

CHAPTER - IV

PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

13. Procedure and powers of conciliation officers, Boards, Courts and Tribunals -

(1) subject to any rules that may be made in this behalf the dispute resolution council or appellate authority shall follow such procedure as may be deemed fit.

(2) Every Board, Court or the dispute resolution Council

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appellate 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 dispute 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 or dispute resolution council shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (45 of 1860).

- (3) The Council (may enforce the attendance of any person for the purpose of examination of such person or call for) and inspect any document which it has ground for considering to be relevant to the implementation of any award or carrying out any other duty imposed on it under this Act, and for the aforesaid purposes, the council have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) (in respect of enforcing the attendance of any person and examining him or of compelling the production of documents).
- (4) All members of the Council and the presiding officers of a Council or Appellate Authority shall^{be} deemed to be public servants within the meaning of section 21 of the Indian

Penal Code (45 of 1860).

- (5) subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Council shall be in the discretion of that Council, 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 Board the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.
- (6) Every (Council) shall be deemed to be Civil Court for the purposes of (sections 345, 346 and 348 of the Code of Criminal Procedure, 1973 (2 of 1974).

14. Bar of Jurisdiction of Civil and Labour Courts:

No Civil or Labour Court shall entertain any rust or applications in respect of any matters arising under this Act or the Scheme.

15. Obstructions:

- (1) Whoever obstructs a Labour Officer or a person appointed under this Act (hereinafter referred to as the authorised person) in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Labour Officer 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 who, 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 Labour Officer 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 Labour Officer 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.

(3) Such obstruction or wilful refusal shall at once be reported to the respective unit of the Board within whose jurisdiction such obstruction/wilful refusal takes place as well as the Board which may also take appropriate action in accordance with the Scheme.

16. Contravention of provisions regarding employment of inter-state migrant workmen:

Whoever contravenes any provisions of this Act or of any rules made thereunder regarding the employment of Construction Labour, or contravenes any other provision under this Act or the Scheme, 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 continuing contravention, with an additional fine which may extend to any hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

17. 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.

18. Offences by Companies:

- (1) Where an offence under this Act or the Scheme has been committed or the provisions thereof have been violated by a company, it shall be presumed that appropriate instruction have not been issued by the Company for wholesome compliance with the Act and the scheme unless it is otherwise proved.
- (2) Where it is not so proved 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.
- (3) Where it is so proved the person who is responsible for such violation shall be proceeded against and punished accordingly.
- (4) Notwithstanding anything contained in sub-section (1), where any offence under this Act 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/shall be deemed to be guilty of that offence and shall be liable to be proceeded against and

*Secretary
or other
officer

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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.

19. Constitution of Dispute resolution Councils and Appellate Authority:

- (1) The Dispute resolution council in every District Unit or local area unit shall be comprised of three members representing the Govt., the Construction Workers and the employer.
 - (2) The term of office of the members of the council shall be three years and the members may be nominated by the Board for such term.
 - (3) The Appellate authority shall likewise be representative and be constituted in the same manner by the Board.
20. (1) Every offence punishable under this Act and the Scheme, shall be cognisable only by Chief Judicial Magistrate of the area concerned.
- (2) Whenever any contravention authority to offence occurs, the Labour Officer shall or any person aggrieved may, in writing, complain to the Magistrate for trying the offences.
 - (3) Whenever the Labour Officer for reasons not excusable or for any other extraneous considerations, refuses or fails to complain such offences, the Board on a report from the aggrieved person shall also proceed against the Labour Officer in accordance with the scheme.

THE SCHEME

THE CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT, SECURITY AND WELFARE) SCHEME, 1986

1. Name of the Scheme - The Scheme may be called the Construction Workers (Regulation of Employment Security and Welfare) Scheme, 1986 (hereinafter referred to as "the Scheme").
2. Objects and application:-
 - (1) The objects of the Scheme are to ensure regulation of construction activities and employment of Construction Labour, greater regularity of employment for Construction Workers and to provide for security in the course of employment and other welfare measures for Construction Workers.
 - (2) The Scheme applies to the classes or descriptions of Construction Industry and Construction Workers as set out in Section 3 of the Act.
 - (3) The Scheme shall apply to all registered Construction Workers, registered employers and establishments or industries, engaged in any Construction Work.
3. Interpretations:- In this Scheme, unless there is anything repugnant in the subject or context -
 - (a) "the Act" means, the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986;
 - (b) "Administrative Body" means the Administrative Body appointed under clause 5;
 - (c) "Board" means the Construction Labour Board constituted under the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986;

- (d) "President" means the President of the Construction Labour Board;
- (e) "Vice-President" means the Vice-President of the Construction Labour Board;
- (f) "employer" means the person by whom a Construction Worker is employed or is to be employed and includes any agent or Contractor by whatever name called who has undertaken the Construction work on behalf of