal*

**4. Applications.--**An application under Section 4 or Section 7 for the reference of a dispute to a conciliation officer or a tribunal shall be made in Form 'B' and shall be delivered personally or forwarded by registered post to the Secretary to the Government of India in the Ministry of Labour in triplicate. The application shall be accompanied by a statement setting forth the following information:

(a) Name of the parties to the dispute;

(b) the specific matters in dispute;

(c) the total number of cine-workers employed in the establishment affected;

(d) and estimate of the number of cine-workers affected or likely to be affected by the dispute; and

(e) the efforts made by the parties themselves to adjust the dispute.

**5. Attestation of Application.**--The application and the statement accompanying it shall be signed-

(a) in the case of a producer, by the producer himself;

(b) in the case of cine-workers, either by the president and secretary of a trade union of the cine-workers or by five representatives of the cine-workers duly authorised in this behalf at a meeting of the cine-workers held for the purpose ;

(c) in the case of an individual cine-worker, by the cine-worker himself or by any officer of the trade union of which he is a member or by another cine-worker in the same establishment duly authorised by him in this behalf provided that such cine-worker is not a member of a different trade union.

## CHAPTER IV

*Powers, procedures and duties of the Conciliation Officer and the Tribunals*

**6. Conciliation Officers.-** (1) The conciliation officer on receipt of notice of the strike or lockout, shall forthwith arrange to interview both the producer and the cine-workers concerned with the dispute at such place and time as he may deem fit and shall endeavor to bring about a settlement of the dispute in question.

(2) Where the conciliation Officer receives any information about an existing or apprehended disputes and he considers it necessary to intervene in the dispute, he shall give formal information in writing to the parties concerned declaring his intention to commence conciliation proceedings with effect from such date as may be specified therein.

**7. Parties to submit statement.**--The producers or the party representing cine-workers or in the case of the individual cine-worker, the cine-worker himself involved in a dispute, shall forward a statement setting forthwith the specific matter in the dispute to the conciliation officer concerned, whenever his intervention in the dispute is required.

**8.** The conciliation officer for resolving the dispute may hold a meeting of the representatives of both parties jointly or of each party separately.

**9.** The conciliation officer shall conduct proceeding expeditiously and in such manner as he may deem fit.

**10. Proceeding before the tribunal.--** (1) Where the Central Government refers any dispute for adjudication to a tribunal within two weeks of the date of receipt of the order of reference, the party representing workmen or in the case of individual workman, the workman himself and the producer involved in the dispute shall file with the tribunal a statement of demands relating to the issues as are included in the order of reference and shall also forward a copy of such statement to each one of the opposite parties involved in the said dispute ;

Provided that where the tribunal considers it necessary it may,

(a) extend the time limit for filing of such statement;

(b) reduce the time limit for filing of such statement to one week in emergent cases for reasons to be recorded in writing ;

(c) where both the parties agree, reduce the time limit for filing of such statement as per agreement ;

(d) where both the parities agree, dispense with the requirement of filing such statement altogether;

(e) allow at any stage of proceeding; amendments to such statement to the extent as maybe necessary for the purpose of determining the real issues included in the order of reference.

(2) Within two weeks of the receipt of the statement under sub-rule (1), the opposite party shall file its rejoinder with the tribunal and simultaneously forward a copy thereof to the other party;

Provided that such rejoinder shall relate only to such of the issues as are included in the order of reference:

Provided further that where the tribunal considers it necessary it may,

(a) extend the time limit for filing of such rejoinder ;

(b) reduce the time limit for filing of such rejoinder to one week in emergent cases for reasons to be recorded in writing ;

(c) where both the parties agree, reduce the time limit for filing of such rejoinder as per agreement ;

(d) where both the parties agree ; dispenses with the requirement of filing such rejoinder altogether ;

(e) allow at any stage of the proceedings amendments to such rejoinder to the extent as may be necessary for the purpose of determining the real issues included in the order of reference.

(3) The tribunal shall ordinarily fix the date for the first hearing of the dispute within 6 weeks of the date on which it was referred for adjudication;

Provided that the tribunal may, for reasons to be recorded in writing, fix a later date for the first hearing of the dispute.

(4) The hearing shall ordinarily be continued from day to day and arguments shall follow immediately after the closing of evidence.

(5) The tribunal shall ordinarily not grant any adjournment for a period exceeding a week at a time, not more than three adjournments in all at the instance of any one of the parties to the dispute:

Provided that the tribunal for reasons to be recorded in writing grant an adjournment exceeding a week or more than 3 adjournments at the instance of any on the parties to the dispute :

Provided further that the producer should deposit the disputed amount with the Tribunal pending finalisation of the dispute.

(6) The tribunal shall make a memorandum of the substance of evidence of each witness:

Provided that the tribunal may follow the procedure laid down in Rule 5 of Order XVIII of the first Schedule to the Code of Civil Procedure, 1908 (5 of 1908), if it considers necessary so to do in view to the nature of the particular dispute pending before it.

**11. Place and time of hearing.--**Subject to the provisions contained in Rules 6 and 7, the sittings of the Conciliation Officer and the tribunal shall be held at such times and

places as the presiding officer may fix and Conciliation Officer or the presiding officer as the case may be, shall inform the parties of the same in such manner as he think fit.

**12. Evidence.--**The tribunal may accept, admit or call for evidence at any stage of the proceedings before it and in such manner as it may think fit.

**13.** A Tribunal may grant to any party to any proceedings before it, such interim or other reliefs (whether subject to any conditions or not), including stay of any order, issue of any injunction or direction in regard to payment of wages or other amounts payable under the agreement referred to in Section 3, setting aside any unilateral termination of contract or the dismissal of a worker or reinstating a worker, as it deems just and proper in the circumstances of the case:

Provided that the Tribunal shall not grant any such interim relief unless all the parties to the proceeding have been served with a notice on the application for such interim relief and have been given a reasonable opportunity of being heard:

Provided further that the Tribunal may, having regard to the nature of the interim relief sought and the circumstances of the case, pass appropriate orders granting such interim relief as it deems just and proper in the circumstances of the case before the notice referred to in the proceeding proviso is served on the parties to the proceeding :

Provided also that where the Tribunal makes any order under the proviso immediately proceeding, it shall record the reasons for making the order before complying with the requirements specified in the first proviso.

**14. The summons.-** The summons issued by a tribunal shall be in Form 'C' and may require any person to produce before it any books, papers or other documents and things in the possession of or under the control of such person in any way relating to the matter under investigation or adjudication by the tribunal which the tribunal thinks necessary for the purpose of such investigation or adjudication.

**15. Service of summons or notice.--**Subject to the provision contained in Rule 18, any notice, summons, process or order issued by a tribunal shall be served either personally or by post. In the event of refusal by the party concerned to accept the said notice, summons, process or order, the same shall be sent by registered post.

**16. Description of parties in certain cases.--**Where in any proceeding before a tribunal, there are numerous persons arrayed on any side, such persons shall be described as follows:-

(1) all such persons as are members of any trade union or association shall be described by the name of such trade union or association ; and

(2) all such persons as are not member of any trade union or association shall be described in such manner as the tribunal may determine.

**17. Manner of service in the case of numerous persons as parties to dispute.-** (1) Where there are numerous persons as parties to any proceedings before a tribunal and such persons are members of any trade union or association, the service of notice on the secretary or where there is no secretary, on the principal officer of the trade union or association shall be done deemed to be service on such persons.

(2) Where there are numerous persons as parties to any proceedings before a tribunal and such persons are not members of any trade union or association, the tribunal shall where personal service is not practicable, cause the service of any notice

to be made by affixing the same at or near the main entrance of the establishment concerned.

(3) A notice served in the manner specified in sub-rule (2) shall also be considered as sufficient service in the case of such workman who cannot be ascertained and found.

**18. Procedure at the first sitting.**--At the first sitting of a tribunal, the presiding officer shall call upon the parties in such order as he may think fit to state their case.

**19. Tribunal may proceed ex parte. -** If without sufficient cause being shown, any party to proceedings before a tribunal fails to attend or to be represented, the tribunal may proceed as if the party had duly attended or had been represented.

**20.** A conciliation Officer or a Tribunal may enter in any premises in occupation of the party to the dispute after giving a reasonable notice to the party concerned for the purpose of making enquiries under this Act.

**21. Power of tribunals.**--Every tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit, in respect of the following matters, namely:-

(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ;

(c) issuing commissions for the examination of witnesses ;

(d) discovery and inspection ;

(e) power of order -any point to be proved by affidavit.

**22. Appointment of Assessors.**--For any proceedings before the Tribunal, the Assessors may be appointed under sub-section (4) of Section 7 of the Act, to advise the Tribunal.

**23.** The tribunal shall have power to award damages in and the cost of and incidental to any proceeding before it.

**Form 'A'**

*(See Rule 3)*

*An Agreement between Film Producer and Cine Worker*

This agreement is made on this ..... of ..... 19 ..... between Messers ..... having office at ..... (a sole proprietary concern/a firm registered under the Partnership Act, 1931/a Company incorporated and registered under the Companies Act, 1956) (hereinafter referred to as the "Producer") on the first part and Shri/Smt/Kum ..... son/daughter/wife of Shri ..... residing at ..... (hereinafter referred to as the '"Cine Worker") on the second part. The terms 'Producer' and 'Cine Worker' shall include their heirs, successors, administrators and legal representatives:

Whereas the Producer is engaged in the Production of a talkie film, his production No. ..... tentatively titled as ..... in..... language in 35 mm/16mm/70mm gauge/Cinemascope, in colour /black and white :

Whereas the said producer is desirous to engage the Cine Worker in the capacity of a ..... in the aforesaid film and the Cine Worker accepts the same :

Now, therefore this agreement is made as follows:

1. That both the parties agree that the duration of this agreement shall be form the date hereof till the completion of the film and this period shall not exceed consecutive months.

2. That the cine-worker agrees to attend studio, location or work place, as the case may be, subject to the requirement of his previous engagement and on his confirmation, to his respective job punctually as and when he shall be required by a written intimation by the Producer or the person duly authorised by him in writing.

3. That inconsideration of the Cine-Workers' services, as aforesaid, the Producer agrees to pay and the Cine Worker agrees to receive a sum of Rs. ..... (Rupees .....) payable as advance on signing of this agreement and the balance of Rs. .....payable in ..... equal installments.

4. That in the event of the film being not complete within the stipulated period and the Producer still needing the services of the Cine Worker to complete the film, the producer agrees to pay and the Cine Worker agrees to receive additional remuneration on pro-rata basis, payable in the same manner as stated in Clause 3 above, till the completion of the film.

5. That in case the assignment of the Cine worker is completed earlier that the period stipulated in Clauses 1 and 4 above, the producer shall settle the account of the Cine Worker and pay the remaining balance of the agreement amount in full before the commencement of re-recording work/censor of the film, whichever is earlier.

6. It is agreed by the Producer that for the purposes of this agreement,

   (a) a working day shall mean a period not exceeding eight consecutive hours (to include one hours' break for rest and refreshments) ;

   (b) a working week shall mean a six-day week from Monday to Saturday, both inclusive, and the Cine Worker is not liable to work on Sundays and Public Holidays :

   (c) the cine worker shall not be required to work for more than five consecutive hours without a break ; and

   (d) a period of not less than twelve hours shall elapse between the Cine-Worker's release from the studio/location/work-place and the next succeeding call.

7. That the Cine Worker shall, if so required,

   (a) attend the studios, location or work-place, as the case may be, earlier than the a scheduled time of the shift, for preparatory work, and in that case, he/she shall be paid by the Producer extra wages at the rate of Rs. .....per hour or part thereof for such early attendance.

   (b) continue to work beyond the working day, with one hour break and in that case, he/she shall be paid by the Producer extra wages at the rate of Rs. ..... for the work during the extended hours and refreshments, and transport facilities.

8. That the Producer shall provide transport and food or pay traveling allowances to and fro to report to duty and food allowance while on duty as are customary or fixed by bilateral arrangements between the Producer's and Cine Worker's representative organizations.

9. That the Producer shall also pay for all travelling and accommodation expenses, fares, cost of food and such other allowances as are customary when the Cine Worker is required to work on location outdoors.

10. That the Producer shall get the Cine Worker insured for any injury or damage to his/her person including death caused by accident arising out of or in the course of his/her employment and/or during the period of his/her assignment under this agreement.

11. That where the Producer is prevented from proceeding with the production of the film by reason of fire, riot, natural calamity, order of the public authority or any other reason beyond his control :-

(a) he shall be entitled to suspend the operation of this agreement during the period of suspension of production in case the production is suspended. The producer shall serve notice in writing of such suspension on the Cine Worker and shall pay all his/her dues up to the date of service of such notice. Upon resumption of work on the film, this agreement shall revive and shall remain valid for the period stipulated in Clause I excluding the period of suspension therefrom ; or

(b) he shall be entitled to terminate this agreement as from the cessation of production, in case the production ceases completely. The producer shall serve a notice in writing of such cessation on the Cine-Worker and make payment of all the amount due to the Cine Worker at the time of termination.

12. That in case if the Producer desires to terminate this agreement before the expiry of its term for reasons other than misconduct in relation to performance of the Cine Worker's duties or of his/her unwillingness to perform the services required under this agreement, the producer shall be entitled to do so only upon payment of the balance of the stipulated amount of the agreement. Only after such payment to the Cine Worker, the Producer shall be titled to employ another Cine Worker in his/her place.

13. That the Producer shall have the right to terminate this agreement on ground of misconduct on the part of the Cine-worker in relation to performance of his/her duties or his/her unwillingness to perform the service required under the agreement, upon payment to the Cine-worker of the amount due at the time of termination, calculated taking into consideration the Cine-worker's total work in the film and the work he/she has completed till the date of termination of this agreement. Termination under this clause shall not be made unless the charges of the Producer against the Cine-worker are proved before a forum comprising equal number of representatives of the Producers' Organisation and the Cine-workers' Organisation to which the Producer and the Cine-worker respectively may belong. The decision of the forum shall be binding on both the parties. The producer can engage another cine-worker for the job towards this agreement only after the forum has given a decision in favour of such termination and the cine-worker has been paid all his dues.

14. That in case of premature termination of this agreement, it shall be the option of the Producer whether or not to retain the work of the Cine worker in the film and at the same time, it shall be option of the cine-worker whether or not to allow his/her name to go on the credit titles of the film.

15. That the Producer shall have the right to decide the manner of representing the Cine Worker's personality on the screen, his/her clothes, make-up and hair-style and the

Cine Worker shall fully and willingly comply with the direction of the Producer in this regard, provided that the requirements of the Producer in this respect have been notified to the Cine Worker and accepted by him/her.

16. That the Cine Worker agrees that he/she shall render his/her services to the best of his/her ability in such manner as the Producer or, at his instance, the Director of the film may direct and shall comply with all reasonable instructions that he may give for the production of the film.

9. That the Producer shall also pay for all traveling and accommodation expenses, fares, cost of food and such other allowances as are customary when the Cine Worker is required to work on location outdoors.

10. That the Producer shall get the Cine Worker insured for any injury or damage to his/her person including death caused by accident arising out of or in the course of his/her employment and/or during the period of his/her assignment under this agreement.

11. That where the Producer is prevented form proceeding with the production of the film by reason of fire, riot, natural calamity, order of the public authority or any other reason beyond his control :-

(a) he shall be entitled to suspend the operation of this agreement during the period of suspension of production in case the production is suspended. The producer shall serve notice in writing of such suspension on the Cine Worker and shall pay all his/her dues up to the date of service of such notice. Upon resumption of work on the film, this agreement shall revive and shall remain valid for the period stipulated in Clause I excluding the period of suspension there form ; or

(b) he shall be entitled to terminate this agreement as form the cessation of production, in case the production ceases completely. The producer shall serve a notice in writing of such cessation on the Cine-Worker and make payment of all the amount due to the Cine Worker at the time of termination.

12. That in case if the Producer desires to terminate this agreement before the expiry of its term for reasons other than misconduct in relation to performance of the Cine Worker's duties or of his/her unwillingness to perform the services required under this agreement the producer shall be entitled to do so only upon payment of the balance of the stipulated amount of the agreement. Only after such payment to the Cine Worker, the Producer shall been titled to employ another Cine Worker in his/her place.

13. That the Producer shall have the right to terminate this agreement on ground of misconduct on the part of the Cine-worker in relation to performance of his/her duties or his/her unwillingness to perform the service required under the agreement, upon payment to the Cine-worker of the amount due at the time of termination, calculated taking into consideration the Cine-worker's total work in the film and the work he/she has completed till the date of termination of this agreement. Termination under this clause shall not be made unless the charges of the Producer against the Cine-worker are provide before a forum comprising equal number of representatives of the Producers' Organisation and the Cine-workers' Organisation to which the Producer and the Cine-worker respectively may belong. The decision of the forum shall be binding on both the parties. The producer can engage another cine-worker for the job towards this

agreement only after the forum has given a decision in favor of such termination and the cine-worker has been paid all his dues.

14. That in case of premature termination of this agreement, it shall be the option of the Producer whether or not to retain the work of the Cine worker in the film and at the same time, it shall be option of the cine-worker whether or not to allow his/her name to go on the credit titles of the film.

15. That the Producer shall have the right to decide the manner of representing the Cine Worker's personality on the screen, his/her clothes, make-up and hair-style and the Cine Worker shall fully and willingly comply with the direction of the Producer in this regard, provided that the requirements of the Producer in this respect have been notified to the Cine Worker and accepted by him/her.

16. That the Cine Worker agrees that he/she shall render his/her services to the best of his/her ability in such manner as the Producer or, at his instance, the Director of the film may direct and shall comply with all reasonable instructions that he may give for the production of the film.

. 17. That the Cine-worker shall comply with all the regulations of the studio, location or work place as the case may be.

18. That the Producer shall not without the consent in writing of the Cine-Worker, assign or transfer the benefit of this agreement to any other person.

19. That the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 shall be applicable to this agreement.

20. That the Producer shall not utilise the work of the Cine-worker in any film, other than the film under this agreement, without prior permission of the cine-worker.

The parties have put their hands to this agreement on the date, month and year said above in the presence of each other and in the presence of the witnesses.

1. Witness — Producer
   Name
   Address

2. Witness — Cine Worker
   Name
   Address

FORM 'B'

(*See* Rule 4)

Form of application for reference of a dispute to a Conciliation Officer under Section 4. Tribunal

or Section 7 of the Cine-workers and Cinema Theatre Workers (Regulation and Employment) Act, 1981.

Whareas a dispute* is apprehended between exists.

.....and ..... and it is expedient that the *matters specified in the enclosed statement which are connected/the dispute investigation and settlement relevant to the dispute should be referred for adjudication by a Conciliation Officer Tribunal

an application is hereby made under Section 4 or 7 of the Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 that the said matters should be said dispute

referred to a Conciliation Officer, Tribunal

This application is made by the undersigned who has been duly authorised to do have

so by virtue of a resolution (copy enclosed) adopted by a majority of the members present at a meeting of the..... held on the .....19.....

A statement giving the particulars required under Rule 4 of the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984 is enclosed.

Signature of employer*
or agent
or

Signature of the
President of the Trade Union
Secretary to the Trade union
or
Signature of five representatives

.

To,

The Secretary to the Government of India,
Ministry of Labour,
New Delhi

* Delete whichever is not applicable.

Statement required under Rule 4 of the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984;

(a) Parties to the dispute including the name and address of the establishment involved.

(b) Specific matters in dispute.

(c) Total number of cine-workers employed in the establishment affected.

(d) Estimated number of cine-workers affected or likely to be affected by the dispute

(e) Efforts made by the parties themselves to adjust the dispute.

FORM 'C'

(*See* Rule 14)

Whereas a dispute between ..... and.....for investigation and settlement has been referred to this Tribunal for adjudication under section 7 of the Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981, you are hereby summand to appear before the Tribunal in person on the ..... day of ..... at.....o'clock in the.....noon to answer all material questions relating to the said dispute and you are directed to produce on that day all the books, papers and other documents and thins in your possession or under your control in any way to the matter under investigation by this Tribunal.

Dated..... Presiding Officer, Tribunal.

# THE LABOUR LAWS (EXEMPTION FROM FURNISHING RETURNS AND MAINTAINING REGISTERS BY CERTAIN ESTABLISHMENTS) ACT, 1988

**No.51 OF 1988** [ 24th September, 1988.]

An Act to provide for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain labour laws.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows :--

**1.Short title, extend and commencement**.- (1) This Act may be called the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988. (2) It extends to the whole of India :

Provided that nothing contained in this Act, in relation to the Plantations Labour Act, 1951 (69 of 1951.) shall extend to the State of Jammu and Kashmir.

(3) **It shall come into force on such date 1.5.1989; vide Notification No.G.S.R 436(E), dated 10-4-1989, Gazette of India,**

Extraordinary, 1989, Pt.II; Sec.3(ii). as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States, and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the coming into force of that provision in that State.

**2.Definitions.-** In this Act, unless the context otherwise requires,--

(a) "employer", in relation to a Scheduled Act, which defines such expression, has the same meaning assigned to it in that Act, and in relation to any other Scheduled Act, means the person who is required to furnish returns or maintain registers under that Act;

(b) "establishment" has the meaning assigned to it in a Schedule Act, and includes--

(i) an 'industrial or other establishments' as defined in section 2 of the Payment of Wages Act, 1936 (4 of 1936);

(ii) a 'factory' as defined in section 2 of the Factories Act, 1948 (63 of 1948);

(iii) a factory, workshop or place where employees are employed or work is given out to workers, in any scheduled employment to which the Minimum Wages Act, 1948 (11 of 1948.), applies;

(iv) a 'plantation' as defined in section 2 of the Plantations Labour Act, 1951 (69 of 1951); and

(v) a 'newspaper establishment' as defined in section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955);

(c) "Form" means a Form specified in the Second Schedule :

(d) "Scheduled Act" means an Act specified in the First Schedule and is in force on the commencement of this Act in the territories to which such Act extends generally, and includes the rules made thereunder;

(e) "small establishment" means an establishment in which not less than ten and not more than nineteen persons are employed or were employed on any day of the preceding twelve months;

(f) "very small establishment" means an establishment in which not more than nine persons are employed or were employed on any day of the preceding twelve months.

**3.Amendment of certain labour laws.-** On and from the commencement of this Act, the Scheduled Acts shall have effect subject to the provisions of this Act.

**4.Exemption from returns and registered required under certain labour laws.-** (1) On and from the commencement of this Act, it shall not be necessary for an employer in relation to any small establishment or very shall establishment to which a Scheduled Act applies to furnish the returns or to maintain the registered required to be furnished or maintained under that Scheduled Act:

Provided that such employer (a) furnishes, in lieu of such returns, a Core Return in Form A;

(b) maintains, in lieu of such registers,--

(i) registers in Form B, Form C and Form D, in the case of small establishments; and

(ii) register in Form E, in the case of very small establishments;

Provided further that every such employer shall continue to--

(a) issue wage slips in the Form prescribed in the Minimum Wages (Central) Rules, 1950 made under sections 18 and 30 of the Minimum Wages Act, 1948 (11 of 1948.) and slips relating to measurement of the amount of work done by piece-rated workers required to be issued under the Payment of Wages (Mines) Rules, 1956 made under sections 13A and 26 of the Payment of Wages Act, 1936 (4 of 1936.); and

(b) file returns relating to accidents under sections 88 and 88A of the Factories Act, 1948 (63 of 1948.) and sections 32A and 32B of the Plantations Labour Act, 1951 (69 of 1951.)

(2) Save as provided in sub-section (1), all other provisions of a Scheduled Act, including in particular , the inspection of the registers by, and furnishing of their copies to, the authorities under that Act, shall apply to the returns and registers required to be furnished or maintained under this Act as they apply to the returns and registers under that scheduled Act.

(3) Where an employer in relation to a small establishment or very small establishment to which a Scheduled Act applies, furnishes returns or maintains the registers as provided in the proviso to sub-section (1), nothing contained in the Scheduled Act shall render him

liable to any penalty for his failure to furnish any return or to maintain any register under that Schedule Act.

**5.Savings. -** The commencement of this Act shall not affect;

(a) The previous operation of any provision of any Scheduled Act or the validity, invalidity, effect or consequence of anything done or suffered under that provision, before the relevant period;

(b) any right, privilege, obligation or liability already acquired, accrued or incurred under any Scheduled Act, before the relevant period;

(c) any penalty, forfeiture or punishment incurred or inflicted in respect of any offence committed under any Scheduled Act, before the relevant period.

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment aforesaid, and any such investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment shall be instituted, continued or disposed of, as the case may be, in accordance with that Scheduled Act.

Explanation.-- For the purpose of this section, the expression "relevant period" means the period during which an establishment is or was a small establishment or a very small establishment under this Act.

**6.Penalty. -** Any employer who fails to comply with the provisions of this Act shall, on conviction, be punishable--

(a) in the case of the first conviction, with fine which may extend to rupees, five thousand, and

(b) in the case of any second or subsequent conviction, with imprisonment for a period which shall not be less than one month but which may extend to six months or with fine which shall not be less than rupees ten thousand but may extend to rupees twenty five thousand, or with both.

**7.Power to amend Form. -** (1) The Central Government may, if it is of opinion that it is expedient so to do, by notification in the Official Gazette, amend any Form and thereupon such Form shall, subject to the provisions of sub-section (2), be deemed to have been amended accordingly.

(2) Any notification issued under sub-section (1) shall be laid before each House of Parliament, if it is sitting as soon as may be after the issue of the notification, and if it is not sitting, within seven days of its re-assembly and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of People, and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

**8.Power to remove difficulties. -** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

## FIRST SCHEDULE

[ See section 2(d) ]

(1) The Payment of Wages Act, 1936 (4 of 1936.)

(2) The Weekly Holidays Act, 1942 (18 of 1942.)

(3) The Minimum Wages Act, 1948 (11 of 1948.)

(4) The Factories Act, 1948 (63 of 1948.)

(5) The Plantations Labour Act, 1951 (69 of 1951.)

(6) The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

(45 of 1955.)

(7) The Contract Labour (Regulation and Abolition) Act, 1971 (37 of 1970.)

(8) The Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976.)

(9) The Equal Remuneration Act, 1976 (25 of 1976).

**SECOND SCHEDULE**

[ See section 2(c) ]

FORM A

[ See section 4(1) proviso (a) ]

CORE RETURN

RETURN FOR THE YEAR ENDING 31ST DECEMBER

(To be furnished on or before the 15th February of the succeeding Year by

small establishments and very small establishments.)

1. (a) Name and postal address of the establishment.

(b) Name and residential address of the employer.

(c) Name and residential address of the Manager or person responsible for supervision and control of the establishment.

(d) Name of the principal employer in the case of contractor's establishment.

(e) Date of commencement of the establishment.

NATURE OF OPERATION | INDUSTRY | WORK CARRIED ON

2. (a) Number of days worked during the year.

(b) Number of man-days worked during the year.

(c) Daily hours of work.

(d) Day of weekly holiday.

3. (a) Average number of persons employed during the year.

(i) Males. (ii) Females.

(iii) Adolescents (those who have completed 14 years but have not completed 18 years of age.)

(iv) Children (those who have not completed 14 years of age).

(b) Maximum number of workers employed on any day during the year.

(c) Number of workers discharged, dismissed, retrenched or whose services were terminated during the year.

4. Rates of wages--category wise.

(1) Males (2) Females (3) Adolescents (4) Children.

5. Gross Wages paid:

(a) in cash.

(b) in kind.

6. Deductions:

(a) Fines.

(b) Deductions for damage or loss.

(c) Other deductions.

7. Number of workers who were granted leave with wages during the year.

8. Nature of Welfare amenities provided: Statutory (specify the Statute).

9. Does the establishments carry out any hazardous process or dangerous operation coming within the meaning of the Factories

Act, 1948.If so, give particulars.

10. Number of Accidents:

(a) Fatal.

(b) Non-fatal.

11. Nature of safety measures provided as required under the Factories Act, 1948.

Signature of the employer with full name in capitals.

Date.....

Place.....

FORM C

[ See section 4(1) proviso (b) (i) ]

REGISTER OF WAGES REQUIRED TO BE MAINTAINED BY SMALL ESTABLISHMENTS

(To be maintained within seven days of the expiry of the wage period)

Name of establishment - - - - - - - - - - - - - - - - - - - - Name and address of employer- - - -

Address (Local)- - - - - - - - - - - - - - - - - - - - - - - - - - Nature of work- - - - - - - - - - - - -

(Permanent)- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - Wage period- - - - - - - - - - - -

| Serial Num- ber | Name of the employee | Sex whe- ther perma- nent/tempo- rary/casual/ part-time or any other | Desig- nation/ band's name of unit | Classifi- cation/ num- ber of Statu- tory | Father's Act- ual | Total days/ hus- band's num- ber worked | Wages earned | | |

damage Emplo- Emplo- Insurance tions tions paya- thumb Inspec-

or loss yers' yees' - - - - - - - - indica- able impre- tor

by contri- contri- Emp- Emp- ting the ssion with

neglect bution bution loyers' loyees' nature of date

or contri- contri- emplo-

default bution bution yee with

date

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16 17 18 19 20 21 22 23 24 25 26 27 28

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Notes: 1. In case of deduction of any advance taken by an employee, the employer shall also indicate therein the number of instalments paid/total instalments by which advance is to be repaid such as "5/20, 6/20" etc.The purpose of advance shall also be mentioned in the Remarks column.

2. In case of imposition of fines or deduction for damages or loss, the specific act or omission for which the penalty has been imposed has to be indicated in the Remarks column.A certificate shall also be recorded in the said column to the effect that an opportunity to show cause was given to the employee concerned before imposition of fine or deduction.

Signature of the employer with full name in capitals.

Date.....

Place.....

FORM C

[ See section 4(1) proviso (b)(i) ]

MUSTER ROLL TO BE MAINTAINED BY SMALL ESTABLISHMENTS

Name of establishment..... Name and address of the employer.....

Address (Local).....
.....

(Permanent)..... Wage period.....

---

Serial Name of the Date of Permanent Age or date Father's or For the period Total

Number employee employment address of birth husband's ending..... atten-

name Number of units dance

of work done

during.....

---

1 2 3 4 5 6 7 8

---

---

Compensatory rest 3

Total overtime Total production] ---------- Signature of Remarks

worked1 in case of piece- Brought forward Given during Inspector with

rated workers2 from previous wage the wage period date

period

9 10 11 12 13 14

NOTES : 1. In the case of daily-rated workers, the extend of overtime done on each occasion has to be reflected against each concerned date such as "P/1" meaning "Present with one hour's overtime", "P /1-2" meaning "Present with one and a half hour's overtime", and so on.

2. The number of units of work done by a piece-rated worker has to be noted for each day in the Register.In case of employment of any child/adolescent, the employer shall indicate the hours worked each day with intervals of rest.

3. The compensatory rest availed by the worker has to be marked in the Register in red ink as 'CR'.

4. Column 7 to be filled up on each working day and the remaining columns to be completed within seven days of the expiry of the wage period.

Date..... Signature of the employer with full name in capitals.

Place.....

FORM D

[ See section 4(1) proviso (b)(i) ]

MONTHLY REGISTER SHOWING WELFARE AMENTIES TO BE MAINTAINED BY SMALL ESTABLISHMENTS

Name and address of the Address of the establishment : For the month of.....

employer..... Local/Permanent

Serial Name of the employee Sex Designa- Weekly Dates of holidays Number of Quantum of annual number tion day of for festivals or casual leave leave with wages rest similar other availed by ----------

occasions the employee Due Availed

Whether Welfare Amenities provided for Whether Scheduled Signature of Remarks of Signature of

---------- Caste/Scheduled the employer the Inspecting Inspector

Rest Drinking First aid Tribe, Handicapped, or his agent Officer with date

room water or any other particular

category

NOTE: To be completed within seven days of the expiry of each calendar month.

Date..... Signature of the employer with full name in capitals.

Place.....

FORM E

[See section 4(1) proviso (b) (ii) ]

MONTHLY REGISTER OF MUSTER ROLL-CUM-WAGES REQUIRED TO BE MAINTAINED BY VERY SMALL

ESTABLISHMENTS

Year.....

Month.....or

Wage period

(where different).....

Name of establishment.....

Name of employee.....Father's name.....

Nature of work.....Rate of wages.....

Wage period.....Date of employment.....

Date Hours of work Interval for Hours Overtime Casual Privilege Leave Signature Remarks

---------- Rest and Meal worked ---------- or sickness ---------- of the of the employer

From To ---------- with Hours Wages leave Leave Leave Balance employer

From To the worked earned availed due availed

Emplo- during year the month/ wage period

Remuneration Due Deductions Net Date Signature Signature

---------- ---------- amount of pay- or thumb of Inspector

Basic Overtime Other Total Fines Other Advance paid, if any of pay- ment impression with

salary allowances and deduc- ---------- ment of the remarks, if

of if any deductions Date Amount Total employee any, and date

wage tions on account of damage or loss by neglect or default

Note: Columns 1 to 12 to be filled up on each working day and the remaining columns to be completed within seven days of the

expiry of the wage period.

Date..... Signature of the employer with full name in capitals.

Place.....

# THE MAHARASHTRA DOMESTIC WORKERS WELFARE BOARD ACT,
# 2008
## ( MAH. I OF 2009 )

**1. Short title and commencement :-** (1) This Act may be called the Maharashtra Domestic
Workers Welfare Board Act, 2008.
(2) It shall come into force in such area and on such date, as the State Government may, by
notification in the Official Gazette, appoint and different dates may be appointed for
different areas.

**2. In this Act, unless the context otherwise requires,—**
(a) "Advisory Committee" means an Advisory Committee constituted under section 25 ;
(b) "beneficiary" means a domestic worker registered under section 11 ;
(c) " Board " means a Board established under section 3 ;
(d) " domestic work " means household work like sweeping, cleaning utensils, washing
clothes, cooking and such other manual work as is mutually agreed between the employer
and domestic worker carried out at the work place ;
(e) " domestic worker " means a worker who is engaged for doing domestic work ;
(f) " employer ", in relation to a domestic worker, means the person having the control as
head of the family or the manager ;
(g) " fund " means the fund constituted by the Board under section 16 ;
(h) " Government " or " State Government " means the Government of Maharashtra ;
(i) " member " means a member of a Board and includes the Chairperson of the Board ;
(J) " prescribed " means prescribed by rules ;




(k) " regulations " means regulations made by the Board ;
(/) " rules " means rules made by the Government ; and

(m) " work place " means any residential bungalow, wada, house, flat, palace, villa or such other premises, including precinct thereof, in which or in any part of which, any domestic work is being or is ordinarily carried on.

**3. Constitution of Board :-** (1) The State Government may for the purposes of preparation and implementation of the schemes for welfare of domestic workers, in a District, by notification in the Official Gazette, establish such number of Boards to be known as "--------- District Domestic Labour Welfare Board " :

Provided that, the State Government may constitute such Board for two or more Districts :

Provided further that, the State Government may, by like notification also constitute more than one Bard for a District and specify the local limits in which such Boards shall have jurisdiction.

(2) Every such Board shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose off property, and to enter into contracts, and may by that name sue or be sued.

(3) The Board shall consist of members nominated, from time to time, by the State Government representing the employers, the domestic workers and the State Government.

(4) The members representing employers and domestic workers shall be equal in number, and the members representing the State Government shall not exceed one-third of the total number of members representing employers and domestic workers.

(5) The Chairman of the Board shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.

(6) After nomination of all the members including the Chairman, the State Government shall, by notification in the Official Gazette, publish the names of all the members of the Board.

(7) The term of office of members of the Board shall be such as may be prescribed.
(8) Every member shall be paid (not being a member representing the State Government)
from the fund of the Board, traveling and daily allowances for attending meetings of the
Board at such rates as may be prescribed.
(9) The meetings of the Board and the procedure to be followed for the purpose and all
matters supplementary or ancillary thereto shall be such as may be laid down by the

regulations.
**4. Power of State Government to appoint Board consisting of one person :-** (1) Where,
for any reason whatsoever, it appears to the State Power of Government that it is unable to
constitute a Board for the specified area State in accordance with the provisions of section 3,
the State Government may, by notification in the Official Gazette, appoint a person who
shall hold office until a Board is duly constituted under section 3 for such specified area.
(2) The person so appointed shall be deemed to constitute the Board for the time being, and
shall exercise all the powers and perform functions and discharge all the duties conferred
and imposed upon the Board by or under this Act. He shall continue to be in office until the
day immediately preceding the date of the first meeting of the Board under section 3.
(3) The person constituting the Board shall receive such remuneration from the fund of the
Board, and the terms and other conditions of service shall be such as the State Government
may determine.
5. Disqualification and removal of member :- (2) No person shall be chosen as, or continue
to be, a member of the Board who,—
(a) is a salaried officer of the Board ;

(b) is or at any time has been adjudged insolvent ;
(c) is found to be a lunatic or become of unsound mind ; or
(d) is or has been convicted of any offence involving moral turpitude.
(2) The State Government may remove from office any member, who,—
(a ) is or has become subject to a ay of the disqualifications mentioned in sub-section (1) ; or
(b ) is absent without leave of the Board for more than three consecutive meetings of the
Board ;
(c ) in the opinion of the Government, has so abused the position of member as to render that
persons continuation in the office
detrimental to the public interest or is otherwise unfit or unsuitable to continue as such
member :
Provided that, no person shall be removed under clause (c), unless that person has been
given a reasonable opportunity to show cause as to why he should not be removed.
(3) Notwithstanding anything contained in any other provisions of this Act, the members
shall hold office during the pleasure of the State Government and if in the opinion of the

State Government,—
(a) the member representing employers and the domestic workers, ceases to adequately
represent the employers or, as the case may be, the domestic workers, or
(b) having regard to exigencies of circumstances or services in the State Government, the
member representing the State Government cannot continue to represent the State Government, then it may, by an order, remove all or any of them from office at any time.
**6. Resignation of office by member :-** . Any member of the Board may at any time resign
his office by writing under his hand addressed to the State Government, and his office shall ,
on acceptance of the resignation, become vacant.
**7. Vacancy to be filled in as early as possible :-** In the event of any vacancy occurring on

account of death, resignation, disqualification or removal or otherwise, the Board shall
forthwith communicate the occurrence to the State Government, and
the vacancy shall be filled in not later than ninety days from the date of the occurrence of the
vacancy, and the person nominated to fill in the vacancy shall hold office so long only as the
member in whose place he is nominated would have held it, if the vacancy had not occurred.

**8. Proceedings presumed to be good and valid** : - No act or proceeding of the Board shall
be questioned or invalidated
merely by reason of any vacancy in its membership or by reason of any defect in the
constitution thereof.

**9. Secretary and other officers of Board :-** (1) The Board shall, with the approval of the
State Government, appoint a secretary and such other officers and employees as it considers
necessary for the efficient discharge of its functions under this Act.

(2) The Secretary of the Board shall be its Chief Executive Officer

(3) The functions, terms and conditions of appointment and the salary and allowances
payable to the secretary and other officers and employees of the Board shall be such as may
be laid down, from time to time, by regulations.

**10. Functions of Board :-** The Board shall perform following functions, namely :—

(a) registration of domestic workers as beneficiaries under the Act ;

(b) to grant following benefits to beneficiaries which they are entitled to under the Act :—

(i) provision for immediate assistance to a beneficiary in case of accident ;

(ii) financial assistance for the education of children of the beneficiary ;



(iii) provision for medical expenses for treatment of ailments of a beneficiary or his such
dependent ;

(iv) provision for maternity benefit to the women beneficiaries:

Provided that, such maternity benefit shall be restricted in case of two children only ;
(v) make payment of funeral expenses to the legal heir on the death of the beneficiary ;
(vi) such other benefits as may be decided by the Board, from time to time ;
(c) to constitute and administer the fund for the purposes of this Act as specified in section .15 ;
(d) to appoint a secretary and such other officers and employees as it considers necessary for
the efficient discharge of its functions under this Act ;
(e) such other functions as may be assigned to it by the State Government, from time to time.
**11. Registration of domestic worker as beneficiary :** (1) Every domestic worker who has
completed eighteen years of age, but has not completed sixty years of age and who has been
engaged in any domestic work shall be eligible for registration as a beneficiary under this
Act.
(2) An application for registration shall be made in such form as may be prescribed and shall
be submitted to the officers authorised by the Board in this behalf.
(3) Every application under sub-section (2) shall be accompanied by such documents
together with such fees as may be prescribed, from time to time.
(4) If the officer authorised by the Board under sub-section (2) is satisfied that the applicant
has complied with the provisions of this Act and the rules made thereunder, he shall register
the name of the domestic worker as a beneficiary under this Act or he may for reasons to be
recorded in writing reject the application :
Provided that, the application for registration shall not be rejected unless the applicant has
been given a reasonable opportunity of being heard.
(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from
the date of such decision, prefer an appeal to the Secretary of the Board or any other officer

authorised by the Board in this behalf and decision of the Secretary on such appeal shall be
final:
Provided that, the Secretary may entertain the appeal after the expiry of the said period of

thirty days, if he is satisfied that the applicant was prevented by sufficient cause from filing
the appeal in time.
(6) The Secretary of the Board shall cause to maintain such registers as may be prescribed.
**12. Identity Card. :** (1) The Board shall give to every beneficiary an identity card, with his
photograph duly affixed thereon.
(2) The Identity Card shall be in such form and shall contain the name, address, photograph of the beneficiary and such other particulars as may be prescribed.
**13. Cession as beneficiary. :** (1 ) A domestic worker who has been registered as a beneficiary under this Act shall cease to be as such when he is not engaged in the domestic
work or wnen he has not paid his contribution under section 16 for a continuous period of
not less than one year, unless the payment of contribution is waived by the Roard under the
proviso to section 16 :
Provided that, if the Secretary of Board is satisfied that the non- payment of contribution
was for a reasonable ground and that the domestic worker is willing to deposit the arrears,
he may allow the domestic worker to deposit the contribution in arrears and on such deposit
being made, the registration of domestic worker shall stand restored.
(2) Notwithstanding anything contained in sub-section (2 ), if a person had been the
beneficiary for atleast three years continuously immediately before attaining the age of sixty
years, he shall be eligible to get such benefits as may be decided by the Board.
**14. Grant by State Government :** The State Government may, after due appropriation

made by the State Legislature by law in this behalf, pay to every Board in each financial
year by way of grants from the Consolidated Fund of the State, such sums of money as it
may deem fit for being utilized for the purposes of this Act.

**15. Fund, its application and procedure thereof :** (1) There shall be constituted by every
Board a fund for providing various benefits to the registered domestic workers and there
shall be procedure credited thereto —

(a) grants received from the Government every year ;

(b) all contributions made by the beneficiaries ;

(c) all other sums received by the Board from any other sources.

(2) The fund shall be applied for meeting,—

(a) expenses of the Board in the discharge of its functions under section 10 ; and



(b) salaries, allowances and other remuneration of the members, officers and other employees of the Board ;

(c) expenses on other objects and for the purposes authorized by the State Government.

(3) No Board shall, in any financial year, incur expenses towards salaries, allowances, and
other remuneration to its members, officers and other employees and for meeting the other
administrative expenses exceeding five per cent., of its total expenses during that financial
year.

(4) The Board may keep current and deposit account with such Bank and the same may be
operated by such officers of the Board as may be laid down in the regulations.

(5) Every domestic worker registered as a beneficiary may make an application to the Board
in such form and accompanied by such documents as may be prescribed, for grant of
payments out of the fund towards the benefits he is entitled to under this Act.

(6) The Board may after receipt of every such application, conduct such inquiry as it may
deem fit, and either grant the application or, for the reasons to be recorded in writing, may

reject the same:
Provided that, any such application shall not be rejected unless a reasonable opportunity of
being heard is given to the applicant.
(7) The decision of the Board in this regard shall be final.
**16. Contribution of domestic worker :-** A domestic worker who has been registered as a
beneficiary under this Act shall until he attains the age of 60 years, contribute to the fund
such amount per month, as may be prescribed :
Provided that, the Board may, if satisfied that a beneficiary is unable to pay his contribution
due to any financial hardship, waive the payment of contribution for a period not exceeding
three months at a time.
**17. Investment of fund :-** Where the fund or any portion thereof cannot be applied at any
early date, in performing the functions of the Board, the Board shall invest the same in any
of the securities specified in clause (a) to (d) and (f) of section 20 of the Indian Trusts Act,
1882.
**18. Powers of Board to borrow :-** The Board may, from time to time, with the previous
sanction of the State Government and subject to the provisions of this Act, borrow any sum
required for the purposes of this Act.
**19. Accounts and Audit :-** (1) The Board shall maintain proper accounts and other relevant
records and prepare an annual statement of accounts, including a balance sheet in such form

as may be prescribed.
(2) The accounts of the Board shall be audited annually by such qualified person as the
StateTroyemment may appoint in this behalf.
(3) The auditor shall at all reasonable times have access to the books of accounts and other

documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require, or examine any member or officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon, shall be forwarded annually to the State Government, before such date as the State Government may specify in this behalf.

(5) The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.

(6) The cost of audit as determined by the State Government shall be paid out of the funds of the Board.

**20. Budget :-** The Board shall prepare, in such form and at such time in each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the State Government.

**21. Annual Report :-** The Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

**22. Directions by State Government to Board :-** The State Government or any officer authorized by the State Government may give the Board such directions which in its opinion are necessary or expedient in connection with the expenditure from the fund or carrying out the other purposes of the Act and it shall be the duty of the Board to comply with such directions.

**23. Powers of State Government or authorised officer to call for records etc. :-** The State Government or any officer authorized by the State Government may call for the records of the Board, inspect the same and may supervise the working of the Board.

**24. Supression of Board :-** (1) If the State Government is satisfied that, or otherwise is of
the opinion that,—
(a) the Board is unable to perform its functions, or
(b) the Board has persistently made delay in the discharge of its functions or has exceeded or abused its powers,

then the State Government may, by notification in the *Official Gazette*, supersede the Board
and re-constitute it in the manner specified in section 3 within a period of twelve months
from the date of supersession. The period of supersession may be extended for sufficient
reasons by a like notification by not more than six months :
Provided that, before issuing a notification under this sub-section on any of the grounds
mentioned in clause (6), the State Government shall give a reasonable opportunity to the
Board to show cause why it should not be superseded and shall consider the explanations
and objections, if any, of the Board.
(2) After the supersession of the Board and until it is reconstituted, the powers and functions
of the Board under this Act shall be exercised and performed by the State Government or by
such officer or officers as the State Government may appoint for this purpose.
(3) When the Board is superseded, the following consequences shall ensue, that is to say,—
(a) all the members of the Board shall, as from the date of publication of the notification
under sub-section (1), vacate their office ;
(b) all the powers and functions, which may be exercised or performed by the Board
shall, during the period of supersession, be exercised or performed by such persons as may
be specified in the notification ;
(c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government and on the reconstitution of the Board, such

funds and property shall revest in the Board.

**25. Advisory Committee :-** (1) The State Government may constitute an Advisory Committee to advise upon such matters arising out of the administration of this Act or
relating to the application of the provisions of this Act to domestic workers and employers
or co-ordination of the work of various Boards, as the State Government may refer to it for
advice.

(2) The members of the Advisory Committee shall be appointed by the State Government
and shall be of such number and chosen in such manner as may be prescribed :
Provided that, the Advisory Committee shall include an equal number of members representing the employers, domestic workers and Members of the State Legislature and the
members representing State Government which shall not exceed one third of its total number
of members.

(3) The Chairman of the Advisory Committee shall be one of the members appointed to
represent the State Government, nominated in this behalf by the State Government.



(4) The State Government shall publish in the *Official Gazette*, the names of all the members
of the Advisory Committee.

(5) The meetings of the Advisory Committee and procedure to be followed thereat shall be
such as may be prescribed.

(6) The term of office of members of the Advisory Committee shall be such as may be
prescribed.

(7) The member of the Advisory Committee (not being a member representing the State
Government) shall receive traveling and daily allowances for attending meetings of the
Committee at such rates as may be prescribed.

**26. Members, officers and servants of the Board to be public servant :-** Members

including Chairperson of the Board and all officers and servants of the Board shall be
deemed to be the public servants within the meaning of section 21 of the Indian Penal Code.
[ 45 of 1860].

**27. Protection of action taken in good faith :-** No suit, prosecution or other legal proceedings shall lie against any member or any officer or employee of the Board or any
person acting under the direction either of the Government or of the Board, in respect of
anything which is in good faith done or intended to be done in pursuance of this Act or any
rules or regulations made thereunder.

**28. Power to make rules. :-** (1) The State Government may, by notification in the Official
Gazette, and subject to the conditions of previous publication except when the rules are
made for the first time, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing provision, such rules
may be made for all or any of the following matters, namely :—

(a) term of office of members of the Board ;

(b ) rate of traveling and daily allowances to be payable to members of the Board for
attending meetings of the Board ;

(c) form of application for registration as a beneficiary ;

(d) documents.to be accompanied alongwith application for registration as a beneficiary
and fees for the same ;

(e) registers to be maintained by the Secretary of the Board ;

(f) form of an application to be made by a beneficiary to the Board and documents which



may be accompanied to such application, for grant of payments out of the fund ;

(g) amount of contribution of the beneficiaries to the fund ;

(h) form of annual statement of accounts including a balance sheet ;

(i) form in which and the time when the budget of the Board is to be prepared and forwarded to the State Government ;

(j) form in which and the time when the annual report of the Board is to be prepared and
submitted to the State Government ;
(k) number of members of the Advisory Committee and the manner in which they may be
chosen ;
(l) meetings of the Advisory Committee and the procedure to be followed thereat ;
(m) term of office of members of the Advisory Committee ;
(n) rate of traveling and daily allowances to be payable to members of the Advisory
Committee for attending meetings of the Advisory Committee ;
(o) any other matter which is required to be or may be prescribed, for carrying out the
purposes of this Act.
(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before
each House of the State Legislature while it is in session for a total period of thirty days
which may be comprised in one session or in two or more successive sessions, and if, before
the expiry of the session in which it is so laid or the session immediately following, both
Houses agree in making any modification in the rule or both Houses agree that the rule
should not be made and notify such decision in the *Official Gazette*, the rule shall, from the
date of publication of a notification in the *Official Gazette*, have effect only in such modified
form, or be of no effect, as the case may be ; so, however, that any such modification or
annulment shall be without prejudice to the validity of anything previously done or omitted
to be done under that rule.
**29. Power to make regulations :-** The Board may, with the previous approval of the State
Government, make regulations consistent with this Act and the rules made thereunder for all
or any of the matters to be provided under this Act by regulations and generally for all other

matters for which provision is, in the opinion of the Board, necessary for the exercise of its
powers
and the discharge of its functions under this Act.

**30. Power to remove difficulty :-**(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the





*Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears
it to be necessary or expedient for removing the difficulty :

Provided that, no such order shall be made after the expiry of a period of two years from the
date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made,
before each House of the State Legislature.

*** * * * * * * * * ***

# The Sales Promotion Employees (Conditions of Service) Act,1976

(No.11 of 1976)

[25th January,1976]

(Received the assent of the president on Jan.25,1976 and published in the Gaz. of India,Ext.pt.ll, Sec.1 dt.25.1.1976 pp. 77-81.)

## NOTES
## EFFECTS OF RECENT AMENDMENTS.

**History:**

The Government of India had enacted Sales Promotion Employees (Conditions of Service) Act, 1976, on the basis of the Report of the Petitions Committee of the Rajya Sabha. Even though the title of the Act indicates that it would cover all persons engaged in the Sales Promotion work of an organization, or in other words, all salesmen, the applicability of the Act has been, so far, confined to the Pharmaceutical Industry. The Petition was made to the Parliament by Medical Representatives' Organizations, alleging, among other things, large-scale discharge, retrenchment etc. of medical representatives, and that in the absence of any legal protection, as was available to workmen under the Industrial Disputes Act,1947, there was no machinery where such cases could be subjected to judicial review. The Petitions Committee after visiting various places made it's report to the Parliament. The Act was the result of the said report, and it was enacted during the Emergency period of 1975-1977. For the purpose of coverage, the Act laid down an absolute salary limit of Rs.750/- per month or Rs.9,000/- per annum (irrespective of whether it was paid as salary or commission). This salary limit was justified by the then Minister for Labour, Mr. Raghunath Reddi, on the grounds that the Act protected only those who were drawing minimum salary and that those who were in receipt of higher emoluments could themselves look after their interest without Government intervention.

## Amendments

The Medical Representatives' Associations were obviously not satisfied with this limit of Rs.750/- per month, as majority of the representatives were drawing salaries or emoluments much higher than Rs. 750/- and therefore outside the purview of the Act. They kept on with their pressure on Government and the result is by this amendment the Sales Promotion Employees have been brought on par with the definition of "workman" uner the Industrial Disputes Act, 1947, where no salary/wage limit has been prescribed for coverage of a workman under the said Act. This appears logical in a way, for what is important is not the salary/sage, but the type of work a person is required to perform. Salary limit has been fixed only in the case of persons who are engaged in a supervisory capacity and drawing a salary of less than Rs.1,600/- per month. This amendment has come into force from May 6, 1987, and therefore any disputes prior to May 6, 1987 will not be governed by the new definition, that is, if a medical representative's services were terminated prior to May 6, 1987, he cannot successfully raise a dispute about it. There is a very good reason for this view as the Amendment Act 1986, Section 3, which effects amendment to Section 4 of the principal Act specifically mentions " deemed to have been re-numbered w.e.f. 8th day of March, 1976 as sub-section thereof; sub-section (b) of Section 3 of the Amending Act is in the following terms:

"(b) after sub-section (1), as re-numbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from 8th day of March 1976,"

and the rest of the amending Section 3 deals with earned leave provisions. This retrospective effect thus is limited to Section 4 of the principal Act only and the rest of the provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint – see Section 2 of the Amending Act, 1986; and have in fact appointed May 6, 1987 as such date. Thus, if the intention of the legislature was to give retrospective effect to Amending Section dealing with amendment to Section 2 of the principal Act the legislature would have used similar expressions as used in Amending Section 3 of the Amendment Act of 1986.

How will this new development help the Medical Representatives and how will it affect management's supervision and control over this class of employees? What are the implications? The following suggest themselves:

It is interesting and important to note that the legislature has given a distinct identity to the Sales Promotion Employees (Conditions of Service) Act, 1976. A similar treatment has been given to working journalists also. At the same time by the exclusion, at least for the time being, of other Sales Promotion Employees in a variety of businesses, and confining it's application to Medical Representatives in the Pharmaceutical Industry, the Medical Representatives appear to have been given a very special status.

Now under the Industrial Dispute Act the Medical Representatives will be able to:

1. Raise an individual dispute relating to discharge/dismissal/transfer etc. under Section 2-A of the Act in their own right and without any support from other representatives or their Unions or Associations.

2. Form their own Union/Association or even join a Factory Union and raise and pursue collective disputes relating to terms and conditions of service such as salary, allowances of all kinds etc.

3. Under Section 33-C institute proceedings for recovery of dues from the employer.

4. Make use of provisions of unfair labour practices as well as grievance procedure. On the other hand the employer will be obliged to:
1. Follow procedure under Section 9-A for any change in the existing conditions of service in respect of matters mentioned in Schedule IV which is normally a long drawn out process.

2. Any disciplinary action especially in respect of termination for any reason whatsoever, can be a subject matter of an Industrial Dispute and therefore, a Labour Court or Tribunal can inquire into cases of discharge/dismissal and where appropriate, even direct reinstatement of a Medical Representative. This also means that a proper disciplinary action procedure must be strictly followed.

**NOTE**
It should be remembered that any termination of employment except by way of punishment, has been interpreted to mean 'retrenchment' as per the decision of the Supreme Court, in the case of Sundermaney v. State Bank of India (1978 I LLJ 478). Therefore, an organization will have to be very careful while terminating the services of a

Medical Representative for reasons other than misconduct, as otherwise such termination can be declared ab initio void.

3. If an occasion arises for retrenchment in the category of Medical Representative, requisite permission from the appropriate Government will have to be obtained before the retrenchment can be effected. Such permission is most difficult, if not impossible, to obtain.

The above are only the salient features of the Industrial Disputes Act affecting and enabling the employers and employees respectively, and not exhaustive.

**Payment of Bonus Act:**

Even though a large number of companies have been treating Medical Representatives or Sales Promotion Employees as covered by the Bonus Act, strictly under the definition of the term "employee", under the Bonus Act, a Medical Representative or Sales Promotion Employee is not covered, but the coverage now has been expressed without any doubt. If one examines the definition of "workman" and "employee" under the Industrial Disputes Act and Bonus act, it will be clear that but for some minor changes, the definition is the same, and as Medical Representatives were held to be outside the purview of the Industrial Disputes Act, they could have been justifiably excluded from the Bonus Act, as was done in the case of Payment of Gratuity Act,1972.

**Payment of Gratuity Act:**

As the term employee under this Act was similar to the term workman under the Industrial Disputes Act, the Medical Representatives were not treated as covered under the provisions of the Payment of Gratuity Act. Now that the Sales Promotion Employees Act is amended to cover employees irrespective of the wages earned by them, the Gratuity Act will be applicable subject to the provisions relating to the coverage under the Gratuity Act and will be limited to Medical Representatives drawing a salary/wages upto rs.2,500/- only. As soon as they cross the limit of Rs.2,500/- they will cease to be covered by the Gratuity Act, but if they have put in five or more years of service prior to their crossing the salary limit of Rs,2,500/- per month, for the aforesaid period, they will be entitled to Gratuity under the Payment of Gratuity Act. Till today, a Medical Representative becomes eligible to gratuity on resignation only after 10 years' of service.

## Maternity Benefit Act:

As the female employees have been an exception, no particular notice of the Act need be taken.

## The Sales Promotion Employees (Conditions of Service) Rules 1976:

Under these Rules, the obligations are as follows,

## Leave Rules

By the amending act, the leave provisions under the Act have been brought into effect from March 8, 1976. Provisions are as follows:

## Privilege Leave

1. day for every 11 days' work. Thus under these provisions, a Medical Representative will be entitled to Privilege Leave of between 22 to 24 days a year. Such leave will be in terms of running days i.e holiday, including weekly holidays, intervening during any leave shall form part of the period of leave. The Rules relating to grant as well as accumulation of Privilege Leave are more or less in consonance with the practice existing in the industry. The encashment of unavailed of Privilege Leave has been limited to 120 days with a further provision, that if the Medical Representative's services are terminated by way of punishment, he shall not be entitled to encashment of Privilege Leave.

## Sick Leave

Described as Medical Leave, provides for not less than one eighteenth of the period of service on half pay. The entitlement of Sick Leave is about 20 days on half pay in a year. An option has been left with the employee to convert Medical Leave on half pay to half the amount of leave on full pay. The Act or the Rules do not make any provision for accumulation of Sick Leave from one year to another, excepting that an employee can claim over a period of service Sick Leave equivalent to one eighteenth of his service. In other words, if an employee has put in 18 years of service, he can claim one year of Sick Leave on half pay or 180 days on full pay. The procedure regarding grant of leave, production of medical certificate have also been framed.

## Casual Leave

15 days Casual Leave is required to be given under the new provisions, but there is neither accumulation nor encashment of Casual Leave under the Act. The only enabling provision for the employee is that Casual Leave can be taken in combination with other kinds of leave.

## Paid Holidays

The rules provide for 10 paid holidays in a calendar year.

Section 11-A of the Sales Promotion Employee Act provides that where under any agreement of contract of service a Sales Promotion Employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he would be entitled under the Act, the employee shall continue to be entitled to the more favourable benefits in respect of that matter.

The section also provides that the Sales Promotion Employee will not be precluded from entering into an agreement with his employer for granting him rights or privileges in respect of any matters which are more favourable to him than those to which he would be entitled to under the Act. Thus it can safely be said that provided the total quantum of leave is maintained, permutation and combinations can be viable.

## Quarantine Leave:

This is a new addition to benefits under any of the labour legislations and it provides that where in consequence of the presence of an infectious disease in the household of a Sales Promotion Employee, his attendance is considered hazardous to the health of other people, the employee concerned may be granted Quarantine Leave upto 30 days, and such leave shall be treated as on duty.

NOTE

As a Medical Representative is working by himself, the question of his attendance being considered hazardous to the health of other people does not normally arise, therefore, to that extent this provision would be innocuous.

## Letter of Appointment:

The rules prescribe a form in which an employer is required to issue an appointment letter to the Medical Representative. Item 9 of this form clearly indicates that the Company can have it's other conditions of service' and therefore, it is possible to continue to give existing letter of appointment for what is contained under items 1 to 8 are the usual conditions of service such as probation, wages, allowances etc. paid to a Medical Representative..

## Records

The rules also require a company to maintain a register of Sales Promotion Employees, service books, register of service books and leave account in respect of a Medical Representative. These will have to be maintained at the Head Office of the Company or

wherever the Company has branches at the branch office in respect of Medical Representatives covered by such branch offices. Experience has shown in the past that the Labour Inspectors of the concerned Governments have threatened prosecution for non-maintenance of the provisions relating to the records and therefore, it is advisable to start maintaining such registers. Unlike Factories/Shops Act, there is no provision for giving copies of service book/leave book to the concerned employee.

## What Act for Future:

Having noted the legal implications of the effect of amendments to the Sales Promotion Employees (Conditions of Service) Act, 1976, what are the immediate actions required to be taken, in order to be able to effectively deal with this class of employees, inspite of the changed situation? As mentioned earlier, one has to bear in mind that even the legislature has maintained a distinctive character of Sales Promotion Employees and this needs proper attention in formulating policy decisions by the Managements. A few of the following suggest themselves:

1. The distinctive status accorded by the legislature points to the line one should take viz., don't treat this class on "We" "They" basis, but try to integrate them in the Marketing Organization as a whole, and let there be continuous consultation.

2. It is possible Managements did not consider it necessary to look into grievances, complaints, petitions, requests etc. of the fields staff in the same way as they would do in the case of issues, problems, grievances, brought up by the Union of the factory workers on the basis where can they go? This attitude has to be changed immediately. Again, in order to maintain Management stance, the Field Supervisor was always considered right and the Representative "difficult"? "Union-minded" etc., but there have been quite a few cases when Field Managers have been proved to be wrong, exploiters, and what not? Therefore, what is needed is an inquisitive mind to find out the real facts before making any value judgments/decisions.

3. Training and development with emphasis on human relation skills for the Field Manager is a must and should be done on a continuous basis.

4. Open door policy with free communications where dissent will not be regarded as affront and consultation will precede any change in the existing conditions. Also share information relating not only to valleys, but also the peaks in respect of financial conditions product launches, where we are, there we want to go, etc.

5. Proper motivation of field staff, where apart from monetary benefit a scope for creativity, participation and development of proper professionalism will be given the pride of place.

6. Management by Objectives can be successfully introduced and implemented with this class of employees as they are basically educated, sophisticated, with ability to not only communicate but to influence the decision of the prospect, and thus a key person in the organization.

Lastly, it must be remembered that we have already been overtaken by the sea-change in the environment, but at the same time we have to bear in mind certain basic aspects of

this sea-change in order to master the environment. Firstly we must realize that our authority to act is likely to come from below rather than above, and the decision making process will probably rely more and more on consensus to be reached among different interest groups. Secondly, present day employees at various levels are more articulate, more impatient and certainly less intimidated by the job itself. For them, the Company and the boss will not necessarily be always right. Thirdly, most of our decisions will increasingly have to take into account human interest and values, as well as economic and material considerations. All this points to the need to give fresh consideration in here and now situation to all our policies by sitting together by the Chief Executive with the Personnel, Marketing and Sales Management, and developing a new policy, as also ways and means of implementing the same of different levels of the organization, bearing in mind what is stated in (4) above. It is felt that such an attempt alone can be successful, given the determination to succeed by preparing ourselves to face difficult situations arising on the way.

**An Act to regulate certain conditions of service of sales promotion employees in certain establishments**.

**1.Short title, extent commencement and application**:- (1) This Act may be called **The Sales Promotion Employee (Conditions of Service) Act, 1976.**

**(2)**it extends to the whole of India.

(3) it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

4) It shall apply in the first instance to every establishment engaged in pharmaceutical industry.

(5) The Central Government may, by notification in the Official Gazette, apply the provision of this Act, with effect from such date as may be specified in the notification, to any other establishment engaged in any notified industry.

2. **Definitions.-** In this Act, unless the context otherwise requires,-

(a) "establishment" means an establishment engaged in pharmaceutical industry or in any notified industry:

(b) "notified industry" means an industry declared as such under sec.3;

(c) "prescribed" means prescribed by rules made under this Act:

* (d)"sales promotion employee" means any person by whatever name called (including an apprentice) employed or engaged in any establishment for hire or reward to do any work, relating to promotion of sales or business, or both, but does not include any such person.

(i) who, being employed or engaged in a supervisory capacity, draws wages exceeding sixteen hundred rupees per mensem; or

(ii) who is employed or engaged mainly in a managerial or administrative capacity.

**Explanation**.- For the purposes of this clause, the wages per mensem of a person shall be deemed to be amount equal to thirty times his total wages (whether or not including, or comprising only of, commission) in respect of the continuous period of his service falling within the period of twelve months immediately preceding the date with reference to which the calculation is to be made, divided by the number of days comprising that period of service. *(Subs.by Act 48 of 1986 (w.e.f.6.5.1987).

(e) all words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (14 of 1947), shall have the meanings respectively assigned to them in that Act.

3. **Power of Central Government to declare certain industries to be notified industries**:- The Central Government may, having regard to the nature of any industry (not being pharmaceutical industry), the number of employees employed in such industry to do any work relating to promotion of sales or business or both, the conditions of service of such employees and such other factors which, in the opinion of the Central Government, are relevant, declare such industry to be a notified industry for the purposes of this Act.

4. **Leave** :- * (1) In addition to such holidays, casual leave or other kinds of leave as may be prescribed, every sales promotion employee (xxx-Omitted) shall be granted, if so requested for-

(a) earned leave on full wages for not less than one- eleventh of the period spent on duty;

(b) leave on medical certificate on one-hlf of the wages for not less than one eighteenth of the period of service.*(Original S.4 re-numbered as sub-sec.(1)w.e.f. 8.3.76 vide Act 48 of 1986.)

* (2) The maximum limit upto which a sales promotion employee may accumulate earned leave shall be such as may be prescribed. *(Ins.by Act 48 of 1986 w.e.f. 8.3.1976)

(3) The limit up to which earned leave may be availed of at a time by a sales promotion employee and the reasons for which such limit may be exceeded shall be such as may be prescribed.

(4) A sales promotion employee shall;-

(a) when he voluntarily relinquishes his post or retires from service, or;

(b) when his services are terminated for any reason whatsoever (not being termination as punishment).

be entitled to cash compensation, subject to such conditions and restrictions as may be prescribed (including conditions by way of specifying the maximum period for which such cash compensation shall be payable), in respect of the earned leave earned by him and not availed of.

(5) Where a sales promotion employee dies while in service, his heirs shall be entitled to cash compensation for the earned leave earned by him and not availed of.

(6) The cash compensation which will be payable to a sales promotion employee or as the case may be, his heirs in respect of any period of earned leave for which he or his heirs, as the case may be, is or are entitled to cash compensation under sub-section (4) or sub-section (5), as the case may be, shall be an amount equal to the wages due to such sales promotion employees for such period.

5. **Issue of appointment letter**.- Every employer in relation to a sales promotion employee shall furnish to such employee a letter of appointment, in such form as may be prescribed.

(a) in a case where he holds appointment as such at the commencement of this Act, within three months of such commencement; and

(b) in any other case, on his appointment as such.

6. **Application of certain Acts to sales promotion employees.**-(1) The provisions of the Workmen's Compensation Act,1923, (8 of 1923) as in force for the time being, shall apply to, or in relation to sales promotion employees as they apply to, or in relation to, workmen within the meaning of that Act.

*(2) The provisions of the Industrial Disputes Act, 1947 (14 of 1947, a in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, workmen within the meaning of the Act and for the purposes of any proceeding under that Act in relation to an industrial dispute, a sales promotion

employee shall be deemed to include a sales promotion employee who has been dismissed, discharged or retrenched in connection with, or as a consequence of , that dispute or whose dismissal, discharge or retrenchment had led to that dispute.*
(On enforcement of S.24 of Act 46 of 1982 , sub-sec.2 will stand omitted.)

(3) The provisions of the Minimum Wages Act, 1948 (11 of 1948), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

(4) The provisions of the Maternity Benefit Act, 1961 (53 of 1961 as in force for the time being shall apply to, or in relation to, sales promotion employees, being women, as they apply to, or in relation to, women employed whether directly or through any agency, for wages in any establishment within the meaning of that Act.

(5) The provisions of the Payment of Bonus Act, 1965 (21 of 1965), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

(6) The provisions of the Payment of Gratuity Act, 1972 (30 of 1972), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

*(7) Notwithstanding anything contained in the foregoing sub-sections-

(a) in the application of any Act referred to in any of the said sub-sections to sales promotion employees, the wages of a sales promotion employee for the purposes of such Act, shall be deemed to be his wages as computed in accordance with the provisions of this Act;

(b) where an Act referred to in any of the said sub-sections provides for a ceiling limit as to wages so as to exclude from the purview of the application of such Act persons whose wages exceed such ceiling limit, such Act shall not apply to any sales promotion employee whose wages as computed in accordance with the provisions of this Act exceed such ceiling limit.*(Ins. By Act 48 of 1986 w.e.f. 6.5.1987.)

**7. Maintenance of registers**.- Every employer in relation to an establishment shall keep and maintain such registers and other documents and in such manner as may be prescribed.

**8. Inspectors.-** (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purpose of this Act and may define the local limits within which they shall exercise their functions.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act have been complied with in respect of an establishment.

(a) require an employer to furnish such information as he may consider necessary;
(b) at any reasonable time enter the establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any registers and other documents relating to the employment of sales promotion employees;
(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been a sales promotion employee in the establishment.
(d) make copies of or take extracts from any register or other documents maintained in relation to the establishment under this Act.
(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of Sec.21 of the Indian Penal Code, 1860 (45 of 1860).

(4) Any person required to produce any register or other document or to give information by an Inspector under sub-section (2) shall be legally bound to do so.

**9. Penalty**.- If any employer contravenes the provisions of Sec.4 or Sec.5 or Sec.7 or any rules made under this Act, he shall be punishable with fine which may extend to one thousand rupees.

**10. Offences by companies.-** (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this section, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm means a partner in the firm.

**11. Cognizance of offences**.- (1) No Court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

(2) No Court shall take cognizance of an offence under this Act, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

*** 11-A. Effect of laws and agreements inconsistent with this Act.- (1)** The provisions of this Act or of any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement, settlement or contract of service, whether made before or after the coming into force of this Act.

Provided that where under any such law, award, agreement, settlement, or contract of service, a sales promotion employee is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the sales promotion employee shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he is entitled to receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude a sales promotion employee from entering into an agreement with his employer for granting him rights or privileges in respect of any matter which are more granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act. *(Ins.by Act No.69 of 1982 S.2 and shall be deemed always to have been inserted .)

**12. Power to make rules**.- (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the kinds of leave that may be granted to a sales promotion employee (the limit upto which he may accumulate earned leave, the limit upto which he may avail of earned leave at a time and the reasons for which such limit may be exceeded, the conditions and restrictions subject to which he may be entitled to cash compensation) under Sec.4;

(b) the form of the letter of appointment to be furnished under Sec.5;

(c) the registers and other documents to be kept and maintained under Sec.7 and the manner in which such registers and other documents may be kept and maintained;

(d) any other matter which has to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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# The Sales Promotion Employees (Conditions of Service) Rules, 1976

(Vide Noti.No.G.S.R. 113(E),dt.8-3-76, published in Gaz.of India,Ext.pt.ll,Sec.3(i)'dt.8.3.1976 pp573-581.

G.S.R. 113(E), dated 8th March, 1976 – in exercise of the powers conferred by sub-section (1), read with sub-section (2) of Sec.12 of the Sale Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976) the Central Government hereby makes the following rules, namely;-

## CHAPTER I
## Preliminary

**1. Short title.-** These rules may be called **the Sales Promotion Employees (Conditions of Service) Rules, 1976.**

2**. Definitions**.- In these rules unless the context otherwise requires.-

(a) "Act" means the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976);

(b) "authorized medical attendant" means the medical practitioner authorized by the employer for the purposes of any of the provisions of the Act or the rules made thereunder;

(c) "casual leave" means leave to cover casual absence of the sales promotion employee from duty for personal reasons;

(d) "earned leave" means leave admissible under clause (a) of Section 4;

(e) "extraordinary leave" means leave granted to the sales promotion employee in special circumstances and when:-

(a) no other leave is admissible; or

(b) other leave is admissible, but the employee applies in writing for the grant of extraordinary leave;

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

(g) "leave" means earned leave, leave on medical certificate, extraordinary leave, leave not due, casual leave, study leave or quarantine leave;

(h) "leave not due" means leave which is not due to the sales promotion employee, but which may be granted to him in anticipation of its being earned subsequently.

(i) "leave on medical certificate" means leave admissible under CI. (b) of section 4;

(j) "Quarantine leave" means leave of absence from duty by reason of the presence of an infectious disease in the household of the sales promotion employee;

(k) "section" means a section of the Act.

(l) "study leave" means leave granted to a sales promotion employee to enable him to undertake a course of study.

## CHAPTER II

### Holidays and Leave

**3. Applicability of this Chapter.-** The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any agreement or contract of service or award applicable to a sales promotion employee.

Provided that where under any such agreement or contract of service or award a sales promotion employee is entitled to benefits in respect of any matter provided in this Chapter which are more favourable to him than those to which he would be entitled to under this Chapter, the sales promotion employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he received benefits in respect of other matters under these rules.

4. **Number of holidays in a year.-** A sales promotion employee shall be entitled to ten holidays in a calendar year.
5. **Compensatory holidays**.- If a sales promotion employee is required to attend to his duties on a holiday, a compensatory holiday shall be given to him, within thirty days immediately following the holiday, on a day mutually agreed upon by him and his employer.

6. **Wages for holidays**. A sales promotion employee shall be entitled to wages on all holidays as if he was on duty.

7. **Wages for weekly day of rest** .- A sales promotion employee shall be entitled to wages for the weekly day of rest as if he was on duty.

8. **Competent Officers**.- Every establishment may designate on or more officers in the establishment as competent officers for the purpose of this Chapter.

9. **Application for leave .-** (1) A sales promotion employee who desires to obtain leave of absence shall apply in writing to the competent officer.

10. **Recording of reason for refusal or postponement of leave.-** If leave is refused or postponed, the competent officer shall record the reasons for such refusal or postponement, as the case may be, and send a copy of the order to the sales promotion employee concerned..

11. **Affixing of holidays to leave.-** Holidays, other than weekly days of rest, shall not be prefixed or suffixed to any leave without the prior sanction of the competent officer.

12. **Holidays intervening during the period of leave.-** A holiday, including a weekly rest day, intervening during any leave, except casual leave, granted under these rules shall form part of the period of leave.

13. **Recall before expiry of leave.-** (1) The establishment may recall a sales promotion employee on leave if the employer considers it necessary to do so and in the vent of such recall the employee shall be entitled to traveling allowance for the journey undertaken by him to join duty if at the time of recall the employee is spending his leave at a place other than his headquarter..

(2) The traveling allowance which shall be paid to a sales promotion employee under sub-rule (1) shall be determined in accordance with the rules of the establishment governing traveling allowance for journeys undertaken by the employees in the course of their duties.

14. **Earned leave and cash compensation for earned leave not availed of.-** (1) The maximum limit up to which earned leave can be accumulated shall be 180 days out of which a sales promotion employee can avail himself of 90 days at a time.

Provided that where a sales promotion employee is suffering from any lingering illness, such as, tuberculosis, cancer, leprosy, heart disease or mental illness, or any disability which prevents him from attending to his duties, the competent authority may allow the sales promotion employee to avail himself of earned leave for any period exceeding 90 days at a time.

(2) When a sales promotion employee voluntarily relinquishes his post, or retires from service on reaching the age of superannuation, he shall be entitled to cash compensation for earned leave earned by him and not availed of ;

Provided that a sale promotion employee shall not be entitled to cash compensation for earned leave not availed of for a period exceeding 120 days.

(3) Notwithstanding anything contained in sub-rule (2) where a sales promotion employee had applied for earned leave due to him so as to enable him to avail of such leave immediately before he voluntarily relinquishes his post or retire on reaching the age of superannuation and such leave was refused, the sales promotion employee shall be entitled to cash compensation for the entire period of earned leave so refused as well as cash compensation for the period of earned leave due to him, in respect of which no application to avail of the same was made, so, however, that the total period of earned leave for which cash compensation shall be payable under this sub-rule shall not exceed 180 days.

(4) Where a sales promotion employee dies while in service his heirs shall be entitled to cash compensation for the entire earned leave due to such employee and not availed of

(5) Where a sales promotion employee's services are terminated for any reason whatsoever (not being termination as punishment), he shall be entitled to cash compensation for the entire earned leave due to him and not availed of.

(6) The cash compensation payable under this rule in respect of earned leave shall be equal to the amount of wages due to the sales promotion employee for the period of leave not availed of or refused.

15. **Medical Leave** .- (1) For the purpose of availing leave on medical certificate under Cl. (b) of Sec. 4, the sales promotion employee shall produce a medical certificate from an authorized medical attendant.

Provided that where a sales promotion employee has proceeded to a place other than his headquarters with the permission of his employer or in the course of the discharge of his duties and there falls ill, he may produce the medical certificate from any registered medical practitioner practicing at the place where he falls ill.

Provided further that the employer may, when the registered medical practitioner whose certificate is produced is not in the service of the Government, arrange at his own expense for the medical examination of the employee concerned by any Government Medical Officer not below the rank of a Civil Assistant Surgeon or by any other Medical Officer in charge of a hospital run by a local authority or a public organization at that place.

(2) Leave on medical certificate may be taken in continuation of earned leave.

(3) A sales promotion employee shall be entitled at his o0ption to convert medical certificate on one-half of the wages to half the amount of leave on full wages (hereinafter referred to as converted leave).

(4) Leave on medical certificate or converted leave may be granted to an employee at his request notwithstanding that earned leave is due to him.

(5) Every establishment may authorize one or more medical practitioners registered under the Indian Medical Council Act, 1956 (102 of 1956), as authorized medical attendants for the purposes of the Act or the rules made thereunder.

**16. Quarantine leave .-** (1) Where, in consequence of the presence of an infectious disease, in the household of a sales promotion employee, his attendance is considered hazardous to the health of other people, the employee concerned may be granted quarantine leave.

(2) The quarantine leave may be granted for a period upto 30 days on the recommendation of the authorized medical attendant or Public Health Officer.

(3) A sales promotion employee on quarantine leave shall be treated as on duty for all purposes.

**17. Extraordinary leave.-** A sales promotion employee may be granted extraordinary leave in special circumstances without wages at the discretion of the employer.

**18. Leave not due.-** A sales promotion employee who has no leave to his credit may be granted leave not due, at the discretion of the employer.

**19. Study leave.-** A sales promotion employee may be granted study leave with or without wages at the discretion of the employer.

**20. Casual leave.-** (1) SA sales promotion employee shall be eligible for casual leave for fifteen days in a calendar year.

(2) Casual leave not availed of during a calendar year shall not be carried forward to the following year.

(3) The sales promotion employee may take any amount of casual leave at a time and casual leave may be combined with any other kind of leave.

21. An employee on casual leave shall be entitled to wages as if he was on duty.

## CHAPTER III
### Letter of Appointment

22. (1) The letter of appointment to be furnished to a sales promotion employee under Sec.5 shall be in Form A.

(2) Every change in the particulars mentioned in the letter of appointment given to an employee shall be communicated to the employee concerned forthwith either by personal service with proper receipt or by registered post acknowledgement due.

## CHAPTER IV
### Registers and other Documents

**23. Maintenance of registers and other documents**.- Every establishment shall prepare and maintain the following registers and records namely:

(a) a Register of Sales Promotion Employees in Form B;

(b) Service Books for every employee in Form C;

© a Register of Service Book in Form D;

(e) Leave Account of each employee in Form E.

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# THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979

[Act No 30 of 1979 dated 11th. June, 1979]

***An Act to regulate the employment of inter-State migrant workmen and to provide for their conditions of service and for matters connected therewith.***

**BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows: -**

## CHAPTER I
## PRELIMINARY

### 1. Short title, extent, commencement and application

(1) This Act may be called the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that if the Central Government considers it necessary or expedient so to do in the public interest, it may postpone or relax, to such extent as may be specified in such notification, the operation of all or any of the provisions of this Act in any State or States for such period not extending beyond one year from the date on which this Act comes into force.

(4) It applies-

(a) to every establishment in which five or more inter-State migrant workmen (whether or not in addition to other workmen) are employed or who were employed on any day of the preceding twelve months;

(b) to every contractor who employs or who employed five or more inter-State migrant workmen (whether or not in addition to other workmen) on any day of the preceding twelve months.

### 2. Definitions

(1) In this Act, unless the context otherwise requires,-

(a) "appropriate Government" means,-

(i) in relation to-

(1) any establishment pertaining to any industry carried on by or under the authority of the Central Government or pertaining to any such controlled industry as may be specified in this behalf by the Central Government; or

(2) any establishment of any railway, Cantonment Board, major port, mine or oil-field; or

(3) any establishment of a banking or insurance company,

the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situated;

(b) "contractor", in relation to an establishment, means a person who undertakes (whether as an independent contractor, agent, employee or otherwise) to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, by the employment of workmen or to supply workmen to the establishment, and

includes a sub-contractor, Khatadar, Sardar, agent or any other person, by whatever name called, who recruits or employs workmen;

(c) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(d) "establishment" means-

(i) any office or department of the Government or a local authority; or

(ii) any place where any industry, trade, business, manufacture or occupation is carried on;

(e) "inter-State migrant workman" means any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the principal employer in relation to such establishment;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "principal employer" means,-

(i) in relation to any office or department of the Government or a local authority, the head of that office, department or authority or such other officer as the Government or the local authority, as the case may be, may specify in this behalf;

(ii) in relation to a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948, the person so named;

(iii) in relation to a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named;

(iv) in relation to any other establishment, any person responsible for the supervision and control of the establishment.

Explanation.- For the purposes of sub-clause (iii) of this clause, the expressions "mine", and "agent" shall have the meanings respectively assigned to them in clause (i), clause (j) and clause (c) of sub-section (1) of section 2 of the Mines Act, 1952;

(h) "recruitment" includes entering into any agreement or other arrangement for recruitment and all its grammatical variations and cognate expressions shall be construed accordingly;

(i) "wages" shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936;

(j) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person-

(i) who is employed mainly in a managerial or administrative capacity; or

(ii) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem, or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

## CHAPTER II
## REGISTRATION OF ESTABLISHMENTS EMPLOYING INTER-STATE MIGRANT WORKMEN

### 3. Appointment of registering officers

The appropriate Government may, by order notified in the Official Gazette,-

(a) appoint such persons, being officers of Government, as it thinks fit to be registering officers for the purposes of this Chapter; and

(b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

### 4. Registration of certain establishments

(1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer, in such form and manner and on payment of such fees as may be prescribed, for the registration of the establishment:

Provided that the registering officer may entertain any such application for registration after the expiry of the period fixed in that behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) Within one month after the receipt of an application for registration under sub-section (1), the registering officer shall,-

(a) if the application is complete in all respects, register the establishment and issue to the principal employer of the establishment a certificate of registration in the prescribed form; and

(b) if the applicable is not so complete, return the application to the principal employer of the establishment.

(3) Where within a period of one month after the receipt of an application for registration of an establishment under sub-section (1), the registering officer does not grant under clause (a) of sub-section (2) the certificate of registration applied for and does not return the application under clause (b) of that sub-section, the registering officer shall, within fifteen days of the receipt of an application in this behalf, from the principal employer, register the establishment and issue to the principal employer a certificate of registration in the prescribed form.

### 5. Revocation of registration in certain cases

If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that for any other reason, the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate Government, revoke by order in writing the registration and communicate the order to the principal employer:

Provided that where the registering officer considers it necessary so to do for any special reasons, he may, pending such revocation, by order suspend the operation of the certificate of registration for such period as may be specified in

the order and serve, by registered post, such order along with a statement of the reasons on the principal employer and such order shall take effect on the date on which such service is effected.

**6. Prohibition against employment of inter-State migrant workmen without registration**

No principal employer of an establishment to which this Act applies shall employ inter-State migrant workmen in the establishment unless a certificate of registration in respect of such establishment issued under this Act is in force:

Provided that nothing in this section shall apply to any establishment in respect of which an application for registration made within the period fixed, Whether originally or on extension under sub-section (1) of section 4 is pending before a registering officer and for the purposes of this proviso, an application to which the provisions of sub-section (3) of section 4 apply shall be deemed to be pending before the registering officer concerned till the certificate of registration is issued in accordance with the provisions of that sub-section.

## CHAPTER III
## LICENSING OF CONTRACTORS

**7. Appointment of licensing Officers**

The appropriate Government may, by order notified in the Official Gazette,-

(a) appoint such persons, being officers of Government, as it thinks fit to be licensing officers for the purposes of this Chapter; and

(b) define the limits, within which a licensing officer shall exercise the jurisdiction and powers conferred on licensing officers by or under this Act.

**8. Licensing of contractors**

(1) With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies shall,-

(a) recruit any person in a State for the purpose of employing him in any establishment situated in another State, except under and in accordance with a licence issued in that behalf,-

(i) if such establishment is an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, by the licensing officer appointed by the Central Government who has jurisdiction in relation to the area wherein the recruitment is made;

(ii) if such establishment is an establishment referred to in sub-clause (ii) of clause (a) of sub-section (1) of section 2, by the licensing officer appointed by the State Government who has jurisdiction in relation to the area wherein the recruitment is made;

(b) employ as workmen for the execution of any work in any establishment in any State, persons from another State (whether or not in addition to other workmen) except under and in accordance with a licence issued in that behalf,-

(i) if such establishment is an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, by the licensing office appointed by the Central Government who has jurisdiction in relation to the area wherein the establishment is situated;

(ii) if such establishment is an establishment referred to in sub-clause(ii) of clause (a) of sub-section (1) of section 2, by the licensing officer appointed by the State Government who has jurisdiction in relation to the area wherein the establishment is situated.

(2) Subject to the provisions of this Act, a licence under sub-section (1) may contain such conditions including, in particular, the terms and conditions of the agreement or other arrangement under which the workmen will be recruited, the remuneration payable, hours of work, fixation of wages and other essential amenities in respect of the inter-State migrant workmen, as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees as may be prescribed:

Provided that if for any special reasons, the licensing officer is satisfied that it is necessary to require any person who has applied for, or who has been issued, a licence to furnish any security for the due performance of the conditions of the licence, he may, after communicating such reasons to such person and giving him an opportunity to represent his case, determine in accordance with the rules made in this behalf the security which shall be furnished by such person for obtaining or, as the case may be, for continuing to hold the licence.

(3) The security which may be required to be furnished under the proviso to sub-section (2) shall be reasonable and the rules for the purposes of the said proviso shall, on the basis of the number of workmen employed, the wages payable to them, the facilities which shall be afforded to them and other relevant factors provide for the norms with reference to which such security may be determined.

**9. Grant of licences**

(1) Every application for the grant of a licence under sub-section (1) of section 8 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which inter-State migrant workmen are to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation, the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under section 8, shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

**10. Revocation, suspension and amendment of licences**

(1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that-

(a) a licence granted under section 8 has been obtained by misrepresentation or suppression of any material fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity to be heard, by order in writing, revoke the licence or forfeit the security furnished by him under the proviso to sub-section (2) of section 8 or any part thereof and communicate the order to the holder of the licence:

Provided that where the licensing officer considers it necessary so to do for any special reasons, he may, pending such revocation or forfeiture, by order, suspend the operation of the licence for such period as may be specified in the order and serve, by registered post, such order along with a statement of the reasons on the holder of the licence and such order shall take effect on the date on which such service is effected.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under section 8.

**11. Appeal**

(1) Any person aggrieved by an order made under section 4, section 5, section 8 or section 10 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

## CHAPTER IV

## DUTIES AND OBLIGATIONS OF CONTRACTORS

**12. Duties of contractors**

(1) It shall be the duty of every contractor-

(a) to furnish such particulars and in such form as may be prescribed, to the specified authority in the State from which an State migrant workman is recruited and in the State in which such workman is employed, within fifteen days from the date of recruitment, or, as the case may be, the date of employment, and where any change occurs in any of the particulars so furnished, such change shall be notified to the specified authorities of both the States;

(b) to issue to every inter-State migrant workman, a pass book affixed with a passport size photograph of the workman and indicating in Hindi and English languages, and where the language of the workman is not Hindi or English, also in the language of the workman,-

(i) the name and place of the establishment wherein the workman is employed;

(ii) the period of employment;

(iii) the proposed rates and modes of payment of wages;

(iv) the displacement allowance payable;

(v) the return fare payable to the workman on the expiry of the period of his employment and in such contingencies as may be prescribed and in such other contingencies as may be specified in the contract of employment;

(vi) deductions made; and

(vii) such other particulars as may be prescribed;

(c) to furnish in respect of every inter-State migrant workman who ceases to be employed, a return in such form and in such manner as may be prescribed, to the specified authority in the State from which he is recruited and in the State in which he is employed, which shall include a declaration that all the wages and other dues payable to the workman and the fare for the return journey back to his State have been paid.

(2) The contractor shall maintain the pass book referred to in sub-section (1) up-to-date and cause it to be retained with the inter-State migrant workman concerned.

Explanation.- For the purposes of this section and section 16 "specified authority" means such authority as may be specified by the appropriate Government in this behalf.

## CHAPTER V

## WAGES, WELFARE AND OTHER FACILITIES TO BE PROVIDED TO INTER-STATE MIGRANT WORKMEN

### 13. Wage rates and other conditions of service of inter-State migrant workmen

(1) The wage rates, holidays, hours of work and other conditions of service of an inter-State migrant workman shall,-

(a) in a case where such workman performs in any establishment, the same or similar kind of work as is being performed by any other workman in that establishment, be the same as those applicable to such other workman; and

(b) in any other case, be such as may be prescribed by the appropriate Government:

Provided that an inter-State migrant workman shall in no case be paid less than the wages fixed under the Minimum Wages Act, 1948.

(2) Notwithstanding anything contained in any other law for the time being in force, wages payable to an inter-State migrant workman under this section shall be paid in cash.

### 14. Displacement allowance

(1) There shall be paid by the contractor to every inter-State migrant workman at the time of recruitment, a displacement allowance equal to fifty per cent. of the monthly wages payable to him or seventy-five rupees, whichever is higher.

(2) The amount paid to a workman as displacement allowance under sub-section (1) shall not be refundable and shall be in addition to the wages or other amounts payable to him.

**15. Journey allowance, etc.**

A journey allowance of a sum not less than the fare from the place of residence of the inter-State migrant workman in his State to the place of work in the other State shall be payable by the contractor to the workman both for the outward and return journeys and such workman shall be entitled to payment of wages during the period of such journeys as if he were on duty.

**16. Other facilities**

It shall be the duty of every contractor employing inter-State migrant workmen in connection with the work of an establishment to which this Act applies,-

(a) to ensure regular payment of wages to such workmen;

(b) to ensure equal pay for equal work irrespective of sex;

(c) to ensure suitable conditions of work to such workmen having regard to the fact that they are required to work in a State different from their own State;

(d) to provide and maintain suitable residential accommodation to such workmen during the period of their employment;

(e) to provide the prescribed medical facilities to the workmen, free of charge;

(f) to provide such protective clothing to the workmen as may be prescribed; and

(g) in case of fatal accident or serious bodily injury to any such workman, to report to the specified authorities of both the States and also the next of kin of the workman.

**17. Responsibility for payment of wages**

(1) A contractor shall be responsible for payment of wages to each inter-State migrant workman employed by him and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

(3) It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorised representative of the principal employer.

(4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the inter-State migrant workman employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

**18. Liability of principal employer in certain cases**

(1) If any allowance required to be paid under section 14 or section 15 to an inter-State migrant workman employed in an establishment to which this Act applies is not paid by the contractor or if any facility specified in section 16 is not provided for the benefit of such workman, such allowance shall be paid, or, as the case may be, the facility shall be provided, by the principal employer within such time as may be prescribed.

(2) All the allowances paid by the principal employer or all the expenses incurred by him in providing the facility referred to in sub-section (1) may be recovered by him from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

**19. Past liabilities**

It shall be the duty of every contractor and every principal employer to ensure that any loan given by such contractor or principal employer to any inter-State migrant workman does not remain outstanding after the completion of the period of employment of such workman under the said contractor or, as the case may be, in the establishment of such principal employer and accordingly every obligation of an inter-State migrant workman to re-pay any debt obtained by him during the period of his employment from the contractor or the principal employer and remaining unsatisfied before the completion of such period shall, on such completion, be deemed to have been extinguished and no suit or other proceeding shall lie in any court or before any authority for the recovery of such debt or any part thereof.

## CHAPTER VI
## INSPECTING STAFF

**20. Inspectors**

(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, within the local limits for which he is appointed, an inspector may-

(a) if he has reason to believe that any inter-State migrant workmen are employed in any premises or place, enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, such premises or place for the purpose of-

(i) satisfying himself whether the provisions of this Act in relation to the payment of wages, conditions of service, or facilities to be provided to such workmen are being complied with;

(ii) examining any register or record or notices required to be kept or exhibited by the provisions of this Act or the rules made thereunder, and requiring the production thereof for inspection;

(b) examine any person found in any such premises or place for the purpose of determining whether such person is an inter-State migrant workman;

(c) require any person giving out work to any workman, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

(d) seize or take copies of such register, record of wages, or notices or portions thereof as he may consider relevant in respect of an offence under this

Act which he has reason to believe has been committed by a principal employer or contractor; and

(e) exercise such other powers as may be prescribed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if a State Government considers it necessary for the purpose of satisfying itself that the provisions of this Act are being complied with in respect of any workmen belonging to that State and employed in an establishment situated in another State, it may, by order in writing, appoint such persons, being persons in the service of that Government, for the exercise of such of the powers mentioned in sub-section (2), as may be specified in that order:

Provided that no such order shall be issued without the concurrence of the Government of the State in which such workmen are employed or where the establishment is an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, without the concurrence of the Central Government.

(4) Any person required to produce any document or thing, or to give any information required, by an inspector under sub-section (2), or by a person appointed under sub-section (3), shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

(5) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

## CHAPTER VII

## MISCELLANEOUS

### 21. Inter State migrant workmen to be deemed to be in employment from date of recruitment for the purposes of certain enactments

For the purposes of the enactments specified in the Schedule, an inter-State migrant workman shall, on and from the date of his recruitment, be deemed to be employed and actually worked in the establishment or, as the case may be, the first establishment in connection with the work of which he is employed.

### 22. Provisions regarding industrial disputes in relation to inter-State migrant workmen

(1) Notwithstanding anything contained in the Industrial Disputes Act, 1947, any dispute or difference in connection with the employment or non-employment or the terms of employment or the conditions of labour, of an inter-State migrant workman (hereafter in this section referred to as the industrial dispute), may,-

(a) if the industrial dispute is relatable to an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, be referred under the provisions of the said Act, by the Central Government to any of the authorities referred to in Chapter II of that Act (hereafter in this section referred to as the said authorities),-

(i) in the State wherein the establishment is situated;

(ii) in the State wherein the recruitment of such workman was made if he makes an application in that behalf to that Government on the ground that he has returned to that State after the completion of his employment;

(b) if the industrial dispute is relatable to an establishment referred to in sub-clause (ii) of clause (a) of sub-section (1) of section 2,-

(i) be referred under the provisions of the said Act, by the Government of the State wherein the establishment is situated, to any of the said authorities in that State; or

(ii) be referred under the provisions of the said Act, by the Government of the State wherein the recruitment of such workman was made to any of the said authorities in that State, if he makes an application in that behalf to that Government on the ground that he has returned to that State after the completion of his employment:

Provided that-

(a) no application referred to in sub-clause (ii) of clause (a) or sub-clause (ii) of clause (b) shall be entertained after the expiry of a period of six months from the date of his return to the State wherein the recruitment was made after the completion of his employment, unless the Government concerned is satisfied that the applicant was prevented by sufficient cause from making the application within that period;

(b) no reference under the said sub-clause (ii) of clause (b) shall be made except after obtaining the concurrence of the Government of the State wherein the establishment concerned is situated.

(2) Without prejudice to the provisions of section 33B of the Industrial Disputes Act, 1947, where during the pendency of any proceeding in respect of an industrial dispute under that Act before any of the said authorities in the State wherein the establishment is situated, an application is made to that authority by an inter-State migrant workman for the transfer of such proceeding to a corresponding authority in the State wherein his recruitment was made on the ground that he has returned to that State after the completion of his employment, that authority shall forward the application to the Central Government, or, as the case may be, to the Government of the State wherein such recruitment was made and transfer such proceeding in the prescribed manner to such authority as may be specified in this behalf by that Government:

Provided that in a case where no authority has been specified by the Government concerned within the prescribed period, the authority before which the proceeding is pending shall, on a request being made by the inter-State migrant workman and after obtaining the previous approval of the Government which referred the dispute to that authority, forward such proceeding to the Government concerned for reference of such dispute to an authority in the State wherein such recruitment was made.

(3) Without prejudice to the provisions of sub-section (2), if the Central Government is satisfied that it is expedient in the interests of justice so to do, it may, by order in writing and for reasons to be stated therein, withdraw any proceeding in respect of any industrial dispute relating to an inter-State migrant workman pending before an authority in the State in which the establishment

concerned is situated and transfer the same to such authority in the State wherein the recruitment of such workman was made as may be specified in the order.

(4) The authority to which any proceeding is transferred under this section may proceed either de novo or from the stage at which it was so transferred.

**23. Registers and other records to be maintained**

(1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of the inter-State migrant workmen employed, the nature of work performed by such workmen, the rates of wages paid to the workmen and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the inter-State migrant workmen are employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

**24. Obstructions**

(1) Whoever obstructs an inspector or a person appointed under sub-section (3) of section 20 (hereinafter referred to as the authorised person) in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector or authorised person any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of any inspector or authorised person any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by any inspector or authorised person acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

**25. Contravention of provisions regarding employment of inter-State migrant workmen**

Whoever contravenes any provisions of this Act or of any rules made thereunder regulation the employment of inter-State migrant workmen, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

**26. Other offences**

If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

**27. Offences by companies**

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

**28. Cognizance of offences**

No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, an inspector or authorised person and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

**29. Limitation of prosecutions**

No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the inspector or authorised person concerned:

Provided that where the offence consists of disobeying a written order made by an inspector or authorised person, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

**30. Effect of laws and agreements inconsistent with the Act**

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of this Act.

Provided that where under any such law, agreement , contract of service or standing orders, the inter-State migrant workmen employed in the establishment are entitled to benefits in respect of any matter which are more favorable to them than those to which they would be entitled under this Act, the inter-State migrant workmen shall continue to be entitled to the more favorable benefits in respect of

that matter, notwithstanding that they receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any inter-State migrant workmen from entering into an agreement with the principal employer or the contractor, as the case may be, for granting them rights or privileges in respect of any matter which are more favorable to them than those to which they would be entitled under this Act.

**31. Power to exempt in special cases**

The appropriate Government may, by notification in the Official Gazette and subject to such conditions and restrictions, if any, and for such period or periods as may be specified in the notification, direct that all or any of the provisions of this Act or the rules made thereunder shall not apply to or in relation to any establishment or class of establishments or any contractor or class of contractors or any inter-State migrant workmen in such establishment or class of such workmen, if that Government is satisfied that it is just and proper so to do having regard to the methods of recruitment and the conditions of employment in such establishment or class of establishments and all other relevant circumstances.

**32. Protection of action taken under this Act**

(1) No suit, prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other employee of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or notification or order made or issued thereunder.

**33. Power to give directions**

The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

**34. Power to remove difficulties**

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date on which this Act comes into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**35. Power to make rules**

(1) The appropriate Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the form and manner in which an application for the registration of an establishment may be made under section 4, the fees payable thereon and the form of a certificate of registration issued under that section;

(b) the form in which an application for the grant or renewal of a licence may be made under section 9 and the particulars it may contain;

(c) the manner in which an investigation is to be made in respect of an application for the grant of a licence and the matters to be taken into account in granting or refusing a licence;

(d) the form of a licence which may be granted or renewed under this Act, the conditions subject to which the licence may be granted or renewed, the fees payable for the grant or renewal of a licence and the security, if any, required to be furnished for the due performance of the conditions of the licence;

(e) the circumstances under which licences may be varied or amended under section 10;

(f) the form and the manner in which appeals may be filed under section 11 and the procedure to be followed by appellate officers in disposing of the appeals;

(g) the wage rates, holidays, hours of work and other conditions of service which an inter-State migrant workman is entitled under section 13;

(h) the period within which wages payable to inter-State migrant workmen should be paid by the contractor under sub-section (1) of section 17 and the manner of certification of such payment under sub-section (2) thereof;

(i) the time within which allowances or facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the part of the contractor, by the principal employer under section 18;

(j) the powers that may be exercised by inspectors under section 20;

(k) the form of registers and records to be maintained, and the particulars and information to be contained in notices to be exhibited, by the principal employers and contractors under section 23;

(l) the manner of submission of returns, and the forms in which, and the authorities to which, such returns may be submitted;

(m) legal aid to inter-State migrant workmen;

(n) any other matter which is required to be or may be prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**36. Repeals and saving**

(1) The Orissa Dadan Labour (Control and Regulation) Act, 1975 and any law corresponding to this Act, in force in any State, shall stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the Act or law so repealed shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or

taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue to be in force accordingly until superseded by anything done or any action taken under this Act.

**THE SCHEDULE**

(See section 21)

1. The Workmen's Compensation Act, 1923.
2. The Payment of Wages Act, 1936.
3. The Industrial Disputes Act, 1947.
4. The Employees' State Insurance Act, 1948.
5. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
6. The Maternity Benefit Act, 1961.

# THE MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.

## PREAMBLE

## MAHARASHTRA ACT NO. I OF 1972.

An Act to provide for the recognition of trade unions for facilitating collective bargaining for certain undertakings, to state their rights, and obligations; to confer certain powers on Unrecognised unions; to provide for declaring certain strikes and lock-outs as illegal strikes and lock-outs; to define and provide for the prevention of certain unfair labour practices; to constitute courts (as independent machinery) for carrying out the purposes of according recognition to trade unions and for enforcing the provisions relating to unfair practices; and to provide for matters connected with the purposes aforesaid. WHEREAS, by Government Resolution, Industries and Labour Department, No. IDA. 1367-LAB-II, dated the 14th February 1968, the Government of Maharashtra appointed a Committee called "the Committee on Unfair Labour Practices" for defining certain activities of employers and workers and their organisations which should be treated as unfair labour practices and for suggesting action which should be taken against employers or workers, or their organisations, for engaging in such unfair labour practices; AND

WHEREAS, after taking into consideration the report of the Committee Government is of opinion that it is expedient to provide for the recognition of trade unions for facilitating collective bargaining for certain undertakings; to state their rights and obligations; to confer certain powers on Unrecognised unions; to provide for declaring certain strikes and lock-outs as illegal strikes and lock-outs; to define and provide for the prevention of certain unfair labour practices; to constitute courts (as independent machinery) for carrying out the purposes of according recognition to trade unions and for enforcing provisions relating to unfair practices; and to provide for matters connected with the purposes aforesaid; It is hereby enacted in the Twenty-second Year of the Republic of India as follows :-

**1. SHORT TITLE. -** This Act may be called the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

**2. EXTENT, COMMENCEMENT AND APPLICATION. –**

(1) This Act extends to the whole of the State of Maharashtra.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas and for different provision of this Act.

(3) Except as otherwise hereinafter provided, this Act shall apply to the industries to which the Bombay Industrial Relations Act, 1946, Bom. XI of 1947, for the time being applies, and also to any industry as defined in clause (j) of section 2 of the Industrial

Disputes Act, 1947, XIV of 1947, and the State Government in relation to any industrial dispute concerning of such industry is the appropriate Government under that Act :

Provided that, the State Government may, by notification in the Official Gazette, direct that the provisions of this Act shall cease to apply to any such industry from such date as may be specified in the notification; and from that date, the provisions of this Act shall cease to apply to that industry and, thereupon, section 7 of the Bombay General Clauses Act, 1904, Bom. I of 1944, shall apply to such cess or, as if this Act has been repealed in relation to such industry by a Maharashtra Act.

**3. DEFINITIONS. -** In this Act, unless the context requires otherwise, -

(1) "**Bombay Act**" means the Bombay Industrial Relations Act, 1946, Bom. XI of 1947;

(2) "**Central Act**" means the Industrial Disputes Act, 1947, XIV of 1947;

(3) "**concern**" means any premises including the precincts thereof where any industry to which the Central Act applies is carried on;

(4) "**Court**" for the purposes of Chapters VI and VII means the Industrial Court, or as the case may be, the Labour Court:

(5) "**employee**" in relation to an industry to which the Bombay Act for the time being applies, means an employee as defined in clause (13) of section 3 of the Bombay Act; and in any other case, means a workman as defined in clause (s) of section 2 of the Central Act;

(6) "**employer**" in relation to an industry to which the Bombay Act applies, means an employer as defined in clause (14) of section 3 of the Bombay Act; and in any other case, means an employer as defined in clause (g) of section 2 of the Central Act;

(7) "**Industry**" in relation to an industry to which the Bombay Act applies means an industry as defined in clause (19) of section 3 of the Bombay Act, and in any other case, means an industry as defined in clause (j) of section 2 of the Central Act;

(8) "**Industrial Court**" means an Industrial Court constituted under section 4;

(9) "**Investigating Officer**" means an officer appointed under section 8;

(10) "**Labour Court**" means a Labour Court constituted under section 6;

(11) "**member**" means a person who is an ordinary member of a union, and has paid a subscription to the union of not less than 50 paise per calender month :

Provided that, no person shall at any time be deemed to be a member, if his subscription is in arrears for a period of more than three calendar months during the

period of a six months immediately preceding such time, and the expression "**membership**" shall be construed, accordingly.

**Explanation :** A subscription for a calender month shall, for the purpose of this clause, be deemed to be in arrears, if such subscription is not paid within three months after the end of the calender months in respect of which it is due;

(12) "**order**" means an order of the Industrial or Labour Court;

(13) "**recognised union**" means a union which has been issued a certificate of recognition under Chapter III;

(14) "**Schedule**" means a Schedule to this Act;

(15) "**undertaking**" for the purposes of Chapter III, means any concern in industry to be one undertaking for the purpose of that Chapter :

Provided that, the State Government may notify a group of concerns owned by the same employer in any industry to be undertaking for the purpose of that Chapter;

(16) "**unfair labour practices**" means unfair labour practice as defined in section 26;

(17) "**union**" means a trade union of employees, which is registered under the Trade Unions Act, 1926;

(18) words and expressions used in this Act and not defined therein, but defined in the Bombay Act, shall, in relation to an industry to which the provisions of the Bombay Act apply, have the meanings assigned to them by the Bombay Act; and in other case, shall have the meanings assigned to them by the Central Act.

**4. INDUSTRIAL COURT. –**

(1) The State Government shall by notification in the Official Gazette, constitute an Industrial Court.

(2) The Industrial Court, shall consist of not less than three members, one of whom shall be the President.

(3) Every member of the Industrial Court shall be a person who is not connected with the complaint referred to that Court, or with any industry directly affected by such complaint:

Provided that, every member shall be deemed to be connected with a complaint or with an industry by reason of his having shares in a company which is connected with, or likely to be affected by, such complaint, unless he discloses to the State Government the nature and extent of the shares held by him in such company and in the opinion of the State Government recorded in writing, such member is not connected with the complaint, or the industry.

(4) Every member of the Industrial Court shall be a person who is or has been a Judge of a High Court or is eligible for being appointed a Judge of such Court :

Provided that, one member may be a person who is not so eligible, if he possesses in the opinion of the State Government expert knowledge of labour or industrial matters.

**5. DUTIES OF INDUSTRIAL COURT. -** It shall be the duty of the Industrial Court –

(a) to decide an application by a union for grant of recognition to it;

(b) to decide an application by a union for grant of recognition to it in place of a union which has already been recognised under this Act;

(c) to decided an application from another union or an employer for withdrawal or cancellation of the recognition of a union;

(d) to decide complaints relating to unfair labour practices except unfair labour practices falling in item 1 of Schedule IV;

(e) to assign work, and to give directions, to the Investigating Officers in matters of verification of membership of unions, and investigation of complaints relating to unfair labour practices;

(f) to decide references made to it on any point of law either by any civil or criminal court; and

(g) to decide appeals under section 42.

**6. LABOUR COURT. -** The State Government shall, by notification in the Official Gazette, constitute one or more Labour Courts, having jurisdiction in such local areas, as may be specified in such notification, and shall appoint persons having the prescribed qualifications to preside over such Courts:

Provided that, no person shall be so appointed, unless he possesses qualifications (other than the qualification of age), prescribed under Article 234 of the Constitution for being eligible to enter the judicial service of the State of Maharashtra; and is not more than sixty years of age.

**7. DUTIES OF LABOUR COURT. -** It shall be the duty of the Labour Court to decide complaints relating to unfair labour practices described in item 1 of Schedule IV and to try offences punishable under this Act.

**8. INVESTIGATING OFFICERS. -** The State Government may, by notification in the Official Gazette, appoint such number of Investigating Officers for any area as it may consider necessary, to assist the Industrial Court and Labour Courts in the discharge of their duties.

**9. DUTIES OF INVESTIGATING OFFICERS. –**

(1) The Investigating Officer shall be under the control of the Industrial Court, and shall exercise powers and perform duties imposed on him by the Industrial Court.

(2) It shall be the duty of an Investigating Officer to assist the Industrial Court in matters of verification of membership of unions, and assist the Industrial and Labour Courts for investigating into complaints relating to unfair labour practices.

(3) It shall also be the duty of an Investigating Officer to report to the Industrial Court, or as the case may be, the Labour Court the existence of any unfair labour practices in any industry or undertaking, and the name and address of the persons said to be engaged in unfair labour practices and any other information which the Investigating Officer may deem fit to report to the Industrial Court, or as the case may be, the Labour Court.

**10. APPLICATION OF CHAPTER III. –**

(1) Subject to the provisions of sub-sections (2) and (3), the provisions of this Chapter shall apply to every undertaking, wherein fifty or more employees are employed, or were employed on any day of the preceding twelve months :

Provided that, the State Government may, after giving not less than sixty days' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Chapter to any undertaking, employing such number of employees less than fifty as may be specified in the notification.

(2) The provisions of this Chapter shall not apply to undertakings in industries to which the provisions of the Bombay Act for the time being apply.

(3) If the number of employees employed in any undertaking to which the provisions of this Chapter apply at any time falls below fifty continuously for a period of one year, those provisions shall cease to apply to such undertaking.

**11. APPLICATION FOR RECOGNITION OF UNION. -** (1) Any union (hereinafter referred to as the "applicant-union") which has for the whole of the period of six calendar months immediately preceding the calendar month in which it so applies under this section a membership of not less than thirty per cent. of the number of employees employed in any undertaking may apply in the prescribed form to the Industrial Court for being registered as a recognised union for such undertaking.
(2) Every such application shall be disposed of by the Industrial Court as far as possible within three months from the date of receipt of the application, where a group of concerns in any industry which is notified to be one undertaking for which recognition is applied for is situated in the same local area; and in any other case, within four months.

**Explanation : 'Local area'** for the purposes of this sub-section means the area which the State Government may, by notification in the Official Gazette, specify in the notification.

**12. RECOGNITION OF UNION. –**

(1) On receipt of an application from a union for recognition under section 11 and on payment of the prescribed fees, not exceeding rupees five the Industrial Court shall, if it finds the application on a preliminary scrutiny to be in order, cause notice to be displayed on the notice board of the undertaking, declaring its intention to consider the said application on the date specified in the notice, and calling upon the other union or unions, if any, having membership of employees in that undertaking and the employers and employees affected by the proposal to show cause, within a prescribed time, as to why recognition should not be granted to the applicant-union.

(2) If, after considering the objections, if any, that may be received under sub-section (1) from any other union (hereinafter referred to as "other union") or employers or employees, if any, and if after holding such enquiry in the matter as it deems fit, the Industrial Court comes to the conclusion that the conditions requisite for registration specified in section 11 are satisfied, and the applicant-union also complies with the conditions specified in section 19 of this Act, the Industrial Court shall, subject to the provisions of this section, grant recognition to the applicant-union under this Act, and issue a certificate of such recognition in such form as may be prescribed.

(3) If the Industrial Court comes to the conclusion, that any of the other unions has the largest membership of employees employed in the undertaking, and the said other union has notified to the Industrial Court its claim to be registered as a recognised union for such undertaking, and if it satisfies the conditions requisite for recognition specified in section 11, and also complies with the conditions specified in section 19 of this Act, the Industrial Court shall, subject to the provisions of this section, grant such recognition to the other union, and issue a certificate of such recognition in such form as may be prescribed.

**Explanation :** For the purpose of this sub-section, the other union shall be deemed to have applied for recognition in the same calendar month as the applicant-union.

(4) There shall not, at any time, be more than one recognised union in respect of the same undertaking.

(5) The Industrial Court shall not recognise any union, if it is satisfied that the application for its recognition is not made bona fide in the interest of the employees, but is made in the interest of the employer, to the prejudice of the interest of the employees.

(6) The Industrial Court shall not recognise any union, if, at any time, within six months immediately preceding the date of the application for recognition, the union has instigated, aided or assisted the commencement or continuation of a strike which is deemed to be illegal under this Act.

**13. CANCELLATION OF RECOGNITION AND SUSPENSION OF RIGHTS. –**

(1) The Industrial Court shall cancel the recognition of a union if after giving notice to such union to show cause why its recognition should not be cancelled, and after holding an inquiry, it is satisfied, -

(i) that it was recognised under mistake, misrepresentation or fraud; or

(ii) that the membership of the union has, for a continuous period of six calendar months, fallen below the minimum required under section 11 for its recognition :

Provided that, where a strike (not being an illegal strike under the Central Act) has extended to a period exceeding fourteen days in any calendar month, such month shall be excluded in computing the said period of six months :

Provided further that, the recognition of a union shall not be cancelled under the provisions of this sub-clause, unless its membership for the calendar month in which show cause notice under this section was issued was less than such minimum; or

(iii) that the recognised union has, after its recognition, failed to observe any of the conditions specified in section 19; or

(iv) that the recognised union is not being conducted bona fide in the interest of employees, but in the interests of employer to the prejudice of the interest of employees; or

(v) that it has instigated, aided or assisted the commencement or continuation of a strike which is deemed to be illegal under this Act; or

(vi) that its registration under the Trade Unions Act, 1926, XVI of 1926 is cancelled; or

(vii) that another union has been recognised in place of a union recognised under this Chapter.

(2) The Industrial Court may cancel the recognition of a union if, after giving notice to such union to show cause why its recognition should not be cancelled, and after holding an inquiry, it is satisfied, that it has committed any practice which is, or has been declared as, an unfair labour practice under this Act :

Provided that, if having regard to the circumstances in which such practice has been committed, the Industrial Court is of opinion, that instead of cancellation of the recognition of the union, it may suspend all or any of its rights under sub-section (1) of section 20 or under section 23, the Industrial Court may pass an order accordingly, and specify the period for which such suspension may remain in force.

**14. RECOGNITION OF OTHER UNION. –**

(1) If any union makes an application to the Industrial Court for being registered as a recognised union in place of a recognised union already registered as such (hereinafter in this section referred to as the "recognised union") for an undertaking, on the ground that it has the largest membership of employees employed in such undertaking, the Industrial Court shall, if a period of two years has elapsed since the date of registration of the recognised union, call upon the recognised union by a notice in writing to show cause, within thirty days of the receipt of such notice, as to why the union now applying should not be recognised in its place.

An application made under this sub-section shall be accompanied by such fee not exceeding rupees five as may be prescribed :

Provided that, the Industrial Court may not entertain any application for registration of a union, unless a period of one year has elapsed since the date of disposal of the previous application of that union.

(2) If, on the expiry of the period of notice under sub-section (1), the Industrial Court finds, on preliminary scrutiny, that the application made is in order, it shall cause notice to be displayed on the notice board of the undertaking, declaring its intention to consider the said application on the date specified in the notice, and calling upon other union or unions, if any, having membership of employees in that undertaking, employer and employees affected by the proposal to show cause within a prescribed time as to why recognition should not be granted.

(3) If, after considering the objections, if any, that may be received under sub-section (2) and if, after holding such enquiry as it deems fit (which may include recording of evidence of witnesses and hearing of parties), the Industrial Court comes to the conclusion that the union applying complies with the conditions necessary for recognition specified in section 11 and that its membership was, during the whole of the period of six calendar months immediately preceding the calendar months, in which it made the application under this section, larger than the membership of the recognised union, then the Industrial Court shall, subject to the provisions of section 12 and this section, recognise the union applying in place of the recognised union, and issue a certificate of recognition in such form as may be prescribed.

(4) If the Industrial Court comes to the conclusion that any of the other unions has the largest membership of employees in the undertaking, and such other union has notified to the Industrial Court its claim to be registered as a recognised union for such undertaking, and if, such other union satisfies the conditions requisite for recognition under section 11 and complies with the conditions specified in section 19 of this Act, the Industrial Court shall grant such recognition to such other union, and issue a certificate of such recognition is such form as may be prescribed.
**Explanation:** For the purpose of this sub-section, the other union shall be deemed to have applied for recognition in the same calendar month as the applicant-union.

(5) Every application under this section shall be disposed of by the Industrial Court as far as possible, within three months, from the date of receipt of the application, where a group of concerns in any industry which is notified to be one undertaking for

which recognition is applied for is situated in the same local area; and in any other case, within four months.

**Explanation :** "**local area**" for the purposes of this sub-section means the area which the State Government may, by notification in the Official Gazette, specify in such notification.

**15. APPLICATION FOR RE-RECOGNITION. –**

(1) Any union the recognition of which has been cancelled on the ground that it was recognised under a mistake or on the ground specified in clause (ii) section 13, may, at any time after three months from the date of such cancellation and on payment of such fees as may be prescribed apply again to the Industrial Court for recognition; and thereupon the provisions of sections 11 and 12 shall apply in respect of such application as they apply in relation to an application under section 11.

(2) A union, the recognition of which has been cancelled on any other ground, shall not, save with the permission of the industrial Court, be entitled to apply for re-recognition within a period of one year from the date of such cancellation.

**16. LIABILITY OF UNION OR MEMBERS NOT RELIEVED BY CANCELLATION. -** Notwithstanding anything contained in any law for the time being in force, the cancellation of the recognition of a union shall not relieve the union or any member thereof from any penalty or liability incurred under this Act prior to such cancellation.

**17. PUBLICATION OF ORDER. -** Every order passed under sections 12, 13, 14 or 15 shall be final, and shall be caused to be published by the Industrial Court in the prescribed manner.

**18. RECOGNITION OF UNION FOR MORE THAN ONE UNDERTAKING. -** Subject to the foregoing provisions of this Chapter, a union may be recognised for more than one undertaking.

**19. OBLIGATIONS OF RECOGNISED UNION. -** The rules of a union seeking recognition under this Act shall provide for the following matters, and the provisions thereof shall be duly observed by the upon, namely :-

(i) the membership subscription shall be not less than fifty paise per month;

(ii) the Executive Committee shall meet at intervals of not more than three months;

(iii) all resolutions passed, whether by the Executive Committee or the general body of the union, shall be recorded in a minute book kept for the purpose;

(iv) an auditor appointed by the State Government may audit its account at least once in each financial year.

**20. RIGHTS OF RECOGNISED UNION. –**

(1) Such officers, members of the office staff and members of a recognised union as may be authorised by or under rules made in this behalf by the State Government shall, in such manner and subject to such conditions as may be prescribed, have a right, -

(a) to collect sums payable by members to the union on the premises, where wags are paid to them;

(b) to put up or cause to be put up a notice-board on the premises of the undertaking in which its members are employed and affix or cause to be affixed notice thereon;

(c) for the purpose of the prevention or settlement of an industrial dispute, -

(i) to hold discussions on the premises of the undertaking with the employees concerned, who are the members of the union but so as not to interfere with the due working of the undertaking;

(ii) to meet and discuss, with an employer or any person appointed by him in that behalf, the grievances of employees employed in his undertaking;

(iii) to inspect, if necessary, in an undertaking any place where any employee of the undertaking is employed;

(d) to appear on behalf of any employee or employees in any domestic or departmental inquiry held by the employer.

(2) Where there is a recognised union for any undertaking, -

(a) that union alone shall have the right to appoint its nominees to represent workmen on the Works Committee constituted under section 3 of the Central Act;

(b) no employee seal be allowed to appear or act or be allowed to be represented in any proceedings under the Central Act (not being a proceeding in which the legality or propriety of an order of dismissal, discharge, removal, retrenchment, termination of service, or suspension of an employee is under consideration), except through the recognised union; and the decision arrived at, or order made, in such proceeding shall be binding on all the employees in such undertaking; and accordingly, the provisions of the Central Act, that is to say, the Industrial Disputes Act, 1947, XIV of 1947, shall stand amended in the manner and to the extent specified in Schedule I.

**21. RIGHT TO APPEAR OR ACT IN PROCEEDINGS RELATING OF CERTAIN UNFAIR LABOUR PRACTICES. –**

(1) No employee in an undertaking to which the provisions of the Central Act for the time being apply, shall be allowed to appear or act or allowed to be represented in any proceedings relating to unfair labour practices specified in items 2 and 6 of Schedule IV of this Act except through the recognised union :

Provided that, where there is no recognised union to appear, the employee may himself appear or act in any proceeding relating to any such unfair labour practices.

(2) Notwithstanding anything contained in the Bombay Act, no employee in any industry to which the provisions of the Bombay Act for the time being apply, shall be allowed to appear or act or allowed to be represented in any proceeding relating to unfair labour practices specified in items 2 and 6 of Schedule IV of this Act except through the representative of employees entitled to appear under section 30 of the Bombay Act.

**22. RIGHTS OR UNRECOGNISED UNIONS. -** Such officers, members of the office staff and members of any union (other than a recognised union) as may be authorised by or under the rules made in this behalf by the State Government shall, in such manner and subject to such conditions as may be prescribed, have a right –

(i) to meet and discuss with an employer or any person appointed by him in that behalf, the grievances of any individual member relating to his discharge, removal, retrenchment, termination of service and suspension;

(ii) to appear on behalf of any of its members employed in the undertaking in any domestic or departmental inquiry held by the employer.

**23. EMPLOYEES AUTHORISED BY RECOGNISED UNION TO APPEAR OR IN CERTAIN PROCEEDINGS TO BE CONSIDERED AS ON DUTY. -** Not more than two members of a recognised union duly authorised by it in writing who appear or act on its behalf in any proceeding under the Central Act or the Bombay Act or under this Act shall be deemed to be on duty on the days on which such proceedings actually take place, and accordingly, such member or members shall, on production of a certificate from the authority or the court before which he or they appeared or acted to the effect that he or they so appeared or acted on the days specified in the certificate, be entitled to be paid by his or their employer his or their salary and allowances which would have been payable for those days as if he or they had attended duty on those days.
**Explanation :** For the purpose of this section "**recognised union**" includes a representative union under the Bombay Act.

**24. ILLEGAL STRIKE AND LOCK-OUT. -** In this Act, unless the context requires otherwise, - (1) "illegal strike" means a strike which is commenced or continued –

(a) without giving to the employer notice of strike in the prescribed form, or within fourteen days of the giving of such notice;

(b) where there is a recognised union, without obtaining the vote of the majority of the members of the union, in favour of the strike before the notice of the strike is given;

(c) during the pendency of conciliation proceeding under the Bombay Act or the Central Act and seven days after the conclusion of such proceeding in respect of matters covered by the notice of strike;

(d) where submission in respect of any of the matters covered by the notice of strike is registered under section 66 of the Bombay Act, before such submission, is lawfully revoked;

(e) where an industrial dispute in respect of any of the matters covered by the notice of strike has been referred to the arbitration of a Labour Court or the Industrial Court voluntarily under sub-section (6) of section 58 or section 71 of the Bombay Act, during the arbitration proceedings or before the date on which the arbitration proceedings are completed or the date on which the award of the arbitrator comes into operation, whichever is later;

(f) during the pendency of arbitration proceedings before an arbitrator under the Central Act and before the date on which the arbitration proceedings are concluded, if such proceedings are in respect of any of the matters covered by the notice of strike;

(g) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sections 72, 73 or 73-A of the Bombay Act, during such arbitration proceedings or before the date on which the proceeding is completed or the date on which the award of the Court comes into operation, whichever is later, if such proceedings are in respect of any of the matters covered by the notice of strike;

(h) in cases where an industrial dispute has been referred to the adjudication of the Industrial Tribunal or Labour Court under the Central Act, during the pendency of such proceeding before such authority and before the conclusion of such proceeding, if such proceeding is in respect of any of the matters covered by notice of strike :

Provided that, nothing in clauses (g) and (h) shall apply to any strike, where the union has offered in writing to submit the industrial dispute to arbitration under sub-section (6) of section 58 of the Bombay Act or section 10-A of the Central Act, and

(i) the employer does not accept the offer; or
(ii) the employer accepts the offer but disagreeing on the choice of the arbitrator, does not agree to submit the dispute to arbitration without naming an arbitrator as provided in the Bombay Act, and thereafter, the dispute has been referred for arbitration of the Industrial Court under section 73-A of the Bombay Act, or where the Central Act applies, while disagreeing on the choice of the arbitrator, the employer

does not agree to submit the dispute to arbitration of the arbitrator recommended by the State Government in this behalf, and thereafter, the dispute has been referred for adjudication of the Industrial Tribunal or the Labour Court, as the case may be, under the Central Act; or

(i) during any period in which any settlement or award is in operation, in respect of any of the matters covered by the settlement or award;

(2) "illegal lock-out" means a lock-out which is commenced or continued - (a) without giving to the employees, a notice of lock-out in the prescribed form or within fourteen days of the giving of such notice;

(b) during the pendency of conciliation proceeding under the Bombay Act or the Central Act and seven days after the conclusion of such proceeding in respect of any of the matters covered by the notice of lock-out;

(c) during the period when a submission in respect of any of the matters covered by the notice of lock-out is registered under section 66 of the Bombay Act, before such submission is lawfully revoked;

(d) where an industrial dispute in respect of matter covered by the notice of lock-out has been referred to the arbitration of a Labour Court or the Industrial Court voluntarily under sub-section (6) of section 58 or section 71 of the Bombay Act, during the arbitration proceeding or before the date on which the arbitration proceeding is completed or the date on which the award of the arbitrator comes into operation, whichever is later;

(e) during the pendency of arbitration proceedings before an arbitrator under the Central Act and before the date on which the arbitration proceedings are concluded, if such proceedings are in respect of any of the matters covered by the notice of lock-out;

(f) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court compulsorily under sections 72, 73 or 73-A of the Bombay Act, during such arbitration proceeding or before the date on which the proceeding is completed, or the date on which the award of the Court comes into operation, whichever is later, if such proceedings are in respect of any of the matters covered by the notice of lock-out; or

(g) in cases where an industrial dispute has been referred to the adjudication of the Industrial Tribunal or Labour Court under the Central Act, during the pendency of such proceeding before such authority and before the conclusion of such proceeding, if such proceeding is in respect of any of the matters covered by the notice of lock-out :

Provided that, nothing in clauses (f) and (g) shall apply to any lock-out where the employer has offered in writing to submit the industrial dispute to arbitration under sub-section (6) of section 58 of the Bombay Act, or section 10-A of the Central Act; and

(i) the union does not accept the offer;

(ii) the union accepts the offer, but disagreeing on the choice of the arbitrator, does not agree to submit the dispute to arbitration without naming an arbitrator as provided in the Bombay Act, and thereafter, the dispute has been referred for arbitration of the Industrial Court under section 73-A of the Bombay Act; or where the Central Act applies, while disagreeing on the choice of the arbitrator the union does not agree to submit the dispute to arbitration of the arbitrator recommended by the State Government in this behalf and thereafter, the dispute has been referred for adjudication of the Industrial Tribunal or the Labour Court, as the case may be, under the Central Act;

(h) during any period in which any settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

**25. REFERENCE OF LABOUR COURT FOR DECLARATION WHETHER STRIKE OR LOCK-OUT IS ILLEGAL. –**

(1) Where the employees in any undertaking have proposed to go on strike or have commenced a strike, the State Government or the employer of the undertaking may make a reference to the Labour Court for a declaration that such strike is illegal.

(2) Where the employer of any undertaking has proposed a lock-out or has commenced a lock-out, the State Government or the recognised union or, where there is or recognised union, any other union of the employees in the undertaking may make a reference to the Labour Court for a declaration whether such lock-out will be illegal.

**Explanation :** For the purposes of this section, recognised union includes a representative union under the Bombay Act.

(3) No declaration shall be made under this section, save in the open Court.

(4) The declaration made under this section, shall be recognised as binding, and shall be followed in all proceedings under this Act.

(5) Where any strike or lock-out declared to be illegal under this section is withdrawn within forty-eight hours of such declaration, such strike or lock-out shall not, for the purposes of this Act, be deemed to be illegal under this Act.

**26. UNFAIR LABOUR PRACTICES. -** In this Act, unless the context requires otherwise, 'unfair labour practices' mean any of the practices listed in Schedule II, III and IV.

**27. PROHIBITION ON ENGAGING IN UNFAIR LABOUR PRACTICES. -** No employer or union and no employees shall engage in any unfair labour practice.

**28. PROCEDURE FOR DEALING WITH COMPLAINTS RELATING TO UNFAIR LABOUR PRACTICES. –**

(1) Where any person has engaged in or is engaging in any unfair labour practice, then any union or any employee or any employer or any Investigating Officer may, within ninety days of the occurrence of such unfair labour practice, file a complaint before the Court competent to deal with such complaint either under section 5, or as the as the case may be, under section 7, of this Act :

Provided that, the Court may entertain a complaint after the period of ninety days from the date of the alleged occurrence, if good and sufficient reasons are shown by the complainant for the late filing of the complaint.

(2) The Court shall take a decision on every such complaint as far as possible within a period of six months from the date of receipt of the complaint.

(3) On receipt of a complaint under sub-section (1), the Court may, if it so considers necessary, first cause an investigation into the said complaint to be made by the Investigating Officer, and direct that a report in the matter may be submitted by him to the Court, within the period specified in the direction.

(4) While investigating into any such complaint, the Investigating Officer may visit the undertaking, where the practice alleged is said to have occurred, and make such enquiries as he considers necessary. He may also make efforts to promote settlement of the complaint.

(5) The Investigating Officer shall, after investigating into the complaint under sub-section (4) submit his report to the Court, within the time specified by it, setting out the full facts and circumstances of the case, and the efforts made by him in settling the complaint. The Court shall, on demand and on payment of such fee as may be prescribed by rules, supply a copy of the report to the complainant and the person complained against.

(6) If, on receipt of the report of the Investigating Officer, the Court finds that the complaint has not been settled satisfactorily, and that facts and circumstances of the case require, that the matter should be further considered by it, the Court shall proceed to consider it, and give its decision.

(7) The decision of the Court, which shall be in writing, shall be in the form of an order.

The order of the Court shall be final and shall not be called in question in any civil or criminal court.

(8) The Court shall cause its order to be published in such manner as may be prescribed. The order of the Court shall become enforceable from the date specified in the order.

(9) The Court shall forward a copy of its order to the State Government and such officers of the State Government as may be prescribed.

**29. PARTIES ON WHOM ORDER OF COURT SHALL BE BINDING. -** An order of the Court shall be binding on –

(a) all parties to the complaint;

(b) all parties who were summoned to appear as parties to the complaint, whether they appear or not, unless the Court is of opinion that they were improperly made parties;

(c) in the case of an employer who is a party to the complaint before such Court in respect of the undertakings to which the complaint relates, his heirs, successors or assigns in respect of the undertaking to which the complaint relates; and

(d) where the party referred to in clause (a) or clause (b) is composed of employees, all persons, who on the date of the complaint, are employed in the undertaking to which the complaint relates and all persons who may be subsequently employed in the undertaking.

**30. POWERS OF INDUSTRIAL AND LABOUR COURTS. –**

(1) Where a Court decides that any person named in the complaint has engaged in, or is engaging in, any unfair labour practice, it may in its order -

(a) declare that an unfair practice has been engaged in or is being engaged in by that person, and specify any other person who has engaged in, or is engaging in the unfair labour practice;

(b) direct all such persons to cease and desist from such unfair labour practice, and take such affirmative action (including payment of reasonable compensation to the employee or employees affected by the unfair labour practice, or reinstatement of the employee or employees with or without back wages, or the payment of reasonable compensation), as may in the opinion of the Court be necessary to effectuate the policy of the Act;

(c) where a recognised union has engaged in or is engaging in, any unfair labour practice, direct that its recognition shall be cancelled or that all of any or its rights under sub-section (1) of section 20 or its right under section 23 shall be suspended.

(2) In any proceeding before it under this Act, the Court, may pass such interim order (including any temporary relief or restraining order) as it deems just and proper (including directions to the person to withdraw temporarily the practice complained of, which is an issue in such proceeding), pending final decision :

Provided that, the Court may, on an application in that behalf, review any interim order passed by it.

(3) For the purpose of holding an enquiry or proceeding under this Act, the Court shall have the same powers as are vested in Courts in respect of –

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person, and examining him on oath;

(c) compelling the production of documents; and

(d) issuing commissions for the examination of witnesses.

(4) The Court shall also have powers to call upon any of the parties to proceedings before it to furnish in writing, and in such forms as it may think proper, any information, which is considered relevant for the purpose of any proceedings before it, and the party so called upon shall thereupon furnish the information to the best of its knowledge and belief, and if so required by the Court to do so, verify the same in such manner as may be prescribed.

**31. CONSEQUENCES OF NON-APPEARANCE OF PARTIES. –**

(1) Where in any proceeding before the Court, if either party, inspite of notice of hearing having been duly served on it, does not appear, when the matter is called on for hearing the Court may either adjourn the hearing of the matter to a subsequent day, or proceed ex parte, and make such order as it thinks fit.

(2) Where any order is made ex parte under sub-section (1), the aggrieved party may, within thirty days of the receipt of the copy thereof, make an application to the Court to set aside such order.

If the Court is satisfied that there was sufficient cause for non-appearance of the aggrieved party, it may set aside the order so made, and shall appoint a date for proceeding with the matter:

Provided that, no order shall be set aside on any such application as aforesaid, unless notice thereof has been served on the opposite party.

**32. POWER OF COURT TO DECIDE ALL CONNECTED MATTERS. -** Notwithstanding anything contained in this Act, the Court shall have the power to decide all matters arising out of any application or a complaint referred to it for the decision under any of the provisions of this Act.

**33. REGULATION TO BE MADE BY INDUSTRIAL COURT. –**

(1) The Industrial Court may make regulations consistent with the provisions of this Act and rules made thereunder regulating its procedure.

(2) In particular, and without prejudice to the generality of the foregoing power such regulations may provide for the formation of Benches consisting of one or more of its members (including provision for formation of a Full Bench consisting of three or more members) and the exercise by such Bench of the jurisdiction and powers vested in them:

Provided that, no Bench shall consist only of a member, who has not been, and at the time of his appointment, was not eligible for appointment as a Judge of a High Court.

(3) Every regulation made under this section shall be published in the Official Gazette.

(4) Every proceeding before the Court shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, XLV of 1860.

(5) The Court shall have power to direct by whom the whole or any part of the costs of any proceeding before it shall be paid : Provided that, no such costs shall be directed to be paid for the service of any legal adviser engaged by any party.

**34. EXECUTION OF ORDER AS TO COSTS. -** An order made by the Court regarding the costs of a proceeding may be produced before the Court of the Civil Judge within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or where such place is within the local limits of the ordinary civil jurisdiction of the High Court, before the Court of small Causes of Bombay, and such Court shall execute such order in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

**35. LAW DECLARED BY INDUSTRIAL COURT TO BE BINDING. -** The determination of any question of law in any order, decision, or declaration passed or made, by the Full Bench of the Industrial Court constituted under the regulations made under section 33 shall be binding and shall be followed in all proceedings under this Act.

**36. AUTHORISED OFFICER TO APPEAR IN ANY PROCEEDING BEFORE COURT. -** The State Government may authorise, and direct any officer of Government to appear in any proceeding before the Court by giving notice to such Court; and on such notice being given, such officer shall be entitled to appear in such proceeding and to be heard by the Court.

**37. POWERS OF INVESTIGATING OFFICERS. –**

(1) An Investigating Officer shall exercise the powers conferred on him by or under this Act, and shall perform such duties as may be assigned to him, from time to time, by the Court.

(2) For the purpose of exercising such powers and performing such duties, an investigating Officer may, subject to such conditions as may be prescribed, at any time during working hours, and outside working hours after reasonable notice, enter and inspect –

(a) any place used for the purpose of any undertaking;

(b) any place used as the office of any union;

(c) any premises provided by an employer for the residence of his employees; and shall be entitled to call for and inspect all relevant documents which he may deem necessary for the due discharge of his duties and powers under this Act.

(3) All particulars contained in, or information obtained from, any document inspected or called for under sub-section (2) shall, if the person, in whose possession the document was, so requires, be treated as confidential.

(4) An Investigating Officer may, after giving reasonable notice, convene a meeting of employees for any of the purposes of this Act, on the premises where they are employed, and may require the employer to affix a written notice of the meeting at such conspicuous place in such premises as he may order, and may also himself affix or cause to be affixed such notice.

The notice shall specify the date, time and place of the meeting, the employees or class of employees affected, and the purpose for which the meeting is convened :

Provided that, during the continuance of a lock-out which is not illegal, no meeting of employees affected thereby shall be convened on such premises without the employer's consent.

(5) An Investigating Officer shall be entitled to appear in any proceeding under this Act.

(6) An Investigating Officer may call for and inspect any document which he has reasonable ground for considering to be relevant to the complaint or to be necessary for the purpose of verifying the implementation of any order of the Court or carrying

out any other duty imposed on him under this Act, and for the aforesaid purposes the Investigating Officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (V of 1908) in respect of compelling the production of documents.

**38. POWERS OF LABOUR COURT IN RELATION TO OFFENCES. –**

(1) A Labour Court shall have power to try offences punishable under this Act.

(2) Every offences punishable under this Act shall be tries by a Labour Court within the limits of whose jurisdiction it is committed.

**39. COGNIZANCE OF OFFENCE. -** No Labour Court shall take cognizance of any offence except on a complaint of facts constituting such offence made by the person affected thereby or a recognised union or on a report in writing by the Investigating Officer.

**40. POWERS AND PROCEDURE OF LABOUR COURTS IN TRIALS. -** In respect of offences punishable under this Act, a Labour Court shall have all the powers under the Code of Criminal Procedure, 1898, V of 1898, of Presidency Magistrate in Greater Bombay and a Magistrate of the First Class elsewhere, and in the trial of every such offence, shall follow the procedure laid down in Chapter XXII of the said Code for a summary trial in which an appeal lies; and the rest of the provisions of the said Code shall, so far as may be, apply to such trial.

**41. POWERS OF LABOUR COURT TO IMPOSE HIGHER PUNISHMENT. -** Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, V of 1898, it shall be lawful for any Labour Court to pass any sentence authorised under this Act in excess of its powers under section 32 of the said Code.

**42. APPEAL. –**

(1) Notwithstanding any thing contained in section 40, an appeal shall lie to the Industrial Court - (a) against a conviction by a Labour Court, by the person convicted;

(b) against an acquittal by a Labour Court in its special jurisdiction, by the complainant;

(c) for enhancement of a sentence awarded by a Labour Court in its special jurisdiction, by the State Government.

(2) Every appeal shall be made within thirty days from the date of the conviction, acquittal or sentence, as the case may be :

Provided that, the Industrial Court may, for sufficient reason, allow an appeal after the expiry of the said period.

**43. POWERS OF INDUSTRIAL COURT. –**

(1) The Industrial Court in an appeal under section 42 may confirm, modify, to, or rescind any order of the Labour Court appealed against; and may pass such order thereon as it may deem fit.

(2) In respect of offences punishable under this Act, the Industrial Courts shall have all the powers of the High Court of Judicature at Bombay under the Code of Criminal Procedure, 1898, V of 1898.

(3) A copy of the order passed by the Industrial Court shall be sent to the Labour Court.

**44. INDUSTRIAL COURT TO EXERCISE SUPERINTENDENCE OVER LABOUR COURTS. -** The Industrial Court shall have superintendence over all Labour Courts and may, -

(a) call for returns;

(b) make and issue general rules and prescribe forms for regulating the practice and procedure of such Courts in matters not expressly provided for by this Act and in particular, for securing the expeditious disposal of cases;

(c) prescribe form in which books, entries and accounts shall be kept by officers of any such Courts; and

(d) settle a table of fees payable for process issued by a Labour Court or the Industrial Court.

**45. POWER OF INDUSTRIAL COURT TO TRANSFER PROCEEDINGS. -** The Industrial Court may, by order in writing, and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, and transfer the same to another Labour Court for disposal and the Labour Court to which the proceeding is so transferred may dispose of the proceeding, but subject to any special direction in the order of transfer, proceed either de novo or from the stage at which it was so transferred.

**46. ORDERS OF INDUSTRIAL OR LABOUR COURT NOT TO BE CALLED IN QUESTION IN CRIMINAL COURTS. -** No order of a Labour Court or an order of the Industrial Court in appeal in respect of offences tried by it under this Act shall be called in question in any criminal court.

**47. PENALTY FOR DISCLOSURE OF CONFIDENTIAL INFORMATION. -** If an Investigating Officer or any person present at, or concerned in, any proceeding under this Act wilfully discloses any information or the contents of any document in contravention of the provisions of this Act, he shall, on conviction, on a complaint

made by the party who gave the information or produced the document in such proceeding, be punished with fine which may extend to one thousand rupees.

**48. CONTEMPTS OF INDUSTRIAL OR LABOUR COURTS. –**

(1) Any person who fails to comply with any order of the Court under clause (b) of sub-section (1) or sub-section (2) of section 30 of this Act shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to five thousand rupees.

(2) If any person, - (a) when ordered by the Industrial Court or a Labour Court to produce or deliver up any document or to furnish information being legally bound so to do, intentionally omits to do so; or

(b) when required by the Industrial Court or a Labour Court to bind himself by an oath or affirmation to state the truth refuses to do so;

(c) being legally bound to state the truth on any subject to the Industrial Court or a Labour Court refuses to answer any question demanded of him touching such subject by such Court; or

(d) intentionally offers any insult or causes any interruption to the Industrial Court or a Labour Court at any stage of its judicial proceeding, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) If any person refuses to sign any statement made by him, when required to do so, by the Industrial Court or a Labour Court, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(4) If any offence under sub-section (2) or (3), is committed in the view or presence of the Industrial Court or as the case may be, a Labour Court, such Court may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1898, V of 1898 forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of the accused person before such Magistrate or, if sufficient security is not given, shall forward such person in custody to such Magistrate.

The Magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the said Code of Criminal Procedure.

(5) If any person commits any act or publishes any writing which is calculated to improperly influence the Industrial Court, or a Labour Court or to bring such Court or a member or a Judge thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of any such Court, such person shall be deemed to be guilty of contempt of such Court.

(6) In the case of contempt of itself, the Industrial Court shall record the facts constituting such contempt, and make a report in that behalf to the High Court;

(7) In the case of contempt of a Labour Court, such Court shall record the facts constituting such contempt, and make a report in that behalf to the Industrial Court; and thereupon, the Industrial Court may, if it considers it expedient to do so, forward the report to the High Court.

(8) When any intimation or report in respect of any contempt is received by the High Court under sub-sections (6) or (7), the High Court shall deal with such contempt as if it were contempt of itself, and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.

**49. PENALTY FOR OBSTRUCTING OFFICERS FROM CARRYING OUT THEIR DUTIES AND FOR FAILURE TO PRODUCE DOCUMENTS OR TO COMPLY WITH REQUISITION OR ORDER. –**

Any person who wilfully, - (i) prevents or obstructs officers, members of the office staff, or members any union from exercising any of their rights conferred by this Act;

(ii) refuses entry to an Investigating Officer to any place which he is entitled to enter;

(iii) fails to produce any document which he is required to produce; or

(iv) fails to comply with any requisition or order issued to him by or under the provisions of this Act or the rules made thereunder; shall, on conviction, be punished with fine which may extend to five hundred rupees.

**50. RECOVERY OF MONEY DUE FROM EMPLOYER. -** Where any money is due to an employee from an employer under an order passed by the Court under Chapter VI, the employee himself or any other person authorised by him in writing in this behalf, or in the case of death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the Court for the recovery of money due to him, and if the Court is satisfied that any money is so due, its shall issue a certificate for that amount to the Collector, who shall, proceed to recover the same in the same manner as an arrear of land revenue :

Provided that, every such application shall be made within one year from the date on which the money became due to the employee from the employer :

Provided further that, any such application may be entertained after the expiry of the said period of one year, if the Court is satisfied that the applicant had sufficient cause for not making the application within the said period.

**51. RECOVERY OF FINES. -** The amount of any fine imposed under this Chapter shall be recoverable as arrears of land revenue.

**52. PERIODICAL RETURNS TO BE SUBMITTED TO INDUSTRIAL AND LABOUR COURTS. -** Every recognised union shall submit to the Industrial Court and Labour Court on such dates and in such manner as may be prescribed periodical returns of its membership.

**53. MODIFICATIONS OF SCHEDULES. -** (1) The State Government may, after obtaining the opinion of the Industrial Court, by notification in the Official Gazette, at any time make any addition to, or alteration in, any Schedule II, III or IV and may, in the like manner, delete any item therefrom:

Provided that before making any such addition, alteration or deletion, a draft of such addition, alteration or deletion shall be published for the information of all persons likely to be affected thereby, and the State Government shall consider any objections or suggestions that may be received by it from any person with respect thereto.

(2) Every such notification shall, as soon as possible after its issue, be laid by the State Government before the Legislature of the State.

**54. LIABILITY OF EXECUTIVE OF UNION. -** Where anything is required to be done by any union under this Act, the person authorised in this behalf by the executive of the union, and where no person is so authorised, every member of the executive of the union shall be bound to do the same, and shall be personally liable, if default is made in the doing of any such thing.

**Explanation:** For the purpose of this section, the "**executive of a union**" means the body whatever name called to which the management of the affairs of the union is entrusted.

**55. OFFENCE UNDER SECTION 48(1) TO BE COGNIZABLE. -** The offence under sub-section (1) of section 48, shall be cognizable.

**56. CERTAIN OFFICERS TO BE PUBLIC SERVANTS. -** Investigating Officers, a member of the Industrial or Labour Court and a member of the staff of any such Court shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, XLV of 1860.

**57. PROTECTION OF ACTION TAKEN IN GOOD FAITH. -** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done by or under this Act.

**58. PENDING PROCEEDINGS. -** Any proceeding pending before the State Government or before any tribunal or any other authority, or any proceedings relating to the trial of offences punishable under the provisions of the Central Act or Bombay Act before the commencement of this Act shall be continued and completed as if this Act had not been passed and continued in operation, and any penalty imposed in

such proceedings shall be recorded under such Central, or as the case may be, Bombay Act.

**59. BAR OF PROCEEDINGS UNDER BOMBAY OR CENTRAL ACT. -** If any proceeding in respect of any matter falling within the purview of this Act is instituted under this Act, then no proceeding shall at any time be entertained by any authority in respect of that matter under the Central Act or, as the case may be, the Bombay Act; and if any proceeding in respect of any matter within the purview of this Act is instituted under the Central Act, or as the case may be, the Bombay Act, then no proceedings shall at any time be entertained by the Industrial or Labour Court under this Act.

**60. BAR OF SUITS. -** No Civil court shall entertain any suit which forms or which may form the subject-matter of a complaint or application to the Industrial Court of Labour Court under this Act; or which has formed the subject of an interim or final order of the Industrial Court or Labour Court under this Act.

**61. RULES. –**

(1) The State Government may, by notification, in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both House agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment, shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

# THE MAHARASHTRA ACT NO.XXXOF 1969

# THE MAHARASHTRA MATHADI, HAMAL AND OTHER MANUAL WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1969.

## PREAMBLE

An Act for regulating the employment of unprotected manual workers employed in certain employments in the State of Maharashtra to make provision for their adequate supply and proper and full utilization in such employments, and for matters connected therewith.

WHEREAS, it is expedient to regulate the employment of unprotected manual workers such as, Mathadi, Hamal etc., engaged in certain employments, to make better provision for their terms and conditions of employment, to provide for their welfare, and for health and safety measures where such employments require these measures; to make provision for ensuring an adequate supply to, and full and proper utilization of, such workers in such employments to prevent avoidable unemployment; for these and similar purposes, to provide for the establishment of Boards in respect of these employments and (where necessary) in the different areas of the State; and to provide for purpose connected with the matters aforesaid;

It is hereby enacted in the Twentieth Year of the Republic of India as follows: -

## 1. SHORT TITLE, EXTENT, APPLICATION AND COMMENCEMENT. -

(1) This Act may be called the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1969.

(2) It extends to the whole of the State of Maharashtra.

(3) It applies to the employments specified in the Schedule hereto.

(4) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas, and for different employments, and for different provisions of the Act.

(4A) Notwithstanding anything contained in sub-section (4), and in Government Notification, Industries and Labour Department, No. UMA. 1272/Lab-IV, dated the 28th March 1972, this Act shall be deemed to have come into force in the areas specified in column 2 of the Table below on the dates and in respect of the employments specified in columns specified in columns 3 and 4 against each such areas in the said Table, respectively.

**2. DEFINITIONS. –**

(1) "**Board**" means a Board established under section 6;

(2) "**contractor**", in relation to an unprotected workers, means a person who undertakes to execute any work for an establishment by engaging such workers on hire or otherwise, or who supplies such worker either in groups, gangs (tollis), or as individuals; and includes a sub-contractor, an agent, a mukadum or a tolliwala;

(3) "**employer**", in relation to any unprotected workers engaged by or through contractor, means the principal employer and in relation to any other unprotected worker, the person who has ultimate control over the affairs of the establishment, and includes any other person to whom the affairs of such establishment are entrusted, whether such person is called an agent, manager or is called by any other name prevailing in the scheduled employment;

(4) "**establishment**", means any place or premises, including the precincts thereof, in which or in any part of which any scheduled employment is being or is ordinarily carried on;

(5) "**family**", in relation to an employer, means, the spouse, son, daughter, father, mother, brother or sister of such employer who lives with him and is wholly dependent on him;

(6) "**Inspector**" means an Inspector appointed under section 15;

(7) "**principal employer**" means an employer who engages unprotected workers by or through a contractor in any scheduled employment;

(8) "**prescribed**" means prescribed by rules;

(9) "**scheduled employment**" means any employment specified in the Schedule hereto or any process or branch of work forming part of such employment;

(10) "**scheme**" means a scheme made under this Act;

(11) "**unprotected worker**" means a manual worker who is engaged or to be engaged in any scheduled employment;

(12) "**worker**" means a person who is engaged or to be engaged directly or through any agency, whether for wages or not, to do manual work in any scheduled employment and, includes any person not employed by any employer or a contractor, but working with the permission of, or under agreement with the employer or contractor; but does not include the members of an employer's family.

(13) "**wages**" means all remunerations expressed in terms of money or capable of being so expressed which would, if the terms of contract of employment, express or implied were, fulfilled, be payable to an unprotected worker in respect of work done in any scheduled employment, but does not include –

(i) the value of any house accommodation, supply of light, water, medical attendance; or any other amenity or any service excluded from the computation of wages by general or special order of the State Government;

(ii) any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance and the interest which may have accrued thereon;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the worker to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

**3. SCHEMES FOR ENSURING REGULAR EMPLOYMENT OF UNPROTECTED WORKERS. –**

(1) For the purpose of ensuring an adequate supply and full and proper utilization of unprotected workers in scheduled employments, and generally for making better provision for the terms and conditions of employment of such workers the State Government mat be means of a scheme provide for the registration of employers and unprotected workers in any scheduled employment or employments, and provide for the terms and conditions of work of registered unprotected workers, and make provision for the general welfare in such employments.

(2) In particular, a scheme may provide for all or any of the following matters that is to say –

(a) for the application of the scheme of such classes of registered unprotected workers and employers, as may be specified therein;

(b) for defining the obligations of registered unprotected workers and employers subject to the fulfillment of which the scheme may apply to them;

(c) for regulating the recruitment and entry into the scheme of unprotected workers, and the registration of unprotected workers and employers, including the maintenance of registers, removal, either temporarily or permanently, of names from the registers, and the imposition of fees for registration;

(d) for regulating the employment of registered unprotected workers, and the terms and conditions of such employment, including rates of wages, hours of work, maternity benefit, overtime payment, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

(d-i) for providing the time within which registered employers should remit to the Board the amount of wages payable to the registered workers for the work done by such workers; for requiring such employers who, in the opinion of the

Board, make default in remitting the amount of wages in time as aforesaid, to deposit with the Board, an amount equal to the monthly average of the wages to be remitted as aforesaid; if at any time the amount of such deposit falls short of such average, for requiring the employer to make good the amount of such average, and for requiring such employers who persistently make default in making such remittances in time to pay also by way of penalty, a surcharge of such amount not exceeding 10 per cent. of the amount to be remitted as the Board may determine;

(e) for securing that, in respect of period during which employment or full employment is not available to registered unprotected workers though they are available for work, such unprotected workers will, subject to the conditions of the scheme, receive a minimum wage;

(f) for prohibiting, restricting or otherwise controlling the employment of unprotected workers to whom the scheme does not apply, and the employment of unprotected workers by employers to whom the scheme does not apply;

(g) for the welfare of registered unprotected workers covered by the scheme in so far as satisfactory provision therefor, does not exist, apart from the scheme;

(h) for health and safety measures in places where the registered unprotected workers are engaged, in so far as satisfactory provision therefor, is required but does not exist, apart from the scheme;

(i) for the constitution of any fund or funds including provident fund for the benefit of registered unprotected workers, the vesting of such funds, the payment and contributions to be made to such funds, (provision for provident fund and rates of contribution being made after taking into consideration the provisions of the Employees' Provident Funds Act, 1952, and the scheme framed thereunder with suitable modifications, where necessary, to suit the conditions of work of such registered unprotected workers) and all matters relating thereto;

(j) for the manner in which, the day from which (either prospective or retrospective) and the persons by whom, the cost of operating the scheme is to be defrayed

(k) for constituting the persons or authorities who are to be responsible for the administration of the scheme, and for the administration of funds constituted for the purposes aforesaid;

(k-i) for specifying the powers and duties which the persons or authorities referred to in clause (k) may exercise or perform, for providing appeals and revision applications against the decisions or orders of such persons and authorities; and for deciding such appeals and applications and for matters incidental thereto;

(l) for such incidental and supplementary matters, as may be necessary or expedient for giving effect to the purposes of a scheme;

(3) The scheme may further provide that a contravention of any provision thereof shall be punished with imprisonment for such term as may be specified (but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention) or with fine which may extend to such amount as may be specified (but in no case exceeding five hundred rupees in respect of the first contravention, or one thousand rupees in respect of any subsequent contravention) or with both imprisonment and fine and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

**4. MAKING, VARIATION AND REVOCATION OF SCHEME. –**

(1) The State Government may, after consultation with the Advisory Committee, by notification in the Official Gazette and subject to the condition of previous publication, make one or more schemes for any scheduled employment or group of scheduled employments, in one or more areas specified in the notification; and in like manner add to, amend, vary of substitute another scheme for, any scheme made by it:

Provided that, no such notification shall come into force, unless a period of one month has expired from the date of publication in the Official Gazette:

Provided further that, the State Government may –

(a) if it considers necessary, or

(b) if a demand or request is made by a majority of the employers or workers in any other scheduled employment, that the provisions of any scheme so made for any scheduled employment or any part thereof should be applied to such other scheduled employment, after consisting the employers and workers in such scheduled employment by notification in the Official Gazette, apply the provisions of such scheme or part thereof to such scheduled employment, with such modifications, if any, as be specified in the notification.

(2) The provisions of section 24 of the Bombay General Clauses Act, 1904, shall Bom. apply to the exercise of the power given by sub-section (1) as they apply to the exercise III of a Power given by a Maharashtra Act to make rules subject to the condition of previous publication.(needs VERIFICATION

**5. DISPUTES REGARDING APPLICATION OF SCHEME. -** If any question arises whether any scheme applies to any class of unprotected workers or employers, the matter shall be referred to the State Government and the decision of the State Government on the question, which shall be taken after consulting the Advisory Committee constituted under section 14, shall be final.

**6. CONSTITUTION OF BOARD. –**

(1) The State Government may, by notification in the Official Gazette, establish a Board to be known by such name as may be specified in the notification of any scheduled employment in any area. One or more Boards may be appointed for one or more scheduled employments, and for one or more areas:

Provided that, the Boards established for the scheduled employments specified in column 4 of the Table appended to sub-section (4A) of section 1 in the area of Greater Bombay shall be the Boards deemed to have been established also for such scheduled employments in the areas and on the dates specified in columns 2 and 3 of the said Table, respectively.

(2) Every such Board shall be a body corporate with the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, and to contract, and may by that name, sue or be sued.

(3) The Board shall consist of members nominated from time to time by the State Government representing the employers, the unprotected workers, and the State Government.

(4) The members representing employers and unprotected workers shall be equal in number, and the members representing the State Government shall not exceed one-third of the total number of members representing employers and unprotected workers.

(5) The Chairman of the Board shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.

(6) After nomination of all the members of the Board including the Chairman the State Government shall, by notification in the Official Gazette, publish the names of all the members of the Board.

(7) The term of office of members of the Board shall be such as may be prescribed.
(7A) There shall be paid to every member (not being a member representing the State Government) from the fund of the Board, travelling and daily allowances.

For attending meetings of the Board at such rates as may be prescribed.

(8) The meetings of the Board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject tot he approval of the State Government, be regulated by the Board itself.

**6A. POWER OF STATE GOVERNMENT TO APPOINT BOARD CONSISTING OF ONE PERSON. –**

(1) Where by reason of employers or unprotected workers in any scheduled employment refusing to nominate persons for representing them on the Board or for any reasons whatsoever, it appears to the State Government that it is unable to constitute a Board for such scheduled employment in accordance with the provisions of section 6, the State Government may, by notification in the Official Gazette, appoint a person who shall hold office until a Board is duly constituted under section 6 for such scheduled employment.

(2) The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board by or under this Act. He shall continue in office until the day immediately preceding the date of the first meeting of such Board.

(3) The person constituting the Board shall receive such remuneration from the fund of the Board, and the terms and other conditions of service shall be such as the State Government may determine.

**7. POWERS AND DUTIES OF BOARD. –**

(1) The Board shall be responsible for administering a scheme, and shall exercise such powers and perform such functions as may be conferred on it by the scheme.

(2) The Board may take such measures as it may deem fit for administering the scheme.

(3) The Board shall submit to the State Government, as soon as may be, after the 1st of April every year, and not later than the 31st day of October, an annual report on the working of the scheme during the preceding year ending on 31st day of March of that year. Every report so received shall be laid as soon as may be after it is received before each House of the State Legislature if it is in session, or in the session immediately following the date of receipt of the report.

(4) In exercise of the powers and discharge of its functions, the Board shall be bound by such directions as the State Government may, for reason to be stated in writing, give to it from time to time.

**8. ACCOUNTS AND AUDIT. –**

(1) The Board shall maintain proper accounts and other relevant record and prepare an annual statement of accounts, including a balance-sheet in such form as may be prescribed.

(2) The accounts of the Board shall be audited annually by such qualified person as the State Government may appoint in this behalf.

(3) The auditor shall at all reasonable times have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require, or examine any member or officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon shall be forwarded annually to the State Government before such date as the State Government may specify in this behalf.

(5) The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.

(6) The cost of audit, as determined by the State Government, shall be paid out of the funds of the Board.

**9. DISQUALIFICATIONS AND REMOVAL. –**

(1) No person shall be chosen as, or continue to be, a member of the Board who -

(a) is a salaried officer of the Board; or

(b) is or at any time has been adjudged insolvent; or

(c) is found to be a lunatic or becomes of unsound mind; or

(d) is or has been convicted of any offence involving moral turpitude.

(2) The State Government may remove from office any member, who –

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or

(b) is absent without leave of the Board for more than three consecutive meetings of the Board.

(3) Notwithstanding anything contained in sub-sections (5) and (7) of section 6 or other provisions of this Act or the rules made thereunder, the members (including the chairman), whether nominated before or after the commencement of the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) (Amendment) Act, 1990, shall hold office during the pleasure of the State Government and, if in the opinion of the State Government, -

(a) the member representing the employers or the unprotected workers, ceases to adequately represent the employers, or as the case may be, the unprotected workers; or

(b) having regard to the exigencies of circumstances or service in the State Government, the member (including the Chairman) representing the State Government cannot continue to represent the State Government, the State

Government may, by order remove all or any of them (including the Chairman from office at any time.

**10. RESIGNATION OF OFFICE BY MEMBER. -** Any member of the Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of resignation, become vacant.

**11. VACANCY TO BE FILLED AS EARLY AS POSSIBLE. -** In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the State Government, and the vacancy shall be filled not later than ninety days from the date of the occurrence of the vacancy, and the person nominated to fill in the vacancy shall hold office so long only as the member in whose place he is nominated would have held it if the vacancy had not occurred:

Provided that, during any such vacancy, the continuing members may act as if no vacancy has occurred

**12. PROCEEDINGS PRESUMED TO BE GOOD AND VALID. -** No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

**13. DETERMINATION OF MONEYS DUE FROM EMPLOYERS AND WORKERS. –**

(1) The Board or such officer as may be specified by it in this behalf may, by order, determine any sum due from any employer or worker under this Act or any scheme made thereunder, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

(2) The Board or such officer, conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely: -

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

(3) No order determining the sum from any employer or worker shall be made under sub-section (1), unless the employer or worker, as the case may be, is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be questioned in any Court.

(5) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.

**14. ADVISORY COMMITTEE. –**

(1) The State Government may constitute a Advisory Committee to advise upon such matters arising out of the administration of this Act or any scheme made under this Act or relating to the application of the provisions of this Act to any particular class of unprotected workers and employers, or co-ordination of the work of various Boards, as the Advisory Committee may itself consider to be necessary or as the State Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the State Government and shall be of such number and chosen in such a manner as may be prescribed by rules made under this Act :

Provided that, the Advisory Committee shall include an equal number of members representing employers, workers and the Legislature of the State and members representing the State Government not exceeding one-fourth of its total number of members.

(3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.

(4) The State Government shall publish in the Official Gazette, the names of all the members of the Advisory Committee.

(5) The meetings of the Advisory Committee and procedure to be followed for the purpose shall be regulated according to rules made under this Act.

(6) The term of office of members of the Advisory Committee shall be such a may be prescribed.

(7) The member of the Advisory Committee (not being a member representing the State Government) shall receive travelling and daily allowances for attending meetings of the Committee at such rates as may be prescribed.

**15. INSPECTORS AND THEIR POWERS. –**

(1) The Board may appoint such persons as it thinks fit to be Inspectors possessing the prescribed qualifications for the purposes of this Act or of any scheme and may define the limits of their jurisdiction.

(2) Subject to any rules made by the State Government in this behalf, an Inspector may –

(a) entry and search at all reasonable hours, with such assistants as he thinks fit, any premises or place, where unprotected workers are employed, or work is given out to unprotected workers in any scheduled employment, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any scheme, and require the production thereof, for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an unprotected worker employed therein or an unprotected worker to whom work is given out therein;

(c) require any person giving any work to an unprotected worker or to a group of unprotected workers to give any information, which is in his power to give, in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work;

(d) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant, in respect of an offence under this Act or scheme, which he has reason to believe has been committed by an employer; and

(e) exercise such other powers as may be prescribed : Provided that, no one shall be required under the provisions of this section to answer any question or make any statement tending to incriminate himself.

(3) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**16. PROHIBITION OF EMPLOYMENT OF CHILDREN. -** No child shall be required or allowed to work in any scheduled employment.

**Explanation :** '**Child**' means a person who has not completed fourteen years of age.

**17. OFFENCE TO BE TRIED BY LABOUR COURT. -** Every offence punishable by or under this Act (including any offence made punishable by a scheme made under this Act) shall be tried by the Labour Court, within the local limits of whose jurisdiction the offence was committed.

**17A. LABOUR COURT UNDER BOMBAY INDUSTRIAL RELATIONS ACT TO BE LABOUR COURT UNDER THIS ACT ALSO. -** A Labour Court constituted under the Bombay Industrial Relations Act, 1946, for local area, shall also be a Labour Court

constituted for that area for the purposes of this Act; and accordingly shall have the same powers to try any offence made punishable by or under this Act, as it has to try any offence punishable by or under that Act.

**17B. COGNIZANCE OF OFFENCE ON COMPLAINT. -** No Labour Court shall take cognizance of any offence punishable by an Inspector or by a person specially authorised in this behalf by the Board or the State Government.

**17C. APPEAL FROM LABOUR COURT TO INDUSTRIAL COURT. –**

(1) Notwithstanding anything contained in this Act, an appeal shall lie to the Industrial Court, -

(a) against a conviction by a Labour Court, by the person convicted;

(b) against an acquittal by a Labour Court, by the complainant;

(c) for enhancement of a sentence awarded by the Labour Court by the State Government.

(2) Every appeal shall be made within thirty days from the date of the conviction, acquittal or sentence, as the case may be :

Provided that, the Industrial Court may, for sufficient reasons to be recorded in writing, allow an appeal after the expiry of the said period.

**17D. INDUSTRIAL COURT UNDER BOMBAY INDUSTRIAL RELATIONS ACT TO BE INDUSTRIAL COURT UNDER THIS ACT ALSO. -** The Industrial Court constituted under the Bombay Industrial Relations Bom. Act, 1946, shall also be the Industrial Court constituted for the purposes of this Act; and accordingly shall have the same powers to entertain any appeals or references against or in any proceeding, decision, conviction, acquittal, sentence or order by or of the Labour Court, as it has in these matters under that Act.

**17E. DECISION OF LABOUR COURT AND INDUSTRIAL COURT, NOT TO BE QUESTIONED IN ANY CIVIL OR CRIMINAL COURT. –**

(1) Save as provided in the last preceding section, no decision, conviction, acquittal, sentence or order by or of a Labour Court shall be called in question in any Civil or Criminal Court.

(2) No decision given or order passed by the Industrial Court shall be called in question in any Civil or Criminal Court.

**17F. CASES TO BE DISPOSED OF BY LABOUR COURT AND INDUSTRIAL COURT WITHIN THREE MONTHS. –**

(1) An endeavor shall be made by the Labour Court to hear and dispose of a complaint of an offence publishable by or under the Act, as far as possible, within three months from the date the complaint is made to it.

(2) An endeavor shall be made by the Industrial Court to hear and dispose of any appeal or reference made to it under this Act, as far as possible, within three months from the date such appeal or reference is made to it. ]

**17G. OTHER RELEVANT PROVISIONS OF BOMBAY INDUSTRIAL RELATIONS ACT TO APPLY AND TO BE FOLLOWED. -** Except as otherwise provided in this Act, in the trial of an offence punishable by or under this Act by the Labour Court, for hearing and disposal of any appeal or reference by the Industrial Court, and in other respects, the provisions of sections 85, 85A, 110 and 118B and other relevant provisions of the Bombay Industrial Relations Act, 1946, shall, so far as may be, apply, and be followed by these Courts and the parties concerned.

**18. APPLICATION OF WORKMEN'S COMPENSATION ACT TO UNPROTECTED WORKERS. -** The provisions of the Workmen's Compensation Act, 1923, and the rules made from time to time thereunder, shall mutatis mutandis apply to registered of unprotected workers employed in any scheduled employment to which this Act applies; and for that purpose they shall be deemed to be workmen within the meaning of that Act; and in relation to such workmen, employer shall mean where a Board makes payment of wages to any such workmen, the Board, and in any other case, the employer as defined in this Act.

**19. APPLICATION OF THE PAYMENT OF WAGES ACT, 1936, TO WORKERS. –**

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936, (hereinafter referred to in this section as "the said Act"), the State Government may, by notification in the official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of registered unprotected workers employed in any scheduled employment to which this Act applies, with the modification that in relation to registered unprotected workers employer shall mean where a Board makes payment of wages to any such worker, the Board, and in any other case, the employer as defined in this Act; and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.
(2) The State Government may, only if the Advisory Committee so advises, by a like notification cancel or vary any notification issued under sub-section (1).

**20. APPLICATION OF MATERNITY BENEFIT ACT, TO UNPROTECTED WOMEN WORKERS. -** Notwithstanding anything contained in the Maternity Benefit Act, 1961

(hereinafter referred to in this section as "**the said Act**") the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to registered unprotected women workers employed in any scheduled employment to which this Act applies; and for that purpose they shall be deemed to be women within the meaning of the said Act; and in relation to such women employer shall mean where a Board makes payment of wages to such women, the Board; and in any other case, the employer as defined in this Act; and on such application of the provision of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of such provisions of the said Act within the local limits of his jurisdiction.

**21. RIGHTS AND PRIVILEGES UNDER OTHER LAWS NOT AFFECTED, IN CERTAIN CASES. –**

Nothing contained in this Act shall affect any rights or privileges, which any registered unprotected worker employed in any scheduled employment is entitled to, on the date on which this Act comes into force, under any other law, contract, custom or usage applicable to such workers, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act and the scheme :

Provided that, such worker will not be entitled to receive any corresponding benefit under the provisions of this Act and the scheme.

**22. EXEMPTIONS. -** The State Government may, after consulting the Advisory Committee, by notification in the Official Gazette, and subject to such conditions and for such period as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act or any scheme made thereunder, all or any class or classes of unprotected workers employed in any scheduled employment, or in any establishment or part of any establishment of any scheduled employment, if in the opinion of the State Government all such unprotected workers or such class or classes of workers, are in the enjoyment of benefits which are on the whole not less favourable to such unprotected workers than the benefits provided by or under this Act or any scheme framed thereunder :

Provided that, before any such notification is issued, the State Government shall publish a notice of its intention to issued such notification and, invite objections and suggestions in respect thereto, and no such notification shall be issued until the objections and suggestions have been considered and a period of one months has expired from the date of first publication of the notice in the Official Gazette :

Provided further that, the State Government may, by notification in the Official Gazette, at any time, for reasons to be specified, rescind the aforesaid notification.

**23. ENQUIRY INTO WORKING OF THE BOARD. –**

(1) The State Government may at any time appoint any person to investigate or enquire into the working of any Board or scheme and submit a report to the State Government in that behalf.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of their investigation or inquiry, and furnish to him such documents, accounts or information in possession of the Board as he may require.

(3) Any person so appointed to investigate or inquire into the working of any Board or scheme may exercise all the powers of an Inspector appointed under this Act.

**24. SUPERSESSION OF THE BOARD. –**

(1) If the State Government, on consideration of the report referred to in sub-section (1) of section 23 or otherwise, is of the opinion -

(a) that the Board is unable to perform its functions; or

(b) that the Board has persistently made default in the discharge of its functions or has exceeded or abused its powers, the State Government may, by notification in the Official Gazette, supersede the Board and constitute it in the prescribed manner, within a period of twelve months from the date of supersession.

The period of Supersession may be extended for sufficient reasons by a like notification by not more than six months :

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the State Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the Board.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act shall be exercised and performed by the State Government, or by such officer or officers' as the State Government may appoint for this purpose.

(3) When the Board is superseded the following consequences shall ensue, that is to say - (a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1) vacate their office;

(b) all the powers and functions, which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such persons as may be specified in the notification;

(c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government and on the reconstitution of the Board, such funds and property shall revest in the Board.

**25. CONTRACTING OUT. -** Any contract or agreement, whether made before or after the commencement of this Act, whereby a registered unprotected worker relinquishes any right conferred by, or any privilege or concession accruing to him, under this Act or any scheme, shall be void and of no effect in so far as it purports to deprive him of such right or privilege or concession.

**26. AMENDMENT OF SCHEDULE. -** The State Government after giving by notification in the Official Gazette not less than three months' notice of its intention so to do, may by like notification, modify any item of the Schedule or add to the Schedule any employment in respect of which it is of opinion that the provisions of this Act should apply and the provisions of this Act shall thereupon apply to such employment as modified or added.

**27. GENERAL PENALTY FOR OFFENCES. -** Save as otherwise expressly in this Act, any person, who contravenes any of the provisions of this Act or any rule made thereunder shall, on conviction by a Labour Court or the Industrial Court, be punished with fine which may extend to five hundred rupees, and in case of continued contravention thereof, with an additional fine which may extend to one hundred rupees per day for every day during which such contravention continues.

**27A. PROTECTION OF ACTION TAKEN UNDER THIS ACT. -** No suit, prosecution or other legal proceedings shall lie against the State Government or the Board or the Chairman, Secretary, or any member of the Board or Advisory Committee, or any Inspector or any other officers of the Board for anything which is in good faith done or intended to be done in pursuance of this Act, or any scheme or any rule or order made thereunder.

**28. RULES. –**

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) Every scheme under this Act and rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the scheme or rule or both Houses agree that the scheme, any provision thereof or rule should not be made, the scheme or such provision or rule shall from the date of publication of a notification in the Official Gazette of such decision have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that scheme, provision, or as the case may be, rule.

**THE SCHEDULE.**

[See section 2(9)]

1. Employment in Iron and Steel Market or shops in connection with loading, unloading, stacking, carrying weighing, measuring or such other work including work preparatory or such operations.

2. Employment in Cloth and Cotton Markets or shops in connection with loading, unloading, stacking, carrying, weighing, 1[measuring, filing, stitching, sorting, cleaning or such other work] including work preparatory or incidental to such operations.

3. Employment in docks in connection with loading, unloading, stacking, carrying, weighing, measuring or such other work including work preparatory or incidental to such operations, but does not include employment of a Dock Worker within the meaning of the Dock Workers (Regulation of Employment) Act, 1948.

4. Employment in Grocery Markets or shops, in connection with loading, unloading, stacking, carrying, weighing, measuring, filing, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.

5. Employment in markets, and factories and other establishments, in connection with loading, unloading, stacking, weighing, measuring, filing, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations carried on by workers not covered by any other entries in this Schedule.

6. Employment in railway yards an goods-sheds in connection with loading, unloading, stacking, weighing, measuring or such other work preparatory or incidental to such operations by workers who are not employed by Railway Authorities.

7. Employment in connection with loading of goods into public transport vehicle or unloading of goods therefrom and any other operation incidental and connected thereto.

8. Employment in vegetable markets (including onions and potatoes markets) in connection with loading, unloading, stacking, carrying weighing, measuring, filing, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.

9. Employment in markets or subsidiary markets established under Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, in connection with loading, unloading, stacking, carrying, weighing, measuring, filing stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.

10. Employment in Khokha making, and in timber market.

11. Employment in salt pans.

12. Employment in fishing industry.

13. Employment in connection with the loading, unloading and carrying of foodgrains into godowns sorting and cleaning of foodgrains, filling foodgrains in bags, stitching of such bags and such other work incidental and connected thereto.

14. Employment in establishment engaged in cleaning, sorting, loading, unloading, stacking, carrying, weighing, measuring, stitching, filling of onions or onion bags and such other work including the work preparatory or incidental or such operations.

# THE TRADE UNION ACT,1926

[Act No. 16 of Year 1926][1]

An Act to provide for the registration of trade unions and in certain respects to define the law relating to registered trade unions [2][* * *].

Whereas it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered trade unions [2][* * *].

It is hereby enacted as follows:-

## CHAPTER I: PRELIMINARY

### 1. Short title, extent and commencement

(1) This Act may be called the [3][* * *] Trade Union Act, 1926.

[4][(2) It extends to the whole of India [5][* * *].

(3) It shall come into force on such [6][date] as the Central Government may by notification in the Official Gazette, appoint.

### 2. Definitions

In this Act [7]["the appropriate government" means, in relation to trade unions whose objects are not confined to one State, the Central Government, and in relation to other trade unions, the State Government, and], unless there is anything repugnant in the subject or context,-

(a) "executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted;

(b) [8] "[office-bearer]" in the case of a trade union, includes any member of the executive thereof, but does not include an auditor;

(c) "prescribed" means prescribed by regulations made under this Act;

(d) "registered office" means that office of a trade union which is registered under this Act as the head office thereof;

(e) "registered trade union" means a trade union registered under this Act;

[9][(f) "Registrar" means-

(i) a Registrar of Trade Unions appointed by the appropriate government under section 3, and includes any Additional or Deputy Registrar of Trade Unions, and

(ii) in relation to any trade union, the Registrar appointed for the state in which the head or registered office, as the case may be, of the trade union is situated;]

(g) "trade dispute" means any dispute between employers and workmen, or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and

(h) "trade union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive

conditions on the conduct of any trade or business, and includes any federation of two or more trade unions:

Provided that this Act shall not affect-

(i) any agreement between partners as to their own business;

(ii) any agreement between an employer and those employed by him as to such employment; or

(iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

## CHAPTER II : REGISTRATION OF TRADE UNION

### 3. Appointment of Registrars

[10][(1)] [11][The appropriate government] shall appoint a person to be the Registrar of Trade Unions for [12][each State].

[13][(2) The appropriate government may appoint as many Additional and Deputy Registrars of Trade Unions as it thinks fit for the purpose of exercising and discharging, under the superintendence and direction of the Registrar, such powers and functions of the Registrar under this Act as it may, by order, specify and define the local limits within which any such Additional or Deputy Registrar shall exercise and discharge the powers and functions so specified.

(3) Subject to the provisions of any order under sub-section (2), where an Additional or Deputy Registrar exercises and discharges the powers and functions of a Registrar in an area within which the registered office of a trade union is situated, the Additional or Deputy Registrar shall be deemed to be the Registrar in relation to the trade union for the purposes of this Act.]

### 4. Mode of registration

[10][(1) Any seven or more members of a trade union may, by subscribing their names to the rules of the trade union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the trade union under this Act.

[13][(2) Where an application has been made under sub-section (1) for the registration of a trade union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the trade union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the trade union or have given notice in writing to the Registrar dissociating themselves from the application.]

### 5. Application for registration

(1) Every application for registration of a trade union shall be made to the Registrar and shall be accompanied by a copy of the rules of the trade union and a statement of the following particulars, namely:-

(a) the names, occupations and addresses of the members making application;

(b) the name of the trade union and the address of its head office; and

(c) the titles, names, ages, addresses and occupations of the [8][office-bearers] of the trade union.

(2) Where a trade union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

**6. Provisions to be contained in the rules of a trade union**

A trade union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:-

(a) the name of trade union ;

(b) the whole of the objects for which the trade union has been established;

(c) the whole of the purposes for which the general funds of the trade union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(d) the maintenance of a list of the members of the trade union and adequate facilities for the inspection thereof by the [8][office-bearers] and members of the trade union;

(e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the trade union is connected, and also the admission of the number of honorary or temporary members as [8][office bearers] required under section 22 to form the executive of the trade union;

[13][(ee) the payment of a subscription by members of the trade union which shall be not less than twenty-five *naye paise* per month per member;]

(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(g) the manner in which the rules shall be amended, varied or rescinded;

(h) the manner in which the members of the executive and the other [8][office-bearers] of the trade union shall be appointed and removed;

(i) the safe custody of the funds of the trade union, and annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the [13][office-bearers] and members of the trade union; and

(j) the manner in which the trade union may be dissolved.

**7. Power to call for further particulars and to require alternations of names**

(1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the trade union is entitled to registration under section 6, and may refuse to register the trade union until such information is supplied

(2) If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall require the persons applying for registration to alter the name of the

trade union stated in the application, and shall refuse to register the union until such alteration has been made.

**8. Registration**

The Registrar, on being satisfied that the trade union has complied with all the requirements of this Act in regard to registration, shall register the trade union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the trade union contained in the statement accompanying the application for registration.

**9. Certificate of registration**

The Registrar, on registering a trade union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Act.

**10. Cancellation of registration**

A certificate of registration of a trade union may be withdrawn or cancelled by the Registrar-

(a) on the application of the trade union to be verified in such manner as may be prescribed:

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake or that the trade union has ceased to exist or has wilfully and after notice from the Registrar contravened by provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6:

PROVIDED that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the trade union.

**[14][11. Appeal**

(1) Any person aggrieved by any refusal of the Registrar to register a trade union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal-

(a) where the head office of the trade union is situated within the limits of a Presidency town [15][***] to the High Court, or

(b) where the head office is situated in any other area, to such Court, not inferior to the court of an additional or assistant Judge of a principal civil court of original jurisdiction, as the [16][appropriate government] may appoint in this behalf for that area.

(2) The appellate court may dismiss the appeal, or pass an order directing the Registrar to register the union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1), an appellate court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit

under the Code of Civil Procedure, 1908, (5 of 1908) and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any court appointed under clause (b) of sub-section (1) the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.]

**12. Registered office**

All communications and notices to a registered trade union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

**13. Incorporation of registered trade union**

Every registered trade union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

**14. Certain Acts not to apply to registered trade unions**

The following Acts, namely-

(a) The Societies Registration Act, 1860, (21 of 1860)

(b) The Co-operative Societies Act, 1912 (2 of 1912)

[17][(c) The Companies Act, 1956, (1 of 1956)

shall not apply to any registered trade union, and the registration of any such trade union under any such Act shall be void.

## CHAPTER III : RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS

**15. Objects on which general funds may be spent**

The general funds of a registered trade union shall not be spent on any other objects than the following namely-

(a) the payment of salaries, allowances and expenses to [8][office-bearers] of the trade unions;

(b) the payment of expenses for the administration of the trade union, including audit of the accounts of the general funds of the trade union;

(c) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when such prosecution of defence is undertaken for the purpose of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;

(d) the conduct of trade disputes on behalf of the trade union or any member thereof;

(e) the compensation of members for loss arising out of trade disputes;

(f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;

(g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or (under) policies insuring members against sickness, accident or unemployment;

(h) the provision of education, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;

(i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;

(j) the payment, in furtherance of any of the objects on which the general funds of the trade union may be spent, of contributions to any cause intended to benefit workmen in general provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the trade union during that year and of the balance at the credit of those funds at the commencement of that year; and

(k) subject to any conditions contained in the notification, any other object notified by the [18][appropriate government] in the Official Gazette.

**16. Constitution of a separate fund for political purposes**

(1) A registered trade union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are:

(a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under [19][* * *] [20][the Constitution] or of any local authority, before, during or after the election in connection with his candidature or election; or

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate; or

(c) the maintenance of any person who is a member of any legislative body constituted under [19][***] [20][the Constitution] or for any local authority; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under [19][***] [20][the Constitution] or for any local authority ; or

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

[21][(2A) In its application to the State of Jammu and Kashmir, references in sub-section (2) to any legislative body constituted shall be construed as including references to the Legislature of that State].

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the trade union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the trade union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the trade union.

**17. Criminal conspiracy in trade disputes**

No [8][office-bearer] or member of a registered trade union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code, 1860 (45 of 1860) in respect of any agreement made between the members for the purpose of furthering any such object of the trade union as is specified in section 15, unless the agreement is an agreement to commit an offence.

**18. Immunity from civil suit in certain cases**

(1) No suit or other legal proceeding shall be maintainable in any civil court against any registered trade union or any [8][office-bearer] or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered trade union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the trade union.

**19. Enforceability of agreements**

Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered trade union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:
PROVIDED that nothing in this section shall enable any civil court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a trade union shall or shall not sell their goods transact business, work, employ or be employed.

**20. Right to inspect books of trade unions**

The account books of a registered trade union and the list of members thereof shall be open to inspection by an [8][office-bearer] or member of the trade union at such times as may be provided for in the rules of the trade union.

**21. Rights of minors to membership of trade unions**

Any person who has attained the age of fifteen years may be a member of a registered trade union subject to any rules of the trade union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:
[22][* * *]

**[23][21A. Disqualifications of office-bearers of trade unions**

(1) A person shall be disqualified for being chosen as, and for being member of the executive or any other office bearer of a registered trade union if-

(i) he has not attained the age of eighteen years;

(ii) he has been convicted by court in India of any offence involving moral turpitude and sentenced to imprisonment, unless a period of five years has elapsed since his release.

(2) Any member of the executive or other office-bearer of a registered trade union who, before the commencement of the Indian Trade Union (Amendment) Act, 1964, has been convicted of any offence involving moral turpitude and sentenced to imprisonment, shall on the date of such commencement cease to be such member or office-bearer unless a period of five years has elapsed since his release before that date].

[21][(3) In its application to the State of Jammu and Kashmir, reference in sub-section (2) to the commencement of the Indian Trade Union (Amendment) Act, 1964, shall be construed as reference to the commencement of this Act in the said State].

**22. Proportion of office-bearers to be connected with the industry.-**

(1) Not less than one half of total number of the office-bearers of every registered Trade Union in an unorganized sector shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

Explanation.- For the purpose of this section, "unorganised sector" means any sector which the appropriate Government may, by notification in the Official Gazette, specify.

(2) Save as otherwise provided in sub-section (1), all office bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation.- For the purpose of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

(3) No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected), in the Union or a State, shall be a member of the executive or other office-bearer of a registered Trade Union]

**23. Change of name**

Any registered trade union may, with the consent of not less than two-thirds of the total number of members and subject to the provisions of section 25, change its name.

**24. Amalgamation of trade unions**

Any two or more registered trade unions may become amalgamated together as one trade union with or without dissolution or division of the funds of such trade unions or either or any of them, provided that the votes of at least one-half of the members of each or every such trade union entitled to vote are recorded,
and that at least sixty per cent of the votes recorded are in favour of the proposal.

**25. Notice of change of name or amalgamation**

(1) Notice in writing of every change of name and of every amalgamation signed, in the case of a change of name, by the Secretary and by seven members of the trade union changing its name, and in the case of an amalgamation, by the Secretary and by seven members of each and every trade union which is a party thereto, shall be sent to the Registrar and where the head office of the amalgamated trade union is situated in a different State, to the Registrar of such State.

(2) If the proposed name is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8, and the change of name shall have effect from the date of such registration.

(4) The Registrar of the State in which the head office of the amalgamated trade union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the trade union formed thereby is entitled to registration under section 6, register the trade union in the manner provided in section 8 and the amalgamation shall have effect from the date of such registration.

**26. Effects of change of name and of amalgamation**

(1) The change in the name of a registered trade union shall not affect any rights or obligations of the trade union or render defective any legal proceeding by or against the trade union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An amalgamation of two or more registered trade unions shall not prejudice any right of any of such trade unions or any right of a creditor of any of them.

**27. Dissolution**

(1) When a registered trade union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the trade union shall, within fourteen days of the dissolution be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the trade union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered trade union has been registered and the rules of the trade union do not provide for the distribution of funds of the trade union on dissolution, the Registrar shall divide the funds, amongst the members in such manner as may be prescribed.

**28. Returns**

(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered trade union during the year ending on the 31st day of [25][December] next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of [25][December].

The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing changes of [26][office-bearers] made by the trade union during the year to which the general statement refers together also with a copy of the rules of the trade union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered trade union shall be sent to the Registrar within fifteen days of the making of the alteration.

[13][(4) For the Purpose of examining the documents referred to in sub-sections (1), (2) and (3), the Registrar, or any officer authorised by him by general or special order, may at all reasonable times, inspect the certificate of registration, account books, registers, and other documents, relating to a trade union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a trade union.]

## CHAPTER IV : REGULATIONS

**29. Power to make regulations**

(1) [27][* * *] The [16][appropriate government] may make regulations for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters namely :-

(a) the manner in which trade unions and the rules of trade unions shall be registered and the fees payable on registration;

(b) the transfer of registration in the case of any registered trade union which has changed its head office from one State to another ;

(c) the manner in which, and the qualifications of persons by whom, the accounts of registered trade unions or of any class of such unions shall be audited;

(d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections, and

(e) any matter which is to be or may be prescribed.

[(3) Every notification made by the Central Government under sub-section (1) of Section 22, and every regulation made by it under sub-section (1), shall be laid, as soon as may be after it is made, before each house of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or regulation, or both Houses agree that the notification or regulation should not be made, the notification or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or regulation.

(4)Every notification made by the State Government under sub section (1)of section 22 and every regulation made by it under sub section(1) shall be laid, as soon as may be after it is made, before the State Legislature.]

**30. Publication of regulations**

(1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations as made shall be published in the Official Gazette, and on such publication shall have effect as if enacted in this Act.

## CHAPTER V : PENALTIES AND PROCEDURE

**31. Failure to submit returns**

(1) If default is made on the part of any registered trade union in giving any notice or sending any statement or other document as required by or under any provisions of this Act, every [8][office-bearer] or other person bound by the rules of the trade union to give or send the same, or, if there is no such [8][office-bearers] or person, every member of the executive of the trade union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues :

PROVIDED that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

**32. Supplying false information regarding trade unions**

Any person who, with intent to deceive, gives to any member of a registered trade union or to any person intending or applying to become a member of such trade union any document purporting to be a copy of the rules of the trade union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the intent, gives a copy of any rules of an unregistered trade union to any person on the pretence that such rules are the rules of a registered trade union, shall be punishable with fine which may extend to two hundred rupees.

**33. Cognizance of offences**

(1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

Foot Notes

1 For the Statement of Objects and Reasons, see Gazette of India, 1925, part V, pg. 8, and for the Report of Select Committee, see Gazette of India, 1925, Part IV pg. 197.
2 The words "in the Provinces of India", omitted by Act No. 42 of 1960.
3 The word "Indian" omitted by Act No. 38 of 1964.
4 Substituted by the Adaptation of Laws Order, 1950 for the former sub-section (2).
5 The words "except in the State of Jammu and Kashmir" omitted by Act No. 51 of 1970.
6 The date as notified is 1st. June, 1927, in the Gazette of India, 1927, Part I, page 467.
7 Inserted by the Government of India (Adaptation of Indian Laws) Order, 1937.
8 Substituted for the word "officer", by Act No. 38 of 1964, w.e.f. 1st. April, 1965.
9 Substituted by Act No. 42 of 1960.
10 Re-numbered as sub-section (1) by Act No. 42 of 1960.
11 Substituted by the Govt. of India (Adaptation of Indian Laws) Order, 1937 for the words "each L.G."
12 Substituted for the words "the Province", *ibid.*
13 Inserted by Act No. 42 of 1960.
14 Substituted by Act No. 15 of 1928.
15 The words "or of Rangoon" omitted by the Govt. of India (Adaptation of Indian Laws) Order, 1937.
16 Substituted for the letters "L.G.", *ibid.*

17 Substituted by Act No. 42 of 1960 for original clause (e). The original clauses (c) and (d) were repealed by Act No. 25 of 1942.
18 Substituted by the Govt. of India (Adaptation of Indian Laws) Order, 1937 for the letters and word "G.G. in C".
19 The words and figures "the Government of India or the Government of India Act, 1935, or" omitted by Act No. 42 of 1960.
20 Inserted by the Adaptation of Laws Order, 1950.
21 Inserted by Act No. 51 of 1970.
22 Proviso omitted by Act No. 38 of 1964, w.e.f. 1st. April, 1965.
23 Inserted by Act No. 38 of 1964.
24 Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937, for "L.G.".
25 Substituted by Act No. 38 of 1964, for the word "March", w.e.f. 1.4.1965.
26 Substituted *ibid*, for the word "officer" w.e.f. 1.4.1965.
27 The words "Subject to the control of the G.G. in Council", omitted by the Govt. of India (Adaptation of Indian Laws) Order, 1937.

# WEEKLY HOLIDAYS ACT, 1942

[Act No. 18 of Year 1942]

*An Act to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres*

It is hereby enacted as follows: -

## 1. Short title, extent and commencement

(1) This Act may be called the Weekly Holidays Act, 1942.

(2) It extends to the whole of India

(3) It shall come into force in a State or in a specified area within a State only if the State Government by notification in the Official Gazette so directs.

## 2. Definitions

In this Act, unless there is anything repugnant in the subject or context,

(a) "establishment" means a shop, restaurant or theatre;

(b) "day" means a period of twenty-four hours beginning at midnight;

(c) "Restaurant" means any premises in which is carried on principally or wholly the business of supplying meals or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre;

(d) "shop" includes any premises where any retail trade or business is carried on, including the business of a barber, or hair dresser, and retail sales by auction, but excluding the sale of programmers, catalogues, and other similar sales at theatres;

(e) "theatre" includes any premises intended principally or wholly for the presentation of moving pictures, dramatic performances or stage entertainments;

(f) "week" means a period of seven days beginning at midnight on Saturday.

## 3. Closing of shop

(1) Every shop shall remain entirely closed on one day of the week, which day shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop.

(2) The day so specified shall not be altered by the shop-keeper more often than once in three months.

## 4. Weekly holidays in shops, restaurants and theatres

Every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre shall be allowed in each week a holiday of one whole day:

PROVIDED that nothing in this section shall apply to any person whose total period of employment in the week including any days spent on authorised leave is less than six days or entitle to an additional holiday a person employed in a shop who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of section 3.

### 5. Additional half-day closing of holiday

(1) The State Government may, by notification in the Official Gazette, require in respect of shops or any specified class of shop that they shall be closed at such hour in the afternoon of one week-day in every week in addition to the day provided for by section 3 as may be fixed by the State Government, and, in respect of theatres and restaurants or any specified class of either or both, that every person employed therein otherwise than in a confidential capacity or in a position of management shall be allowed in each week an additional holiday of one half-day commencing at such hour in the after noon as may be fixed by the State Government.

(2) The State Government may, for the purposes of this section, fix different hours for different shop or different classes of shop or for different areas or for different times of the year.

(3) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (1) shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop and shall not be altered by the shop-keeper more often than once in three months.

### 6. No deduction or abatement to be made from wages

No deduction or abatement of the wages of any person employed in an establishment to which this Act applies shall be made on account of any day or part of a day on which the establishment has remained closed or a holiday has been allowed in accordance with sections 3,4 and 5, and if such person is employed on the basis that he would not ordinarily receive wages for such day or a part of a day he shall nonetheless be paid for such day or part of a day the wages he would have drawn had the establishment not remained closed or the holiday not been allowed on that day or part of a day.

### 7. Inspectors

(1) The State Government may, by notification in the Official Gazette, appoint persons to be inspectors for the purposes of this Act within such local limits as it may assign to each such persons.

(2) Every inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

## 8. Powers of inspectors

(1) Subject to any rules made in this behalf by the State Government, an inspector may, within the local limits for which he is appointed,

(a) enter and remain in any establishment to which this Act applies with such assistants, if any, being servants of the Government as he thinks fit;

(b) make such examination of any such establishment and of any record, register or notice maintained therein in pursuance of rules made under clause (c) of sub-section (2) of section 10, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act;

(c) exercise such other power as may be necessary for carrying out the purposes of this Act.

(2) Any person having the custody of any record, register or notice maintained in pursuance of rules made under clause (c) of sub-section (2) of section 10 shall be bound to produce it when so required by the inspector, but no person shall be compellable to answer any question if the answer may tend directly or indirectly to criminate himself.

## 9. Penalties

In the event of any contravention of the provisions of section 3 or section 4, of a requirement imposed by notification under sub-section (1) of section 5, or section 6, or of the rules made under clause (c) for sub-section (2) of section 10, the proprietor or other person responsible for the management of the establishment in which such contravention takes place shall be punishable with fine which may extend, in the case of the first offence, to twenty-five rupees, and, in case of second or subsequent offence, to two hundred and fifty rupees.

## 10. Rules

(1) The State Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may-

(a) define the person who shall be deemed to be employed in a confidential capacity or in a position of management for the purpose of sections 4 and 5;

(b) regulate the exercise of their powers and the discharge of their duties by inspectors;

(c) require registers and records to be maintained and notice to be displayed in establishment to which this Act applies and prescribe the form and contents thereof.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

## 11. Power of exemption and suspension

The Central Government in respect of establishments under its control, and the State Government in respect of all other establishments within the State may, subject to such conditions, if any, as it thinks fit to impose, exempt any establishment to which this Act applies from all or any specified provisions of this Act, and may, on any special occasion in connection with a fair or festival or a succession of public holidays, suspend for a specified period the operation of this Act.

# WORKING JOURNALISTS AND OTHER NEWSPAPER EMPLOYEES (CONDITION OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT, 1955

**(N0. 45 OF 1955)**[1]

(20th December, 1955)

**An Act to regulate certain conditions of service of working journalists and other persons employed in newspaper establishments**.

Be it enacted by the Parliament in the Sixth Year of the Republic of India as follows:

CHAPTER I

**Preliminary**

**1.Short title and commencement.--** (1) This Act may be called the [2][Working Journalists and Other Newspaper Employees] (Conditions of Service) and Miscellaneous Provisions Act, 1955.

(2) It extends to the whole of India [3][***]

**2.Definitions.--** In this Act, unless the context otherwise requires-

[4][(a)"Board" means –

(i) in relation to working journalists, the Wage Board constituted under section 9; and

(ii) in relation to non-journalists newspaper employees, the Wage Board constituted under section 13-C;]

(b) "**newspaper**" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in the Official Gazette;

(c) **"newspaper employee"** means any working journalist, and includes any other person employed to do any work in or in relation to any newspaper establishment;

(d) **"newspaper establishment"** means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspaper or for conducting any news agency or syndicate; [5][and includes newspaper establishments specified as one establishment under the Schedule.

*Explanation*: - For the purposes of this clause-

(a)different departments, branches and centres of newspaper establishments shall be treated as parts thereof,-

(a) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper]

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1 Published in the Gazette of India, Extraordinary, Pt.II, Sec I, No. 60, dated the 21st December, 1955.

2 Subs by Act 60 of 1974, sec. 2

3 Omitted by Act 51 of 1970, sec. 2 and Schedule for the words 'except the State of Jammu and Kashmir.

4 subs. by Act 60 of 1974, Sec. 3.

5 Ins. by Act 31 of 1989, sec.2.

[6][(dd) "non-journalist newspaper employee" means a person employed to do any work in, or in relation to, any newspaper establishment, but does not include any such person who-

(i) is a working journalist, or

(ii) is employed mainly in a managerial or administrative capacity, or

(iii) being employed in a supervisory capacity, performs either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

(e) "prescribed" means prescribed by rules made under this Act;

[7][(ee) Tribunal means-

(i) in relation to working journalists, the Tribunal constituted under sec13-AA; and

(ii) in relation to non-journalists newspaper employees, the Tribunal constituted under sec. 13-DD]

[8](eee) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a newspaper employee in respect of his employment or of work done in such employment , and includes-

(i) such allowances (including dearness allowance) as the newspaper employee is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

(iii) any traveling concession,but does not include-

(a) any bonus;

(b) any contribution paid or payable by the employer to any person fund or provident fund or for the benefit of the newspaper employee under any law for the time being in force;

(c) any gratuity payable on the termination of his service.

Explanation- In this clause, the term "wages" shall also include new allowances, if any, of any description fixed from time to time.]

(f) "working journalist" means a person whose principal avocation is that of **a journalist** and [9][who is employed as such, either **whole-time or part-time**, in, or in relation to, one or more newspaper establishment] and includes an editor, *a leader, writer, news-editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer* and proof-*reader*, but does not include any such person who --

(i) is employed mainly in a managerial or administrative capacity; or

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6 Ins. by Act 60 of 1974 , sec. 2

7 Ins. by Act 6 of 1979, sec. 2 (w.e.f 31st January, 1979)

8 Ins. by Act 31 of 1089, sec. 2.

9 Subs. by Act 36 of 1981 (w.e.f. 13th August, 1981)

(ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, function mainly of a managerial nature:

(g) all words and expressions used by not defined in this Act and defined in the Industrial Disputes Act, 1947 (XIV of 1947), shall have the meanings respectively assigned to them in that Act.

## CHAPTER II
## WORKING JOURNALISTS

**3. Act XIV of 1947 to apply to working journalists. --** (1) The provisions of the Industrial Dispute Act, 1947 (XIV of 1947). as in force for the time being, shall, subject to the modification specified in sub-section (2), apply to, or in relation to, working journalists as they apply to, or in relation to, workmen within the meaning of the Act.

(2) Section 25 –F of the aforesaid Act, in its application to working journalist, shall be construed as if in Cl. (a) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a working journalist had been substituted, namely.-

**(a) six months, in the case of an editor, and**

**(b) three months, in the case of any other working journalist.**

**4. Special provisions in respect of certain cases of retrenchment. --** Where at any time between the 14th day of July, 1954, and the 12th day of March, 1955, any working journalist had been retrenched, he shall be entitled to receive from the employer --

(a) wages for one month at the rate to which he was entitled immediately before his retrenchment, unless he had been given one month's notice in writing before such retrenchment : and

(b) compensation which shall be equivalent to fifteen day's average pay for every completed year of service under that employer or any part thereof in excess of six months.

10[**5. Payment of gratuity**. **--** (1) Where –

(a) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and -

(i) his services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action; or

(ii) he retires from service on reaching the age of superannuation; or

(b) any working journalist has been in continuous service whether before or after the commencement of this Act, for not less that ten years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that newspaper establishment on any ground whatsoever other than on the ground of conscience; or

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10 subs. by Act 65 of 1962 , Sec. 3 (w.e.f 15th January, 1963)

(c) any working journalist has been in a continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that establishment on the ground of conscience; or

(d) any working journalist dies while he is in service in any newspaper establishment; the working journalist or, in the case of his death, his nominee or nominees or if there is no nomination in force at the time of the death of the working journalist his family, as the case may be shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947 (14 of 1947), be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment, gratuity which shall be equivalent to fifteen days' average pay for every competed year of service or any part thereof in excess of six months:

Provided that in the case of a working journalist referred to in Cl. (b), the total amount of gratuity that shall be payable to him shall not exceed twelve and a – half months' average pay :

Provided further that where a working journalist is employed in any newspaper establishment wherein not more that six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall not be equivalent to fifteen days' average pay for every completed year of service or any part thereof excess of six months but shall be equivalent to –

(a) three days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed five years;

(b) five days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds five years but does not exceed ten years; and

(c) seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

*Explanation.* – For the purposes of this sub-section and sub-section (1) of Sec. 17. "family" means-

(i) in the case of male working journalist, his widow, children, whether married or unmarried, and his dependent parents and the widow and children of his deceased son:

Provided that a widow shall not be deemed to be a member of the family of the working journalist if at the time of his death she was not legally entitled to be maintained by him;

(ii) in the case of a female working journalist, her husband, children, whether married or unmarried, and the dependent parents of the working journalist or of her husband, and widow and children of her deceased son:

Provided that if the working journalist has expressed her desire to exclude her husband from the family, the husband and his dependent parents shall not be deemed to be a part of the working journalist's family, and in either of the above two cases, if the child of a working journalist or of a

deceased son of a working journalist has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognized, such a child shall not be considered as a member of the working journalist.

(2) Any dispute whether a working journalist has voluntarily resigned from service in any newspaper establishment on the ground of conscience shall be deemed to be an industrial dispute within the meaning of Industrial Disputes Act, 1947 (14 of 1947), or any corresponding law relating to investigation and settlement of industrial disputes in force in any State.

(3) Where a nominee is a minor and the gratuity under sub-section (1) has become payable during his minority, it shall be paid to a person appointed under sub-section (3) of Sec. 5-A :

Provided that where there is no such person, payment shall be made to any guardian of the property of the minor, appointed by a competent court or where no such guardian has been appointed, to either parent of the minor, or where neither parent is alive, to any other guardian of the minor:

Provided further that where the gratuity is payable to two or more nominees, and either or any of them dies, the gratuity shall be paid to the surviving nominee or nominees.

**5-A. Nomination by working journalist. --** (1) Notwithstanding anything contained in any law for the time being in force, or in any disposition, testamentary or otherwise in respect of any gratuity payable to a working journalist, where a nomination made in the prescribed manner purports to confer on any person the right to receive payment of the gratuity for the time being due to the working journalist, the nominee shall, on the death of the working journalist, become entitled to the gratuity and to be paid the sum due in respect thereof to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(2) Any nomination referred to in sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees all the nominees predecease, the working journalist making the nomination.

(3) Where the nominee is a minor, it shall be lawful for the working journalist making the nomination to appoint any person in the prescribed manner to receive the gratuity in the event of his death during the minority of the nominee.

**6. Hours of work.—**(1) Subject to any rules that may be made under this Act, no working journalist shall be required or allowed to work in any newspaper establishment for more than one hundred and forty-four hours during any period of four consecutive weeks, exclusive of the time for meals.

(2) Every working journalist shall be allowed during any period of seven consecutive days rest for a period of not less than twenty-four consecutive hours, the period between 10 p.m. and 6 p.m. being included therein.

*Explanation* – For the purposes of this section, "week" means a period of seven days beginning at midnight on Saturday.

**7. Leave. –** With out prejudice to such holidays, casual leave or other kinds of leave as may be prescribed, every working journalist shall be entitled to—

(a) earned leave on full wages for not less than one-eleventh of the period spent on duty ;

(b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service.

[11]**[8. Fixation or revision of rates of wages.—**(1) The Central Government may, in the manner hereinafter provided –

(a) fix rates of wages in respect of working journalist ;

(b) revise, from time to time, at such intervals as it may think fit,

the rates of wages fixed under this section or specified in the order made under Sec. 6 of the Working Journalists (Fixation of Rates of Wages) Act, 1958 (29 of 1958).

(2) The rates of wages may be fixed or revised by the Central Government in respect of working journalist's time work and for piece work.

**9. Procedure for fixing and revising rates of wages.—**For the purpose of fixing or revising rates of wages in respect of working journalists under this Act, the Central Government shall, as and when necessary, constitute a Wage Board which shall consist of --

(a) two persons representing employers in relation to newspaper establishments ;

(b) two persons representing working journalists ;

(c) three independent persons, one of whom shall be a person who is or has been a Judge of High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.

**10. Recommendation by Board.—**(1) The Board shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the fixation or revision of rates of wages of working journalists to make such representations as they may think fit as respects the rates of wages which may be fixed or revised under this Act in respect of working journalists.

(2) Every such representation shall be in writing and shall be made within such period as the Board may specify in the notice and shall state the rates wages which, in the opinion of the person making the representation, would be reasonable, having regard to the capacity of the employer to pay the same or to any other circumstance, whichever may seem relevant to the person making the representation in relation to his representation.

(3) The Board shall take into account the representation aforesaid, if any, and after examining the materials placed before it make such recommendations as it thinks fit to the Central Government for the fixation or revision of rates of wages in respect of working journalists; and any such recommendation may specify, whether prospectively or retrospectively, the date from which the rates of wages should take effect.

(4) In making any recommendations to the Central Government the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employment, the circumstances relating to the newspaper industry in different regions of the country and to any other circumstances which to the Board may seem relevant.

[12]*[Explanations.* – For the removal of doubts it is hereby declared that nothing in this sub-section shall prevent the Board from making recommendations for fixation or revision of rates of wages on all- India basis.]

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11 Subs. by Act 65 of 1962, Sec. 4, for Secs. 8 to 13 (w.e.f. 15th January, 1963)

**Classification not violative of Arts. 19 (1) (a) and 19 (g). --** In view of the amended definition of the "newspaper establishment" under Sec. 2(d) which came into operation retrospectively from the inception of the Act and the Explanation added to Sec. 10(4) and in view further of the fact that in clubbing the units of the establishment together, the Board cannot be said to have acted contrary to the law laid down by the Supreme Court in *Express Newspaper* case[13]. The classification of the newspaper establishments on all India basis for the purpose of fixation of wages is not bad in law. Hence it is not violative of the petitioner's rights under Arts. 19 (1) (a) and 19 (1) (g) of the Constitution[14].

**11. Powers and procedure of the Board.—**(1) Subject to the provisions contained in sub-section (2), the Board may exercise all or any of the powers which an Industrial Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947), exercises for the adjudication of an industrial dispute referred to it and shall, subject to the provisions contained in this Act, and the rules, if any, made thereunder have power to regulate its own procedure.

(2) Any representation made to the Board and any document furnished to it by way of evidence shall be open to inspection on payment of such fee as may be prescribed, by any person interested in the matter.

(3) If, for any reason, a vacancy occurs in the office of Chairman or any other member of the Board, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of Sec. 9 and any proceeding may be continued before the Board as reconstituted from the stage at which the vacancy occurred.

**12. Powers of Central Government to enforce recommendations of the Wage Board.—** (1) As soon as may be , after the receipt of the recommendations of the Board, the Central Government shall make an order in terms of the recommendations or subject to such modifications, if any, as it thinks fit, being modifications which, in the opinion of the Central Government, do not affect important alterations in the character of the recommendations.

(2) Notwithstanding any thing contained in sub-section (1), the Central Government may, if it thinks fit. –

(a) Make such modifications in the recommendations, not being modifications of the nature referred to in sub-section (1), as it thinks fit:

Provided that before making any such modifications, the Central Government shall cause notice to be given to all persons likely to be affected thereby in such manner as may be prescribed, and shall take into account any representations which they may make in this behalf in writing ; or

(b) refer the recommendations or any part thereof to the Board in which case, the Central Government shall consider its further recommendations and make an order either in terms of the recommendations with such modifications of the nature referred to in sub-section (1) as it thinks fit.

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12 Ins. by Act 31 of 1989, Sec. 2.

13 (1959) S.C.R 12.

14 Indian Express Newspapers (p) Ltd. V. Union of India, 1995 (70) F.L.R. 341 at p. 350(S.C).

(3) Every order made by the Central Government under this section shall be published in the official Gazette together with the recommendations of that Board relating to the order and order shall come into operation on the date of publication or on such date, whether prospectively or retrospectively, as may be specified in the order.

**13. Working Journalists entitled to wages at rates not less than those specified in the order.—** On the coming into operation of an order of the Central Government under Sec.12 every working journalist shall be entitled to be paid by his employer wages in the rate which shall, in no case, be less than the rate of wages specified in the order.

**13.A. Power of Government to fix interim rates of wages.--** (1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that it is necessary so to do, it may, after consultation with the Board, by notification in the official Gazette, fix interim rates of wages in respect of working journalists.

(2) Any interim rates of wages so fixed shall be binding on all employers, in relation to newspaper establishment and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rates of wages fixed under sub-section (1).

(3) Any interim rates of wages fixed under sub-section (1) shall remain in force until the order of the Central Government under Sec. 12 comes into operation.

15**[13-AA. Constitution of Tribunal for fixing or revising rates of wages in respect of working journalists.--** Notwithstanding anything contained in this Act, where the Central Government is of opinion that the Board constituted under Sec.9 for the purpose of fixing or revising rates of wages in respect of working journalist under this Act had not been able to function (for any reason whatsoever) effectively, and in the circumstances, it is necessary so to do, it may, be notification in the official Gazette, Gazette, constitute a Tribunal, which shall consist of a person who is or has been, a Judge of a High Court or the Supreme Court for the purpose of fixing or revising rates of wages in respect of working journalists under this Act.

(2) The provisions of Secs. 10 to 13-A shall apply to , and in relation to, the Tribunal constituted under sub-section (1) of the section, the Central Government and working journalists, subject to the modifications that –

(a) the references to the Board therein, wherever they occur, shall be construed as references to the Tribunal:

(b) in sub-section (3) of Sec. 11 –

(i) the reference to the office of Chairman or any other member of the Board shall be construed as a reference to the office of the person constituting the Tribunal : and

(ii) the reference to Sec. 9 shall be construed as a reference to sub-section (1) of this section ; and

(c) the reference in Sec. 13 and Sec.13-A to Sec.12 shall be construed as reference to Sec. 12 read with this section.

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15 Ins. by Act 6 of 1979, Sec. 3 (w.e.f. 31st January, 1979)

(3) The Tribunal, in discharging its functions under this Act, may act on the evidence recorded by the Wage Board or partly recorded by the Wage Board and partly recorded by itself :

Provided that if the Tribunal is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice it may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as it may permit, the witness shall be discharged.

(4) On the constitution of a Tribunal under sub-section (1) the Board constituted under Sec. 9 and functioning immediately before such constitution shall cease to exist and the members constituting that Board shall be deemed to have vacated their offices :

Provided that any interim rates of wages fixed by the Central Government under Sec. 13-A in respect of working journalists, and in force immediately before the constitution of the Tribunal shall remain in force until the order of the Central Government under Sec. 12 read with this section comes into operation.]

16[CHAPTER II –A

## Non-journalist Newspaper Employees

**13-B. Fixation or revision of rates of wages of non-journalist newspaper employees. –** (1) The Central Government may, in the manner hereinafter provided, --

(a) fix rates of wages in respect of non-journalist newspaper employees; and

(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the Central Government in respect of non-journalist newspaper employees for time work and for piece work.

**13-C. Wage Board for revising rates of wages in respect of non-journalist newspaper employees.—**For the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act, the Central Government shall, as and when necessary, constitute a Wage Board which shall consist of –

(a) two persons representing employers in relation to newspaper establishment;

(b) two persons representing non-journalist newspaper employees; and

(c) three independent persons, one of whom shall be a person who is or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.

**13-D. Application of certain provisions.—**The provisions of Secs. 10 to 13-A shall apply to, and in relation to, the Board constituted under Sec. 13-C, the Central Government and non-journalist newspaper employees, subject to the modifications that –

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16 Ins. by Act 60 of 1974, Sec. 4.

(a) the references to the Board and working journalists therein, wherever they occur, shall be construed respectively as references to the Board constituted under Sec. 13-C and to non-journalist newspaper employees.

(b) the references in sub-section (3) of Sec. 11 to Sec. 9 shall be construed as a reference to Sec. 13-C; and

(c) the reference in Sec. 13 and Sec. 13-A to Sec. 12 shall be construed as a reference to Sec. 12 read with this section.]

[17]**[13-DD. Constitution of Tribunal for fixing or revising rates of wages in respect of non-journalist newspaper employees.—**(1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that the Board constituted under Sec.13-C for the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act has not been able to function (for any reason whatsoever) effectively, and in the circumstances, it is necessary to do it may, by notification in the official Gazette, constitute a tribunal which shall consist of a person who is, or has been, a Judge of a High Court or the Supreme Court, for the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act.

(2) The provisions of Sec. 10 to 13-A shall apply to, and in relation to, the Tribunal constituted under sub-section (1) of this section, the Central Government and non-journalist newspaper employees, subject to the modifications that—

(a) the references to the Board and working journalists therein, wherever they occur, shall be construed respectively as references to the Tribunal and to non-journalist newspaper employees;

(b) in sub-section (3) of Sec. 11—

(i) the reference to the office of Chairman or any other member of the Board shall be construed as a reference to the office of the person constituting the Tribunal;

(ii) the reference to Sec. 9 shall be construed as a reference to sub-section (1) of this section; and

(c) the reference in Sec. 13 and Sec. 13-A to Sec. 12 shall be construed as references to Sec. 12 read with this section;

(3) The Tribunal, in discharging its functions under this Act, may act on the evidence recorded by the Wage Board or partly recorded by the Wage Board and partly recorded by itself;

Provided that if Tribunal is of opinion that further, examination of any of the witnesses whose evidence has already been recorded is, necessary in the interests of justice, it may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as it may permit, the witness shall be discharged.

(4) On the constitution of A Tribunal under sub-section (1) the Board constituted under Sec. 13-D in respect of non-journalist newspaper employees and in force immediately before such constitution shall cease to exist and the members constituting that Board shall be deemed to have vacated their offices:

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17 Ins. by Act 6 of 1979, Sec. 4 (w.e.f. 31st January, 1979)

Provided that any interim rates of wages fixed by the Central Government under Sec. 13-A read with Sec. 13- D in respect of non-journalist newspaper employees and in force immediately before the constitution of the Tribunal shall remain in force until the order of the Central Government under Sec. 12 read with this section comes into operation.]

CHAPTER III

**Application of certain Acts to Newspaper Employees**

**14. Act XX of 1946 to apply to newspaper establishment.—**The provisions of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), as in force for the time being, shall apply to every newspaper establishment wherein twenty or more newspaper employees are employed or were employed on any day of the preceding twelve months as if such newspaper establishment were an industrial establishment to which the aforesaid Act has been applied by a notification under sub-section (3) of Sec. 1 thereof, and as if a newspaper employee were a workman within the meaning of that Act.

**15. Act XIX of 1952 to apply to newspaper establishments.—**The Employees' Provident Funds Act, 1952 (XIX of 1952), as in force for the time being, shall apply to every newspaper establishment in which twenty or more persons are employed on any day, as if such newspaper establishment were a factory to which the aforesaid Act had been applied by a notification of the Central Government under sub-section (3) of Sec. 1 thereof, and as if a newspaper employee were an employee with in the meaning of that Act.

CHAPTER IV

**Miscellaneous**

**16. Effect of laws and agreements inconsistent with this Act.—** (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act :

Provided that where under any such award, agreement, contact of service or otherwise a newspaper employee is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the newspaper employee shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude any newspaper employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him that those to which he would be entitled under this Act.

[18]**[16-A. Employer not to dismiss, discharge, etc., newspaper employee.-** No employer in relation to a newspaper establishment shall, by reason of his liability for payment of wages to newspaper employees at the rates specified in an order of the Central Government under Sec. 12 or under Sec. 12 read with Sec. 13-AA or Sec. 13-DD, dismiss, discharge or retrench any newspaper employee]

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**18 Ins. by Act 36 of 1981.**

19[**17. Recovery of money due from an employer**. (1) Where any amount is due under this Act to a newspaper employee from an employer, the newspaper employee himself, or any person authorised by him in writing in this behalf or in case of the death of the employee, any member of his family may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to him and if the State Government or such authority as the State Government may specify in this behalf, is satisfied that any amount is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

(2) If any question arises as to the amount due under this Act to a newspaper employee from his employer, the State Government may, on its own motion or upon allocation made to it, refer the question to any Labour Court constituted by it under the Industrial Disputes Act, 1947 (14 of 1947), or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State and the said Act or law shall have effect in relation to the Labour Court as if question so referred were a matter referred to the Labour Court for the adjudication under that Act or law.

(3) The decision of the Labour Court shall be forwarded by it to the State Government which made the reference and any amount found due by the Labour Court may be recovered in the manner provided in sub-section(1).

**17-A. Maintenance of registers, records and muster-rolls.-** Every employer in relation to a newspaper establishment shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

**17-B. Inspectors.-** (1) The State government may, by notification in the official Gazette , appoint such persons as it thinks fit to be inspectors for the purposes of this Act and may define the local limits within which they shall exercise their functions.

(2) Any Inspector appointed under sub-section(1) may for the purpose of ascertaining whether any of the provisions of this Act or of the Working Journalists (fixation of Rates of Wages)Act, 1958 (29 of 1958), have been complied with in respect of a newspaper establishment,-

(a) require an employer to furnish such information as he may consider necessary;

(b) at any reasonable time enter any newspaper establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment;

(c) examine with respect to, or any matter relevant to, any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the newspaper establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been any employee in the establishment;

(d) make copies of or take extracts from any book, registers or other documents maintained in relation to the newspaper establishment;

(e) exercise such other powers as may be prescribed.

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19 subs. by Act 65 of 1962, Sec. 5 for Sec. 17 (w.e.f. 15th January, 1962)

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (45 of 1860)

(4) Any person required to produce any documents or thing or to give information byan Inspector under sub-section(2) shall be legally bound to do so]

**18. Penalty**.- [20][(1) If any employer contravenes any of the provisions of this Act or any rule or order made thereunder, he shall be punishable with fine which may extend to two hundred rupees.

(1-A) Whoever, having been convicted of any offence under this Act, is again convicted of an offence involving the contravention of the same provision shall be punishable with fine which may extend to five hundred rupees.

(1-B) where an offence has been committed by a company, every person who, at the time offence was committed, was in charge of, and was reasonable to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this section, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(1-C) Notwithstanding anything contained in sub-section (1-B), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to, any gross negligence on this part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of such offence shall be liable to be proceeded against and punished accordingly.

(1-D) for the purposes of this section. –

(a) "company" means any body corporate and includes a firm or other association of individuals: and

(b) "director" in relation to a firm means a partner in the firm,]

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this section.

(3) No court shall take cognizance of an offence under this section, unless the complaint thereof was made within six months of the date on which the offence is alleged to have been committed.

**19. Indemnity.—**No suit, prosecution or other legal proceeding shall lie against the Chairman or any other member of the Board [21][or the person constituting the Tribunal] [22][or an Inspector appointed under this Act] for anything which is in good faith done or intended to be done.

[23]**[19-A. Defects in appointment not to invalidate acts. -** No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

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20 subs. by Act 65 of 1962, Sec. 6, for sub-Section (1) (w.e.f. 15th January, 1963).

21 Ins. by Act 6 of 1979, Sec. 5 (w.e.f. 31st January, 1979)

22 Ins. by Act 65 of 1962, Sec. 7.

23 Ins. by Act 65 of 1962, Sec. 8 (w.e.f. 15th January, 1963).

**19-B. Saving.--** Nothing in his Act or the Working Journalists (Fixation of Rates of Wages) Act, 1958 (29 of 1958), shall apply to [24][any newspaper employee] who is an employee of the Government to whom the fundamental and supplementary rules, Civil Services (Classification, Control and Appeal) Rules, Civil Service (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules, or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the Central Government in the official Gazette, apply.]

**20. Power to make rules.—**(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) Payment of gratuity to working journalists;

(b) hours of work of working journalists;

(c) holidays, earned leave, leave on medical certificate, casual leave or any other kind of leave admissible to working journalists,

[25][(d) the procedure to be followed by the Board [or, as the case may be, the Tribunal] in the discharge of its functions under this Act;

(e) the form of nominations, and the manner in which nominations may be made;

(f) the manner in which any person may be appointed for the purposes of sub-section (3) of Sec. 5-A;

(g) the variation or cancellation of nominations;

(h) the manner of giving notice under Cl. (a) of sub-section (2) of Sec.12;

(i) the registers, records and muster-rolls to be prepared an maintained by newspaper establishments, the forms in which they should be prepared and maintained and the particulars to be entered therein;

(j) the power that may be exercised by an Inspector;

(k) any other matter which has to be, or may be, prescribed.]

[26][(3) Every rule made under his section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprises in one session [27][or in two or more successive sessions.] and if before the expiry of the session [immediately] following the session or the successive sessions aforesaid]. both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

[28][THE SCHEDULE]

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24 Subs. by Act 60 of 1974, Sec. 5.

25 Subs. by Act 65 of 1962, Sec. 9 for Cls. (d), (3), and (f) (w.e.f. 15th January, 1963)

26 Subs. by Act 65 of 1962, Sec. 9 (w.e.f. 15th January, 1963)

27 Subs. by Act 60 of 1974, Sec. 6.

28 Ins. by Act 60 of 1974, Sec 6.

(see Sec. 2 (d))

1. For the purposes of Cl. (d) of Sec. 2,--

(1) two or more newspaper establishments under common control shall be deemed to be one newspaper establishment;

(2) two or more newspaper establishments owned by an individual and his or her spouse shall be deemed to be one newspaper establishment unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;

(3) two or more newspaper establishment publishing newspaper bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in the same State or Union territory shall be deemed to be one newspaper establishment.

2. For the purposes of paragraph 1 (1), two or more establishments shall be deemed to be under common control--

(a) (i) where the newspaper establishments are owned by a common individual or individuals;

(ii) where the newspaper establishments are owned by firms, if such firms have substantial number of common partners;

(iii) where the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;

(iv) where one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;

(v) (a) where one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or

(b) where there is functional integrality between concerned newspaper establishments."]

**21. Repeal and saving.—**(1) The Working Journalists and other Newspaper Employees (Condition of Service) and Miscellaneous Provisions (Amendment Ordinance), 1979 (30 of 1979) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

# THE WORKING JOURNALISTS AND OTHER NEWSPAPER EMPLOYEES

# (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT, 1955

## DEFINITIONS

"Newspaper" means any printed periodical work containing public news or comments on public news and incluces such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in the Official Gazette.

"Newspaper establishments" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate.

"Working Journalist" means a person whose principle avocation is that of a journalist and [ who is employed as such, either whole-time or part-time, in, or in relation to, one or more newspaper establishments], and includes an editor, a leader, writer, news-editor, sub-editor, feature-writer, copy- ester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who -

(i) is employed mainly in a managerial or administrative capacity, or

(ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

## APPLICABILITY OF CERTAIN ACTS

### Act 14 of 1947 to apply to working journalists

The provisions of the Industrial Disputes Act, 1947 as in force for time being, shall, subject to the modification specified in sub-section (2), apply to, or in relation to, working journalists as they apply to, or in relation to workmen within the meaning of that Act.

Section 25-F of the aforesaid Act, in its application to working journalists, shall be construed as if in clause(a) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a working journalist had been substituted, namely -(a) Six months, in the case of an editor, and(b) three months, in the case of any other working journalist.

## FIXATION OR REVISION OF RATES OF WAGES

The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955) hereinafter referred to as the Act provides for regulation of conditions of service of working journalists, non-journalists newspaper and news-agency employees. Section 9 of the Act, inter-alia, states that for fixing or revising rates of wages in respect of working journalists, the Central Government shall, as and when necessary, constitute a Wage Board consisting of :

(a) three persons representing employers in relation to newspaper establishments;(b) three persons representing working journalists;

c. four independent persons, one of whom shall be a person who is, or has been a judge of High Court of the Supreme Court and who shall be appointed by the Government as the Chairman of the Wage Boards.

2. Section 13C of the Act provides for constitution of Wage Board for non-journalist newspaper/news agency employees. These provisions are similar to the provision for constitution of a Wage Board for Working Journalists under section 9 of the Act except that instead of three representatives of working journalists, three representatives of non-journalist newspaper/news agency employees shall be members of the Wage Boards for non-journalist newspaper/news agency employees.

I. **PREVIOUS WAGE BOARDS**

Wage Boards for Journalists and Non-Journalist Newspaper employees have been set up in the past with a gap of apprx.8-10 years. The Bachawat Wage Boards were set up in 1985 and as a period of apprx. nine years had already elapsed, the Government decided to set up the Manisana Wage Boards in September, 1994. The details of the Wage Boards set up in the past is as follows :-

(i) First Wage Board (Divatia Wage Board) was constituted in May, 1956 and its recommendations were accepted in May, 1957;

(ii) The 2nd Wage Board (Shinde Wage Board) was constituted in November, 1963 and its recommendations were accepted in October, 1967;

(iii) The 3rd Wage Board (Palekar Wage Board ) was constituted in 1975. The Wage Board could not function due to non-cooperation of the employers. Later on, this was converted into one man Tribunal. The Tribunal made its recommendations in August, 1980 which were notified in 1980-81.

(iv) The 4th Wage Board (Bachawat Wage Board) was constituted in July, 1985. It made its recommendations in May, 1989 which were accepted by the Govt. in 1989-90.

**II. IMPLEMENTATION OF BACHAWAT WAGE BOARD RECOMMENDATIONS**

After the acceptance of the recommendations of the last Wage Board (Bachawat Wage Boards) in August, 1989, the State Govts. and U.T.'s were requested to implement its recommendations. The Government is monitoring the progress of implementation on regular basis. As on 1.1.99 out of 1703 newspaper establishments, 637 have fully, 26 have partially implemented the Bachawat recommendations.

**III. CONSTITUTION OF NEW WAGE BOARDS**

The Government decided to set up the Manisana Wage Boards in September, 1994, particularly taking into considera- tion the demands of the Newspaper employees' Unions, for fixing and revising rates of wages under the Chairmanship of Justice Raj Kumar Manisana Singh, retired Chief Justice of Guwahati High Court. No time frame was fixed for the submission of the report. The Wage Boards submitted their interim report on the interim rates of wages recommending an interim increase of 15% in basic wage w.e.f. 20.4.95. The Govt. issued notification in this regard on 24.9.96 enhancing interim increase in basic wage from 15% to 20% and an additional amount of Rs.100/- p.m. to be effective from 20.4.95.

**IV. AMENDMENT IN THE ACT**

After the setting up of the Wage Boards on 2.9.94, there were also demands from newspaper employees and employers' organisations for increasing the number of representatives on the Boards. The Government agreeing to provide a wider representations on these Boards, introduced a Bill in the Parliament, for increasing one representative in each category of representations namely employers'/employees'/ independent members. The Bill was passed by both houses of Parliament as Working Journalists and other Newspaper Employees(Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1996 on 28.9.96. The task of finalising the recommendations is in full progress and is expected to be completed by December, 1999.

**V. APPLICATION OF CERTAIN ACTS TO NEWSPAPER EMPLOYERS**

## Act 20 of 1946 to apply to newspaper establishments

The provisions of the Industrial Employment(Standing Orders) Act, 1946, as in force for the time being, shall apply to every newspaper establishment wherein twenty or more newspaper employees are employed or were employed on any day of the preceding twelve months as if such newspaper estt. Were an industrial estt. to which the aforesaid

Act has been applied and as if a newspaper employee were a workman within the meaning of that Act.

**Act 19 of 1952 to apply to newspaper establishments**

The Employees' Provident Funds Act, 1952, as in force for the time being, shall apply to every newspaper estatblishment in which twenty or more persons are employed on any day, as if such newspaper establishment were a factory to which the aforesaid Act had been applied, and as if a newspaper employee were an employee within the meaning of that Act.

**VI. RECOVERY OF MONEY DUE FROM AN EMPLOYER**

Where any amount is due under this Act to a newspaper employee from an employer, the newspaper employee himself, or any person authorised by him in writing in this behalf, or in the case of the death of the employee, any member of his family may, without prejudice to any other mode of recovery, make an application to the State Govt.,or such authority, as the State Govt. may specify in this behalf, is satisfied that any amount is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue. If any question arises to the amount due under this Act, the State Govt. may, on its own motion or upon application made to it, refer the question to any Labour Court constituted by it under the Industrial Disputes Act, 1947.

## PAYMENT OF BONUS ACT, 1965

### I. APPLICABILITY/ COVERAGE

Payment of Bonus Act, 1965 is applicable to (a) every factory and (b) every other establishment in which twenty or more persons are employed on any day during an accounting year (Proviso : May be reduced to minimum 10 by the appropriate Government). Those persons are eligible for bonus whose monthly wage salary does not exceed Rs.3500/p.m. and bonus is to be calculated on the basis of Rs.2500/-p.m. Every employee shall be entitled to be paid bonus by the employer in an accounting year in accordance with the provisions of this Act, provided he has worked in the establishment for not less than 30 working days in that year. Minimum bonus of 8.33% of wage or salary and the maximum bonus of 20% of wage or salary has been provided under Section 10 and 11 of the Act.

TIME LIMIT :

Section 19 of the Payment of Bonus Act provides the time limit for payment of bonus. Where a dispute regarding the payment of bonus is pending before any authority under Section 22 of the Bonus Act, payment has to be made within one month from the date on which the award becomes enforceable or settlement, if any, comes into operation, in

respect of such dispute. In rest of the cases, bonus has to be paid within 8 months from the close of the accounting year. The appropriate Governments, however, may upon an application made to it by an employer, extend the said period of 8 months up to two years.

II. **APPROPRIATE GOVERNMENT:**

The appropriate Government for the purpose of the Act is (i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 is the Central Government, the Central Government (ii) in relation to any other establishment, a Government of the State in which that other establishment is situated.

In exercise of the powers conferred by sub-section (i) of the Section 30 of the Payment of Bonus Act, 1965, the Central Government have authorised Regional Labour Commissioners to make complaint in a Court for and under the authority of Central Government in cases where the Central Government is the appropriate Government. The appropriate Government may, by notification in the official Gazette appoint such persons as it thinks fit to be inspectors for the purpose of this Act and may define the limits within which they shall exercise jurisdiction.

**III. POWER OF EXEMPTION (Section 36) :**

If the appropriate Government, having regard to the financial position and other relevant circumstances of any establishments or class of establishments, is of opinion that it will not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the official Gazette, exempt for such period as may be specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishments from all or any of the provisions of this Act.

**IV. POWER TO MAKE RULES (Section 38) :**

The Central Government may make rules for the purpose of carrying into effect provisions of this Act. In exercise of the powers conferred by this Section, the Payment of Bonus Rules, 1975 were framed under the Payment of Bonus Act, 1965. Authority for granting permission for change of accounting year has been conferred on CLC(C) in the case of establishments in relation to which the Central Government is the appropriate Government and in any other case, the Labour Commissioner of the State in which the establishment is situated.

**V. PENALTY (Section 28)**

For the contravention of the provisions of the Payment of Bonus Act or rules made therein - a person is punishable with imprisonment for a term which may extend to six months, or with fines which may extend to Rs.1000/-or with both.

**VI. COGNIZANCE OF OFFENCE (Section 30) :**

i) No Court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of appropriate Government or an officer of that Government (not below the rank of Regional Labour Commissioner (Central) in the case of an officer the Central Government, and not below the rank of a Labour Commissioner in the case of an officer of the State Govt) specially authorised in this behalf by that Government. (ii) No Court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

The position explained above under the Payment of Bonus Act, 1965 provides sufficient machinery and provisions for the proper implementation of the Act. Information regarding implementation of the various provisions of the Act is being maintained by CLC(C) and the State Government concerned.

**VII. APPLICATION OF ACT TO ESTABLISHMENTS IN PUBLIC SECTOR :**

Provisions of the Act shall apply to an establishment in public sector, which sells goods produced or manufactured and renders any service in competition with an establishment in private sector and the income from this is not less than 20% of gross income of the establishment in public sector in an accounting year.

**VIII. RECOVERY OF BONUS DUE FROM AN EMPLOYER :**

Where any money is due to an employee by way of bonus from his employer, the employee himself or any other person authorised by him makes an application to the appropriate Govt., the appropriate Govt. shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

# WORKMEN'S COMPENSATION ACT,1923

[Act No. 8 of Year 1923]

*An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident*

Whereas it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident;

It is hereby enacted as follows: -

## CHAPTER I : PRELIMINARY

### 1. Short title, extent, and commencement

(1) This Act may be called the Workmen's Compensation Act, 1923.

[1][(2) It extends to the whole of India [2][***].

(3) It shall come into force on the first day of July, 1924.

### 2. Definitions

In this Act unless there is anything repugnant in the subject or context—

[3][* * *]

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

(c) "compensation" means compensation as provided for by this Act;

[4][(d) "dependent" means any of the following relatives of a deceased workman, namely:-

(i) a widow, a minor [5][legitimate or adopted] son, an unmarried [5][legitimate or adopted] daughter, or a widowed mother; and

(ii) if wholly dependant on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(iii) if wholly or in part dependant on the earnings of the workman at the time of his death,-

(a) a widower,

(b) a parent other than a widowed mother,

(c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter [6][legitimate or illegitimate or adopted] if married and a minor or if widowed and minor,

(d) a minor brother or an unmarried sister or a widowed sister if a minor,

(e) a widowed daughter-in-law,

(f) a minor child of a pre-deceased son,

(g) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(h) a paternal grandparent if no parent of the workman is alive;]

[7][*Explanation:* For the purposes of sub-clause (ii) and items (f) and (g) of sub-clause (iii) references to a son, daughter or child include an adopted son, daughter or child respectively.]

(e) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

(f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

[8][(ff) "minor" means a person who has not attained the age of 18 years;]

(g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

PROVIDED that every injury specified [9][in Part II of Schedule] shall be deemed to result in permanent partial disablement;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "qualified medical practitioner" means any person registered [10][***] under any [11][Central Act, or an Act of the Legislature of a [12][State]] providing for the maintenance of a register of medical practitioners or, in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be a qualified medical practitioner for the purposes of this Act;

[13][* * *]

(k) "seaman" means any person forming part of the crew of any [14][***] ship, but does not include the Master of [15][the] ship;

(l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement:

[16][PROVIDED that permanent total disablement shall be deemed to result from every injury specified in Part I of Schedule I or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent or more;]

(m) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(n) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is-

(i) a railway servant as defined in section 2(34) of the Indian Railways Act, 1989 (24 of 1989), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

[7][(ia)(a) a master, seaman or other member of the crew of a ship.

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company,

and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India, or;]

(ii) employed [17][* * *] [18][* * *] in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of [19][the Armed Forces of the Union] [20][* * *]; and any reference to a workman who has been injured shall, where the workman is dead includes a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department [21][acting on behalf of the Government] shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

[22][(3) The Central Government or the State Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply in case of notification by the Central Government, within the territories to which the Act extends, or, in the case of a notification by a State Government within the State to such classes of persons:

PROVIDED that in making addition the Central Government or the State Government, as the case may be, may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.]

## CHAPTER II : WORKMEN'S COMPENSATION

### 3. Employer's liability for compensation

(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

PROVIDED that the employer shall not be so liable-

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding [23][three] days;

(b) in respect of any [24][injury, not resulting in death, [25][or permanent total disablement] caused by] an accident which is directly attributable to-

(i) the workman having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device he knew to have been provided for the purpose of securing the safety of workman, [26][* * *].

[27][* * *]

[28][(2) If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and unless the contrary is proved, the accident shall be deemed to have arisen out of, and in the course of, the employment:

[29][PROVIDED that if it is proved,-

(a) that a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III has contracted a disease specified therein as an occupational disease peculiar to that employment during a continuous period which is less than the period specified under this sub-section for that employment; and

(b) that the disease has arisen out of and in the course of the employment, the contracting of such disease shall be deemed to be an injury by accident within the meaning of this section:

PROVIDED FURTHER that if it is proved that a workman who having served under any employer in any employment specified in Part B of Schedule III or who having served under one or more employers in any employment specified in Part C of that Schedule, for a continuous period specified under this sub-section for that employment and he has after the cessation of such service contracted any disease specified in the said Part B or the said Part C, as the case may be, as an occupational disease peculiar to the employment and that such disease arose out of the employment, the contracting of the disease shall be deemed to be injury by accident within the meaning of this section.]

[30][(2A) If a workman employed in any employment specified in Part C of Schedule III contracts any occupational disease peculiar to that employment, the contracting whereof is deemed to be an injury by accident within the meaning of this section, and such employment was under more than one employer, all such employers shall be liable for the payment of the compensation in such proportion as the Commissioner may, in the circumstances, deem just.]

(3) [31][The Central Government or the State Government] after giving, by notification in the Official Gazette, not less than three months', notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply [25][in the case of a notification by the Central Government, within the territories to which this Act extends or, in case of and notification by the State Government, within the State] [32][***] as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.]

(4) Save as provided by [33][sub-sections (2), (2A)] and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is [34][* * *] directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any court of law in respect of any injury-

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

**[35][4. Amount of compensation**

(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:-

(a) where death results from the injury

an amount equal to [36][fifty per cent] of the monthly wages of the deceased workman multiplied by the relevant factor;

or

an amount of [37][fifty thousand rupees], whichever is more;

(b) Where permanent total disablement results from the injury

an amount equal to [38][Sixty per cent] of the monthly wages of the injured workman multiplied by the relevant factor;

or

an amount of [39][Sixty thousand rupees], whichever is more.

*Explanation I:* For the purpose of clause (a) and clause (b) "relevant factor" in relation to a workman means the factor specified in the second column of Schedule IV against the entry in the first column of that Schedule specifying the number of years which are the same as the completed years of the age of the workman on his last birthday immediately preceding the date on which the compensation fell due;

*Explanation II:* Where the monthly wages of a workman exceed [40][two thousand rupees], his monthly wages for the purposes of clause (a) and clause (b) shall be deemed to be [40][two thousand rupees] only;

(c) Where permanent partial disablement results from the injury

(i) in the case of an injury specified in Part II of Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury; and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury;

*Explanation I:* Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

*Explanation II:* In assessing the loss of earning capacity for the purpose of sub-clause (ii), the qualified medical practitioner shall have due regard to the percentages of loss of earning capacity in relation to different injuries specified in Schedule I;

(d) Where temporary disablement, whether total or partial results from the injury

a half monthly payment of the sum equivalent to twenty-five per cent of monthly wages of the workman, to be paid in accordance with the provisions of sub-section (2).

[41][(1A) Notwithstanding anything contained in sub-section (1), while fixing the amount of compensation payable to a workman in respect of an accident occurred outside India, the Commissioner shall take into account the amount of compensation, if any, awarded to such workman in accordance with the law of the

country in which the accident occurred and shall reduce the amount fixed by him by the amount of compensation awarded to the workman in accordance with the law of that country.]

(2) The half-monthly payment referred to in clause (d) of sub-section (1) shall be payable on the sixteenth day-

(i) from the date of disablement where such disablement lasts for a period of twenty-eight days or more, or

(ii) after the expiry of a waiting period of three days from the date of disablement where such disablement lasts for a period of less than twenty-eight days; and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter:

PROVIDED that-

(a) there shall be deducted from any lump sum or half monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half monthly payment, as the case may be; and

(b) no half monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

*Explanation*: Any payment or allowance which the workman has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (a) of the proviso.

(3) On the ceasing of the disablement before the date on which any half monthly payment falls due there shall be payable in respect of that half monthly a sum proportionate to the duration of the disablement in that half month.]

[41][(4) If the injury of the workman results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the Commissioner a sum of one thousand rupees for payment of the same to the eldest surviving dependant of the workman towards the expenditure of the funeral of such workman or where the workman did not have a dependant or was not living with his dependant at the time of his death to the person who actually incurred such expenditure.]

**[42][4A. Compensation to be paid when due and penalty for default**

(1) Compensation under section 4 shall be paid as soon as it falls due.

(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case may be, without prejudice to the right of the workman to make any further claim.

[43][(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall-

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent per annum or at such higher rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government, by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent of such amount by way of penalty:

PROVIDED that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

*Explanation:* For the purposes of this sub-section, "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934, (2 of 1934).

(3A) The interest payable under sub-section (3) shall be paid to the workman or his dependant, as the case may be, and the penalty shall be credited to the State Government.]

**5. Method of calculating wages**

[44][* * *] [45][In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a months' service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated] as follows, namely:-

(a) Where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

[46][(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be [47][***] the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;]

[48][(c) [49][in other cases including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b)], the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

[50][* * *]

*Explanation:* A period of service shall, for the purposes of [51][this [52][section]] be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

[53][* * *]

**6. Review**

(1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

**7. Commutation of half-monthly payments**

Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

**8. Distribution of compensation**

[54][(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

[55][PROVIDED that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation [56][of an amount equal to three months wages of such workman and so much of such amount] as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.]

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.]

(4) On the deposit of any money under sub-section (1), [57][as compensation in respect of a deceased workman] the Commissioner [58][* * *] shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

[59][(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person, whom the Commissioner thinks best fitted to provide for the welfare of the workman.]

[60][(8)] Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such order for the variation of the former order as he thinks just in the circumstances of the case:

PROVIDED that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

[57][(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31.]

**9. Compensation not to be assigned, attached or charged**

Save as provided by this Act no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law nor shall any claim be set off against the same.

**10. Notice and claim**

(1) [61][No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within [62][two years] of the occurrence of the accident or in case of death within [57][two years] from the date of death:]

PROVIDED that where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

[63][PROVIDED FURTHER that in case of partial disablement due to the contracting of any such disease and which does not force the workman to absent himself from work the period of two years shall be counted from the day the workman gives notice of the disablement to his employer:

PROVIDED FURTHER that if a workman who, having been employed in an employment for a continuous period, specified under sub-section (2) of section 3 in respect of that employment, ceases to be so employed and develops symptoms of an occupational disease peculiar to that employment within two years of the cessation of employment, the accident shall be deemed to have occurred on the day on which the symptoms were first detected:]

[64][PROVIDED FURTHER that the want of or any defect or irregularity in a notice shall not be a bar to the [65][entertainment of a claim]-

(a) if the claim is [66][preferred] in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer [67][or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed] had knowledge of the accident from any other source at or about the time when it occurred:]

PROVIDED FURTHER that the Commissioner may [68][entertain] and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been [68][preferred], in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or [68][prefer] the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon [69][any one of] several employers, or upon any person [70][* * *] responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

[71][(3) The State Government may require that any prescribed class of employers shall maintain at these premises at which workmen are employed a notice book, in the prescribed form, which shall be readily accessible at all reasonable times to any injuries workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice book is maintained, by entry in the notice-book.]

**[72][10A. Power to require from employers statements regarding fatal accident**

(1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

**10B. Reports of fatal accidents and serious bodily injuries**

(1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death [73][or serious bodily injury], the person required to give the notice shall, within seven days of the death [73][or serious bodily injury], send a report to the Commissioner giving the circumstances attending the death [73][or serious bodily injury]:

PROVIDED that where the State Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

[74]*[Explanation :* "Serious bodily injury" means an injury which involves, or in all probability will involve the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.]

(2) The State Government may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the person who shall send the report to the Commissioner.

[74][(3) Nothing in this section shall apply to factories to which the Employees' State Insurance Act, 1948, (34 of 1948) applies.]]

**11. Medical examination**

(1) Where a workman has given notice of an accident he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half- monthly payment under this Act shall, if so required, submit himself for such examination from time to time:

PROVIDED that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (d) of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, [75][if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable] in the circumstances of the case and that the injury bas been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner [76][whose instructions he had followed], and compensation, if any, shall be payable accordingly.

**12. Contracting**

(1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contract with any other person (hereinafter in this section referred to as the contractor for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, [72][or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to a pay compensation or to indemnify a principal under this section be shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation,] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere that on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

**13. Remedies of employer against stranger**

Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

**14. Insolvency of employer**

(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insures is to void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman:

PROVIDED that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (3 of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (5 of 1920) or under [77][Section 530 of the Companies Act, 1956 (1 of 1956)], are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purpose of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

**[78][14A. Compensation to be first charge on assets transferred by employer**

Where an employer transfers his assets before any amount due in respect of any compensation, the liability whereof accrued before the date of the transfer, has been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property.]

**15. Special provisions relating to master and seamen**

This Act shall apply in the case of workmen who are masters of [79][***] ships or seamen subject to the following modifications, namely:-

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he ware the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within [80][one year] after the news of the death has been-received by the claimant, or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost:

[81][PROVIDED that the Commissioner may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.]

(3) Where an injured master or seaman is discharged or left behind any part of [82][India or] [83][in any foreign country] any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claim, be admissible in evidence-

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

[84][* * *]

85[(4)] No [86][half-monthly payment] shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being [87][* * *] relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

[88][(5) No compensation shall be payable under this Act in respect of any injury in respect of which provision is made for payment of gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942, made by the Central Government.

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if-

(a) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and

(b) the State Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and

(c) the proceedings under this Act are commenced within one month from the date on which the said certificate of the State Government was furnished to person commencing the proceedings.]

**[89][15A. Special provisions relating to captains and other members of crew of aircraft**

This Act shall apply in the case of workmen who are captains or other members of the crew of aircraft subject to the following modifications, namely:-

(1) The notice of the accident and the claim for compensation may, except where the person injured is the captain of the aircraft, be served on the captain of the aircraft as if he were the employer, but where the accident happened and the disablement commenced on board the aircraft it shall not be necessary for any member of the crew to give notice of the accident.

(2) In the case of the death of the captain or other member of the crew, the claim for compensation shall be made within one year after the news of the death has been received by the claimant or, where the aircraft has been or is deemed to have been lost with all hands within eighteen months of the date on which the aircraft was, or is deemed to have been, so lost:

PROVIDED that the Commissioner may entertain any claim for compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

(3) Where an injured captain or other member of the crew of the aircraft is discharged or left behind in any part of India or in any other country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claims, be admissible in evidence-

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness;

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

**15B. Special provisions relating to workmen abroad of companies and motor vehicles**

This Act shall apply-

(i) in the case of workmen who are persons recruited by companies registered in India and working as such abroad, and

(ii) persons sent for work abroad along with motor vehicles registered under the Motor Vehicles Act, 1988 (59 of 1988) as drivers, helpers, mechanics, cleaners or other workmen, subject to the following modifications, namely:-

(1) The notice of the accident and the claim for compensation may be served on the local agent of the company, or the local agent of the owner of the motor vehicle, in the country of accident, as the case may be.

(2) In the case of death of the workman in respect of whom the provisions of this section shall apply, the claim for compensation shall be made within one year after the news of the death has been received by the claimant:

PROVIDED that the Commissioner may entertain any claim for compensation in any case notwithstanding that the claim had not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.

(3) Where an injured workman is discharged or left behind in any part of India or in any other country any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claims, be admissible in evidence-

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness;

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the dependant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.]

**16. Returns as to compensation**

The [90][State Government] may, by notification in the Official Gazette, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation together with such other particulars as to the compensation as the [90][State Government] may direct.

**17. Contracting out**

Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

**18. [Proof of age]**

Repealed by the Workmen's Compensation (Amendment) Act, 1959,(8 of 1959) s. 12, w.e.f. 1-6-1959.

**[91][18A. Penalties**

(1) Whoever-

(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(c) fails to send a report which he is required to send under section 10B, or

(d) fails to make a return which he is required to make under section 16, shall be punishable with fine which may extend to [92][five thousand] rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made [93][within six months of the date on which the alleged commission of the offence came to the knowledge of the Commissioner].]

## CHAPTER III : COMMISSIONERS

### 19. Reference to Commissioners

(1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by [94][a Commissioner].

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner, or to enforce any liability incurred under this Act.

### 20. Appointment of Commissioners

(1) The State Government may, by notification in the Official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such [95][* * *] area as may be specified in the notification.

[96][(2) Where more than one Commissioner has been appointed for any [95][***] area, the State Government, may, by general or special order, regulate the distribution of business between them.]

[97][(3)] Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

[95][(4)] Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

### 21. Venue of proceedings and transfer

[98][(1) Where any matter under this Act is to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the area in which-

(a) the accident took place which resulted in the injury; or

(b) the workman or in case of his death, the dependant claiming the compensation ordinarily resides; or

(c) the employer has his registered office:

PROVIDED that no matter shall be processed before or by a Commissioner, other than the Commissioner having jurisdiction over the area in which the accident took place, without his giving notice in the manner prescribed by the Central Government to the Commissioner having jurisdiction over the area and the State Government concerned:

PROVIDED FURTHER that, where the workman, being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or a workman in a motor vehicle or a company, meets with the accident outside India any such matter may be done by or before a Commissioner for the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.

(1A) If a Commissioner, other than the Commissioner with whom any money has been deposited under section 8, proceeds with a matter under this Act, the former may for the proper disposal of the matter call for transfer of any records or money remaining with the latter and on receipt of such a request, he shall comply with the same.]

(2) If a Commissioner is satisfied [99][that any matter arising out of any proceedings pending before him] can be more conveniently dealt with by any other Commissioner, whether in the same State or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

[100][PROVIDED that the Commissioner shall not, where any party to the proceedings has appeared before him, made any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard:]

[101][* * *]

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2). the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

[102][(5) The State Government may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it.]

**22. Form of application**

[103][(1) Where an accident occurs in respect of which liability to pay compensation under this Act arises, a claim for such compensation may, subject to the provisions of this Act, be made before the Commissioner,

(1A) Subject to the provisions of sub-section (1), no application for the settlement] of any matter of Commissioner [102][other than an application by a dependant or dependants for compensation,] shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) [104][An application to a Commissioner] may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars namely:-

(a) A concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(c) the names and addresses of the parties; and

(d) [72][except in the case of an application by dependants for compensation] a concise statement of the matters on which agreement has and [105][of] those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

**[106][22A. Power of Commissioner to require further deposit in cases of fatal accident.**

(1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.]

**23. Powers and procedure of Commissioners.**

The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, [107][and the Commissioner shall be deemed to be a Civil Court for all the purposes of [108][section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)]].

**[109][24. Appearance of parties**

Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an

Insurance company or a registered Trade Union or by an Inspector appointed under sub-section (1) of section 8 of the Factories Act, 1948 (63 of 1948), or under sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or with the permission of the Commissioner, by any other person so authorised.]

**25. Method of recording evidence**

The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

PROVIDED that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

PROVIDED FURTHER that the evidence of any medical witness shall be taken down as nearly as may be word for word.

**26. Costs**

All costs, incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner.

**27. Power to submit cases**

A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

**28. Registration of agreements**

(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable [110][to a woman or a person under a legal disability] [111][***] a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

PROVIDED that-

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

[112][* * *]

(c) the Commissioner may at any time rectify the register;

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable, [110][to a woman or a person under a legal disability] [111][* * *] ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been

obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement [113][and may make such order], including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872 (9 of 1872), or in any other law for the time being in force.

**29. Effect of failure to register agreement**

Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

**30. Appeals**

(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:-

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

[114][(a) an order awarding interest or penalty under section 4A;]

(b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

PROVIDED that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

PROVIDED FURTHER that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

[115][PROVIDED FURTHER that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.]

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of [116][the Limitation Act, 1963 (36 of 1963)], shall be applicable to appeals under this section.

**[117][30A. Withholding of certain payments pending decision of appeal**

Where an employer makes an appeal under clause (a) of sub-section (1) of section 30, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.]

**31. Recovery**

The Commissioner may recover as an arrear of land revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (1 of 1890).

## CHAPTER IV: RULES

**32. Power of the State Government to make rules**

(1) The [118][State Government] may make rules to carryout the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:-

(a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;

(b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11;

(c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;

(d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;

(g) for prescribing the form and manner in which memorandum of agreements shall be presented and registered;

(h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same; [119][* * *]

[120][* * *]

(i) for regulating the scales of costs which may be allowed in proceedings under this Act;

(j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;

(k) for the maintenance by Commissioners of registers and records of proceedings before them;

(l) for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice-books;

(m) for prescribing the form of statement to be submitted by employers under section 10 A; [121][* * *]

(n) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner;

[122][(o) for prescribing abstracts of this Act and requiring the employers to display notices containing such abstracts;

(p) for prescribing the manner in which diseases specified as occupational diseases may be diagnosed;

(q) for prescribing the manner in which diseases may be certified for any of the purposes of this Act;

(r) for prescribing the manner in which, and the standards by which, incapacity may be assessed.]

[123][(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislature].

**33. [Power of Local Government to make rules]**

Repealed by the A. O. 1937.

**34. Publication of rules**

(1) The power to make rules conferred by [124][section 32] shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897) as that after which a draft of rules proposed to be made under section 32 [125][* * *] will be taken into consideration, shall not be less than three months from the date on which the draft of proposed rules was published for general information.

(3) Rules so made shall be published in [126][* * *] the Official Gazette [127][* * *], and on such publication, shall have effect as if enacted in this Act.

**[72][35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.**

[128][(1) The Central Government may, by notification in the Official Gazette, make rules for the transfer [129][* * *] [130][to any foreign country] of money [131][deposited with] a Commissioner under this Act [132][which has been awarded to or may be due to], any person residing or about to reside in [133][[134][such foreign country]] and for the receipt [135][distribution] and administration in [136][any State] of any money [137][deposited] under the law relating to workmen's compensation [138][***] [139][* * *] [130][in any foreign country,] [140][which has been awarded to, or may be due to] any person residing or about to reside in [136][any State]:]

[135][PROVIDED that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.

2. Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.]

**[141][36. Rules made by Central Government to be laid before Parliament**

Every rule made under this Act by the Central Government shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in [142][two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

## [143][SCHEDULE I

*[Sections 2(1) and (4)]*

[144][PART I: LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT]

| *S. No.* | *Description of injury* | *Percentage of loss of earning capacity* |
|---|---|---|
| 1. | Loss of both hands or amputation at higher sites | 100 |
| 2. | Loss of a hand and a foot | 100 |
| 3. | Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot | 100 |
| 4. | Loss of sight to such an extent as to render the claimant unable to perform | 100 |

| | | |
|---|---|---|
| | any work for which eye-sight is essential | |
| 5. | Very severe facial disfigurement | 100 |
| 6. | Absolute deafness | 100 |
| **145**[PART II: LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT] | | |
| *S. No.* | *Description of injury* | *Percentage of loss of earning capacity* |
| 1 | Amputation through shoulder joint | 90 |
| 2 | Amputation below shoulder with stump less than 20.32 cms from tip of acromion | 80 |
| 3 | Amputation from 20.32 cms from tip of acromion to less than 4" below tip of olecranon | 70 |
| 4 | Loss of a hand or of the thumb and four fingers of one hand or amputation from 11.43 cms below tip of olecranon | 60 |
| 5 | Loss of thumb | 30 |
| 6 | Loss of thumb and its metacarpal bone | 40 |
| 7 | Loss of four fingers of one hand | 50 |
| 8 | Loss of three fingers of one hand | 30 |
| 9 | Loss of two fingers of one hand | 20 |
| 10 | Loss of terminal phalanx of thumb | 20 |
| 146[10A | Guillotine amputation of tip of thumb without loss of bone. | 10 |
| **Amputation cases – lower limbs** | | |
| 11 | Amputation of both feet resulting in end bearing stumps | 90 |
| 12 | Amputation through both feet proximal to the metatarso-phalangeal joint | 80 |
| 13 | Loss of all toes of both feet through the metatarso-phalangeal joint | 40 |
| 14 | Loss of all toes of both feet proximal to the proximal inter-phalangeal joint | 30 |

| | | |
|---|---|---|
| 15 | Loss of all toes of both feet distal to the proximal inter-phalangeal joint | 20 |
| 16 | Amputation at hip | 90 |
| 17 | Amputation below hip with stump not exceeding 12.70 cms in length measured from tip of great trenchanter. | 80 |
| 18 | Amputation below hip with stump exceeding 12.70 cms in length measured from tip of great trenchanter but not beyond middle thigh | 70 |
| 19 | Amputation below middle thigh to 8.89 cms below knee | 60 |
| 20 | Amputation below knee with stump exceeding 8.89 cms but not exceeding 12.70 cms | 50 |
| 21 | Amputation below knee with stump exceeding 12.70 cms | 50 |
| 22 | Amputation of one foot resulting in end bearing stump | 50 |
| 23 | Amputation through one foot proximal to the metatarso-phalangeal joint | 50 |
| 24 | Loss of all toes of one foot through the metatarso-phalangeal joint | 20 |
| **OTHER INJURIES** | | |
| 25 | Loss of one eye, without complication, the other being normal | 40 |
| 26 | Loss of vision of one eye, without complications or disfigurement of eye-ball, the other being normal | 30 |
| 147[26A | Loss of partial vision of one eye | 10] |
| *Loss of*<br>**A. Fingers of right or left hand** | | |
| *INDEX FINGER* | | |
| 27 | Whole | 14 |
| 28 | Two phalanges | 11 |
| 29 | One phalanx | 9 |
| 30 | Guillotine amputation of tip without loss of bone | 5 |
| *MIDDLE FINGER* | | |

| | | |
|---|---|---|
| 31 | Whole | 12 |
| 32 | Two phalanges | 9 |
| 33 | One phalanx | 7 |
| 34 | Guillotine amputation of tip without loss of bone | 4 |
| *RING OR LITTLE FINGER* | | |
| 35 | Whole | 7 |
| 36 | Two phalanges | 6 |
| 37 | One phalanx | 5 |
| 38 | Guillotine amputation of tip without loss of bone | 2 |
| **B. Toes of right or left foot** | | |
| *GREAT TOE* | | |
| 39 | Throughout metatarso-phalangeal joint | 14 |
| 40 | Part, with some loss of bone | 3 |
| *ANY OTHER TOE* | | |
| 41 | Through metatarso-phalangeal joint | 3 |
| 42 | Part, with some loss of bone | 1 |
| *TWO TOES OF ONE FOOT, EXCLUDING GREAT TOE* | | |
| 43 | Through metatarso-phalangeal joint | 5 |
| 44 | Part, with some loss of bone | 2 |
| *THREE TOES OF ONE FOOT, EXCLUDING GREAT TOE* | | |
| 45 | Through metatarso-phalangeal joint | 6 |
| 46 | Part, with some loss of bone | 6 |
| *FOUR TOES OF ONE FOOT, EXCLUDING GREAT TOE* | | |
| 47 | Through metatarso-phalangeal joint | 9 |

| | | |
|---|---|---|
| 48 | Part with some loss of bone | 3] |

[148][Note: Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent to the loss of that limb or member.]

## SCHEDULE II

*[Section 2(1)(n)]*
LIST OF PERSONS WHO, SUBJECT TO THE PROVISIONS OF SECTION 2(1)(n), ARE
INCLUDED IN THE DEFINITION OF WORKMEN

The following persons are workmen within the meaning of section 2(1)(n) and subject to the provisions of that section, that is to say, any person who is-

[149][[150](i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation [151][, repair] or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle, or

(ii) employed, otherwise than in a clerical capacity, in any premises wherein or within the precincts whereof a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948 (63 of 1948), is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, [152][whether or not employment in any such work is within such premises or precincts] and steam, water or other mechanical power or electrical power is used; or

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale of any article or part of an article in any premises wherein or within the precincts whereof twenty or more persons are so employed, [153][* * *]

[152]*[Explanation :* For the purposes of this clause, persons employed outside such premises or precincts but in any work incidental to, or connected with, the work relating to making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale of any article or part of an article shall be deemed to be employed within such premises or precincts; or]

(iv) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or

(v) employed, in any mine as defined in clause (j) of section 2 of the Mines Act, 1952 (35 of 1952), in any mining operation or in any kind of work other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or

(vi) employed as the master or as a seaman of-

(a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

(b) any ship not included in sub-clause (a) of twenty-five tonnes net tonnage or over; or

(c) any sea-going ship not included in sub-clause (a) or sub-clause (b) provided with sufficient area for navigation under sails alone; or

(vii) employed for the purpose of-

(a) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any post subject to [154][the Indian Ports Act, 1908 (15 of 1908), or the Major Port Trusts Act, 1963, (38 of 1963)], of goods which have been discharged from or are to be loaded into any vessel; or

(b) warping a ship through the lock; or

(c) mooring and unmooring ships at harbour wall berths or in pier; or

(d) removing or replacing dry dock caisoons when vessels are entering or leaving dry docks; or

(e) the docking or unlocking of any vessel during an emergency; or

(f) preparing splicing chir springs and check wires, painting depth marks on locksides, removing or replacing fenders whenever necessary, landing of gangways, maintaining lifebuoys up to standard or any other maintenance work of a like nature; or

(g) any work on jolly boats for bringing a ship's line to the wharf; or

(viii) employed in the construction, maintenance, repair or demolition of-

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof, or

(b) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or

(c) any road, bridge, tunnel or canal; or

(d) any wharf, quay, sea wall or other marine work including any moorings of ships; or

(ix) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or standard or fittings and fixtures for the same; or]

(x) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, Pipeline, or sewer; or

(xi) employed in the service of any fire brigade; or

(xii) employed upon a railway as defined in [155][clause (31) of section 2 and sub-section (1) of section 197 of the Indian Railways Act, 1989 (24 of 1989),] either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

(xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service [156][or as a telegraphist or as a postal or railway signaller], or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department;] or

(xiv) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or

(xv) employed in any occupation involving blasting operations; or

(xvi) employed in the making of any excavaction in which on any one day of the preceding twelve months more than [157][twenty-five] persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds [158][twelve] feet; or

(xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or

(xviii) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing [152][cardamom], cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or

[155][(xix) employed, otherwise than in a clerical capacity, in the generating, transforming, transmitting or distribution of electrical energy or in generation or supply of gas; or]

(xx) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse Act, 1927, (17 of 1927); or

(xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

(xxii) employed in the training, keeping or working of elephants or wild animals; or

[159][(xxiii) employed in the tapping of palm trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forests fires; or

(xxiv) employed in operations for the catching or hunting of elephants or other wild animals; or]

[160][(xxv) employed as a driver; [159][or

(xxvi) employed in the handling or transport of goods in, or within the precincts of,-

(a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or

(b) any market in which on any one day of the preceding twelve months [161][fifty] or more persons have been so employed; or

(xxvii) employed in any occupation involving the handling and manipulation of radium or X-ray apparatus, or contact with radioactive substances;] [156][or

(xxviii) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934, (22 of 1934); or

(xxix) [162][employed in horticultural operations, forestry, bee keeping or farming] by tractors or other contrivances driven by steam or other mechanical power or by electricity; or

(xxx) employed, otherwise than in a clerical capacity, in the construction, working, repair or maintenance of a tube-well; or

(xxxi) employed in the maintenance, repair or renewal of electric fittings in any building; or

(xxxii) employed in a circus.]

[163][(xxxiii) employed as watchman in any factory or establishment; or

(xxxiv) employed in any operation in the sea for catching fish;

(xxxv) employed in any employment which requires handling of snakes for the purpose of extraction of venom or for the purpose of looking after snakes or handling any other poisonous animal or insects; or

(xxxvi) employed in handling animals like horses, mules and bulls;

(xxxvii) employed for the purpose of loading or unloading any mechanically propelled vehicle or in the handling or transport of goods which have been loaded in such vehicles;

(xxxviii) employed in cleaning of sewer lines or septic tanks within the limits of a local authority;

(xxxix) employed on surveys and investigation, exploration or gauge or discharge observation of rivers including drilling operations, hydrological observations and flood forecasting activities, groundwater surveys and exploration;

(xl) employed in cleaning of jungles or reclaiming land or ponds in which on any one day of the preceding twelve months more than twenty-five persons have been employed;

(xli) employed in cultivation of land or rearing and maintenance of live-stock or forest operations or fishing in which on any one day of the preceding twelve months more than twenty-five persons have been employed;

(xlii) employed in installation, maintenance or repair of pumping equipment used for lifting of water from wells, tube wells, ponds, lakes, streams and the like;

(xliii) employed in the construction, boring or deepening of an open well, bore well, bore-cum-dug well, filter point and the like;

(xliv) employed in spraying and dusting of insecticides or pesticides in agricultural operations or plantations; or

(xlv) employed in mechanised harvesting and threshing operations;

(xlvi) employed in working or repair or maintenance of bulldozers, tractors, power tillers and the like;

(xlvii) employed as artists for drawing pictures on advertisement boards at a height of 3.66 metres or more from the ground level;

(xlviii) employed in any newspaper establishment as defined in the Working Journalists and Other Newspaper Employees (Conditions of Services) and Miscellaneous Provisions Act, 1955 (45 of 1955) and engaged in outdoor work.]

*Explanation:* In this Schedule, "the preceding twelve months" relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.]

## [164][SCHEDULE III : LIST OF OCCUPATIONAL DISEASES

*[Section 3]*

| ***PART A*** | | |
|---|---|---|
| *S. No.* | *Occupation* | *Employment* |
| (1) | (2) | (3) |
| 1. | Infectious and parasitic diseases contracted in an occupation where there is a particular risk of contamination. | (a) All work involving exposure to health or laboratory work;<br><br>(b) All work involving exposure to veterinary work;<br><br>(c) Work relating to handling animals, animal carcasses, parts of such carcasses, or merchandise which may have been contaminated by animals or animal carcasses; |
| | | (d) Other work carrying a particular risk of contamination. |
| 2. | Diseases caused by work in compressed air | All work involving exposure to the risk concerned |
| 3. | Diseases caused by lead or its toxic compounds | All work involving exposure to the risk concerned |
| 4. | Poisoning by nitrous fumes | All work involving exposure to the risk concerned |
| 5. | Poisoning by organo phosphorus compounds | All work involving exposure to the risk concerned |

| | | |
|---|---|---|
| ***PART B*** | | |
| 1. | Diseases caused by phosphorus or its toxic compounds | All work involving exposure to the risk concerned |
| 2. | Diseases caused by mercury or its toxic compounds | All work involving exposure to the risk concerned |
| 3. | Diseases caused by benzene or its toxic homologues | All work involving exposure to the risk concerned |
| 4. | Diseases caused by nitro and amino toxic derivatives of benzene or its homologues. | All work involving exposure to the risk concerned |
| 5. | Diseases caused by chromium or its toxic compounds | All work involving exposure to the risk concerned. |
| 6. | Diseases caused by arsenic or its toxic compounds | All work involving exposure to the risk concerned. |
| 7. | Diseases caused by radioactive substances and ionising radiations. | All work involving exposure to the action of radioactive substances or ionising radiations. |
| 8. | Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances. | All work involving exposure to the risk concerned. |
| 9. | Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphatic and aromatic series) | All work involving exposure to the risk concerned. |
| 10. | Diseases caused by carbon disulphide. | All work involving exposure to the risk concerned. |
| 11. | Occupational cataract due to infra-red radiations. | All work involving exposure to the risk concerned. |
| 12. | Diseases caused by manganese or its toxic compounds. | All work involving exposure to the risk concerned. |
| 13. | Skin diseases caused by physical, chemical or biological agents not included in other items. | All work involving exposure to the risk concerned. |
| 14. | Hearing impairment caused by noise. | All work involving exposure to the risk concerned. |
| 15. | Poisoning by dinitrophenol or a homologue | All work involving exposure to the risk |

| | | |
|---|---|---|
| | or by substituted dinitrophenol or by the salts of such substances. | concerned. |
| 16. | Diseases caused by beryllium or its toxic compounds. | All work involving exposure to the risk concerned. |
| 17. | Diseases caused by cadmium or its toxic compounds. | All work involving exposure to the risk concerned |
| 18. | Occupational asthma caused by recognised sensitising agents inherent to the work process | All work involving exposure to the risk concerned. |
| 19. | Diseases caused by fluorine or its toxic compounds | All work involving exposure to the risk concerned. |
| 20. | Diseases caused by nitroglycerine, or other nitro-acid esters | All work involving exposure to the risk concerned. |
| 21. | Diseases caused by alcohols and ketones. | All work involving exposure to the risk concerned. |
| 22. | Diseases caused by asphyxiants:<br>Carbon monoxide, and its toxic derivatives, hydrogen sulphide | All work involving exposure to the risk concerned. |
| 23. | Lung-cancer and mesotheliomas caused by asbestos. | All work involving exposure to the risk concerned. |
| 24. | Primary neoplasm of the epithelial lining of the urinary bladder or the kidney or the ureter. | All work involving exposure to the risk concerned. |
| [147]25. | Snow blindness in snow bound areas. | All work involving exposure to the risk concerned. |
| 26. | Disease due to effect of heat in extreme hot climate | -Do- |
| 27. | Diseases due to effect of cold in extreme cold climate. | -Do- |
| ***PART C*** | | |
| 1. | Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraoosilicosis, asbestosis) and silicotuberculosis provided that silicosis is an essential factor in causing the resultant incapacity or death. | All work involving exposure to the risk concerned. |

| | | |
|---|---|---|
| 2. | Bagassosis | -Do- |
| 3. | Bronchopulmonary diseases caused by cotton, flax, hemp and sisal dust (Byssinosis) | -Do- |
| 4. | Extrinsic allergic alveelitis caused by the inhalation of organic dusts. | -Do- |
| 5. | Bronchopulmonary diseases caused by hard metals. | -Do-] |
| [165][6. | Acute Pulmonary Oredema of High Altitude | -Do-] |

## [166][SCHEDULE IV: FACTORS FOR WORKING OUT LUMP-SUM EQUIVALENT OF COMPENSATION AMOUNT IN CASE OF PERMANENT DISABLEMENT AND DEATH

*[Section 4]*

| *Completed years of age on the last birthday of the workman immediately preceding the date on which the compensation fell due* | *Factors* | *Completed years of age on the last birthday of the workman immediately preceding the date on which the compensation fell due* | *Factors* |
|---|---|---|---|
| Not more than 16 | 228.54 | 41 | 181.37 |
| 17 | 227.49 | 42 | 178.49 |
| 18 | 226.38 | 43 | 175.54 |
| 19 | 225.22 | 44 | 172.52 |
| 20 | 224.00 | 45 | 169.44 |
| 21 | 222.71 | 46 | 166.29 |
| 22 | 221.37 | 47 | 163.07 |
| 23 | 219.95 | 48 | 159.80 |
| 24 | 218.47 | 49 | 156.47 |
| 25 | 216.91 | 50 | 153.09 |

| | | | |
|---|---|---|---|
| 26 | 215.28 | 51 | 149.67 |
| 27 | 213.57 | 52 | 146.20 |
| 28 | 211.79 | 53 | 142.68 |
| 29 | 209.92 | 54 | 139.13 |
| 30 | 207.98 | 55 | 135.56 |
| 31 | 205.95 | 56 | 131.95 |
| 32 | 203.85 | 57 | 128.33 |
| 33 | 201.66 | 58 | 124.70 |
| 34 | 199.40 | 59 | 121.05 |
| 35 | 197.06 | 60 | 117.41 |
| 36 | 194.64 | 61 | 113.77 |
| 37 | 192.14 | 62 | 110.14 |
| 38 | 189.56 | 63 | 106.52 |
| 39 | 186.90 | 64 | 102.93 |
| 40 | 184.17 | 65 or more | 99.37] |

**Foot Notes**

1 Substituted by the Act No. of 1950, for the former sub-section.

2 The words "except the State of Jammu and Kashmir" omitted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.

3 Clause (a) omitted by Act No. 8 of 1959, section 2, w.e.f. 1st. June, 1959.

4 Substituted by Act No. 8 of 1959, for former clause, w.e.f. 1st. June, 1959.

5 Substituted for the word "legitimate" by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

6 Substituted by Act No. 30 of 1995, for the words "legitimate or illegitimate" w.e.f. 15th. September, 1995.

7 Inserted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

8 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

9 Substituted for the words and figure "in Schedule I", by Act No. 64 of 1962, w.e.f. 1st. February, 1963..

10 Omitted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

11 Substituted for the words "Act of the Central Legislature or of any Legislature in a Province of India" by the A.O. 1950.

12 Substituted by the A.O. (No. 3) 1956, for the words and letters "Part A State or Part B State".

13 Clause (j) omitted by Act No. 15 of 1933.

14 The word "registered" omitted by Act No. 15 of 1933.

15 Substituted by Act No. 64 of 1962, for the words "any such".

16 Proviso substituted by Act No. 64 of 1962, w.e.f. 1st. February, 1963.

17 The words "either by way of manual labour or" omitted by Act No. 15 of 1933, section 2.

18 The words "on monthly wages not exceeding one thousand rupees", omitted by Act No. 22 of 1984, w.e.f. 1st. July, 1984.

19 Substituted by the A.O. 1950, for the words "His Majesty's naval, military, or air forces".

20 The words "or of the Royal Indian Marine Service" omitted by A.O. 1937.

21 Substituted by the A.O. 1937, for the words "of the Government".

22 Substituted by Act No. 30 of 1995, section 2(b), w.e.f. 15th. September, 1995.

23 Substituted by Act No. 8 of 1959, section 3, for the word "seven" w.e.f. 1st. June, 1959.

24 Substituted for the words "injury to a workman resulting from" by Act No. 15 of 1933, section 3.

25 Inserted by Act No. 30 of 1995, section 3, w.e.f. 15th. September, 1995.

26 The word "or" omitted by Act No. 5 of 1929, section 2.

27 Clause (c) omitted by Act No. 5 of 1929, section 2.

28 Substituted by Act No. 8 of 1959, section 3, for the original sub-section (2) and (3) w.e.f. 1st. June, 1959.

29 Inserted by Act No. 64 of 1962, section 3, w.e.f. 1st. February, 1963.

30 Sub-section (2A) substituted by Act No. 64 of 1962, for w.e.f. 1st. February, 1963.

31 Substituted by Act No. 30 of 1995, section 3, w.e.f. 15th. September, 1995.

32 Omitted by Act No. 51 of 1970, w.e.f. 1st. September, 1971.

33 Substituted by Act No. 8 of 1959, section 3, for the words, brackets and figure "sub-section (2)" w.e.f. 1st. June, 1959.

34 The words "solely and" omitted by Act No. 15 of 1933, section 3.

35 Substituted by Act No. 22 of 1984, section 3, for original section 4, w.e.f. 1st. July, 1984.

36 Substituted by Act No. 30 of 1995, for the words "forty per cent", w.e.f. 15th. September, 1995.

37 Substituted by Act No. 30 of 1995, for the words "twenty thousand rupees", w.e.f. 15th. September, 1995.

38 Substituted by Act No. 30 of 1995, for the words "fifty per cent", w.e.f. 15th. September, 1995.

39 Substituted by Act No. 30 of 1995, for the words "twenty four thousand", w.e.f. 15th. September, 1995.

40 Substituted by Act No. 30 of 1995, for the words "one thousand rupees" w.e.f. 15th. September, 1995.

41 Inserted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

42 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

43 Substituted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

44 The brackets and figure "(1)" omitted by Act No. 9 of 1938, section 4.

45 Substituted by Act No. 13 of 1939, for the words "for the purposes of this Act the monthly wages of a workman shall be calculated" w.e.f. 30th. June, 1934.

46 Inserted by Act No. 15 of 1933, section 5.

47 The words "deemed to be" omitted by Act No. 13 of 1939, w.e.f. 30th. June, 1934.

48 Original clause (b) re-lettered (c) by Act No. 15 of 1933.

49 Substituted by Act No. 8 of 1959, section 6 for the words "in other cases " w.e.f. 1st. June, 1959.

50 The proviso omitted by Act No. 15 of 1933.

51 Substituted by Act No. 5 of 1929, section 3.

52 Substituted by Act No. 9 of 1938, section 4, for the words "sub-section".

53 Sub-section (2) added by Act No. 5 of 1929, section 3 and omitted by Act No. 15 of 1933, section 5.

54 Substituted by Act No. 5 of 1929, section 4, for the original sub-sections (1) to (8).

55 The former proviso substituted by Act No. 15 of 1933, section 6.

56 Substituted by Act No. 30 of 1995, for the words "not exceeding in aggregate of one hundred rupees, and so much of such aggregate" w.e.f. 15th. September, 1995.

57 Inserted by Act No. 5 of 1929.

58 The words "shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees and pay the same to the person by whom such expenses were incurred, and", omitted by Act No. 30 of 1995, section 6, w.e.f. 15th. September, 1995.

59 Substituted by Act No. 5 of 1929, for the original sub-sections (5) to (7).

60 The original sub-section (6) re-numbered as sub-section (8) by Act No. 5 of 1929, section 4.

61 Substituted by Act No. 9 of 1938.

62 Substituted by Act No. 8 of 1959, for the words "one year" w.e.f. 1st. June, 1959.

63 Inserted by Act No. 64 of 1962, w.e.f. 1st. February, 1963.

64 Inserted by Act No. 15 of 1933.

65 Substituted by Act No. 9 of 1938, for the words "maintenance of proceedings".

66 Substituted by Act No. 9 of 1938, for the word "made".

67 Inserted by Act No. 9 of 1938.

68 Substituted by Act No. 9 of 1938, for the words "made", "admit", "instituted" and "institute" respectively.

69 Substituted by Act No. 7 of 1924, section 2 and Sch. I for the words "any one or".

70 The word "directly" omitted by Act No. 9 of 1938.

71 Substituted by Act No. 15 of 1933, for the original sub-section (3).

72 Inserted by Act No. 15 of 1933.

73 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

74 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

75 Substituted by Act No. 9 of 1938.

76 Inserted by Act No. 9 of 1938.

77 Substituted by Act No. 30 of 1995, for the words, figures, brackets "section 230 of the Indian Companies Act, 1913 (7 of 1913)" w.e.f. 15th. September, 1995.

78 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

79 The word "registered" omitted by Act No. 15 of 1933.

80 Substituted by Act No. 8 of 1959, for the words "six months" w.e.f. 1st. June, 1959.

81 Added by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

82 Inserted by the A.O. 1950.

83 Substituted by Act No. 22 of 1984, for the words "His Majesty's dominions or in any other foreign country" w.e.f. 1st. July, 1984.

84 Original clause (4) omitted by Act No. 9 of 1938.

85 Original clause (5) re-numbered as clause (4) by Act No. 9 of 1938.

86 Substituted by Act No. 7 of 1924, section 2 and Sch. I, for the words "monthly payment".

87 The words and letters "in Part A States and Part C States" omitted by Act No. 3 of 1951.

88 Substituted by Act No. 1 of 1942, for clause (5) w.e.f. 3rd. September, 1939. Clause (5) was inserted by Act No. 42 of 1939.

89 Sections 15A and 15B inserted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

90 The words "G.G. in C." have successively been substituted by the A.O. 1937 and the A.O.1950 to read as above.

91 Inserted by Act No. 15 of 1933, section11.

92 Substituted by section 13, for the words "one hundred" w.e.f. 15th. September, 1959.

93 Substituted by Act No. 64 of 1962, w.e.f. 1st. February, 1963.

94 Substituted by Act No. 15 of 1933, for the words "the Commissioner".

95 The word "local" omitted by Act No. 64 of 1962, w.e.f. 1st. February, 1963.

96 Inserted by Act No. 15 of 1933.

97 Original sub-ss. (2) and (3) re-numbered as sub-ss. (3) and (4) by Act No. 15 of 1933.

98 Substituted by Act No. 30 of 1995.

99 Substituted by Act No. 9 of 1938.

100 Inserted by Act No. 9 of 1938.

101 Proviso omitted by Act No. 30 of 1995.

102 Inserted by Act No. 15 of 1933.

103 Substituted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

104 Substituted by Act No. 15 of 1933, for the words "Where any such question has raised, the applicant".

105 Substituted by Act No. 37 of 1925, for the word "on".

106 Inserted by Act No. 15 of 1933.

107 Added by Act No. 5 of 1929.

108 Substituted by Act No. 30 of 1995, for the words and figures "section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898" w.e.f. 15th. September, 1995.

109 Substituted by Act No. 8 of 1959, for the former section w.e.f. 1st. June, 1959.

110 Substituted by Act No. 5 of 1929, for the words "to a person under a legal disability".

111 The words "or to a dependant", repealed by Act No. 7 of 1924.

112 Clause (b) omitted by Act No. 5 of 1929.

113 Substituted by Act No. 7 of 1924, for the words "or may make such order".

114 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

115 Added by Act No. 15 of 1933.

116 Substituted by Act No. 30 of 1995, for the words, brackets and figures "the Indian Limitation Act, 1908 (9 of 1908)" w.e.f. 15th. September, 1995.

117 Inserted by Act No. 15 of 1933.

118 The words "G.G. in C" successively substituted by the A.O. 1950 to read as above

119 The word "and" at the end of clause (h), omitted by the A.O. 1937.

120 The original clause (i), omitted by the A.O. 1937.

121 The word "and" inserted by the A.O. 1937., omitted by Act No. 58 of 1960.

122 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

123 Inserted by Act No. 4 of 1986, w.e.f. 15th. May, 1986,.

124 Substituted by the A.O. 1937, for the words and figures "sections 32 and 33".

125 The words and figures "or section 33" omitted by the A.O. 1937.

126 The words "the Gazette of India or" omitted by the A.O. 1937.

127 The words "as the case may be" omitted by the A.O. 1937.

128 Sec. 35 re-numbered as sub-section (1) of that section by Act No. 7 of 1937.

129 The words and letters "to any Part B State or" omitted by Act No. 3 of 1951.

130 Substituted by Act No. 22 of 1984, w.e.f. 1st. July, 1984.

131 Substituted by Act No. 7 of 1937, for the words "paid to".

132 Substituted by Act No. 7 of 1937, for the words "for the benefit of".

133 Substituted by Act No. 3 of 1951, for the words "such State, part or country".

134 Substituted by Act No. 22 of 1984, for the words "such parts or country" w.e.f. 1st. July, 1984.

135 Inserted by Act No. 7 of 1937.

136 Substituted by Act No. 3 of 1951, for the words and letters "a Part A State or Part C State".

137 Substituted by Act No. 7 of 1937, for the word "awarded".

138 The words and letters "in any Part B State" omitted by Act No. 3 of 1951.

139 The word "or" omitted by Act No. 36 of 1957.

140 Substituted by Act No. 7 of 1937, for the words "and applicable for the benefit of".

141 Inserted by Act No. 64 of 1962, w.e.f. 1st. February, 1963.

142 Substituted by Act No. 65 of 1976, w.e.f. 21st. May, 1976.

143 Substituted by Act No. 8 of 1959, for the original Sch. w.e.f. 1st. June, 1959.

144 Substituted by Act No. 64 of 1962, for the former heading w.e.f. 1st. February, 1963.

145 Inserted by Act No. 64 of 1962, w.e.f. 1st. February, 1963.

146 Inserted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

147 Inserted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

148 Added by Act No. 58 of 1960.

149 Substituted by Act No. 15 of 1933, for the former cls. (i) to (xiii).

150 Substituted by Act No. 8 of 1959, for clauses (i) to (ix) w.e.f. 1st. June, 1959.

151 Inserted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

152 Inserted by Act No. 64 of 1962, w.e.f. 1st. February, 1963.

153 The word "or" omitted by Act No. 64 of 1962, and Explanation added by Act No. 64 of 1962, w.e.f. 1-12-1963.

154 Substituted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

155 Substituted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

156 Inserted by Act No. 8 of 1959, w.e.f. 1st. June, 1959.

157 Substituted by Act No. 8 of 1959, for the word "fifty" w.e.f. 1st. June, 1959.

158 Substituted by Act No. 8 of 1959, for the word "twenty" w.e.f. 1st. June, 1959.

159 Inserted by Act No. 9 of 1938.

160 Original clause (xxiii) re-numbered as clause (xxv) by Act No. 9 of 1938.

161 Substituted by Act No. 8 of 1959, for the words "one hundred" w.e.f. 1st. June, 1959.

162 Substituted by Act No. 30 of 1955, for the words "employed in farming" w.e.f. 15th. September, 1995.

163 Inserted by Act No. 30 of 1995, w.e.f. 15th. September, 1995.

164 Original Schedule III substituted by Act No. 22 of 1984, w.e.f. 1st. July, 1984.

165 Inserted vide Notification No. SO 2615, dt. 15th. September, 1987.

166 Original Scedule IV substituted by Act No. 22 of 1984, w.e.f. 1st. July, 1984.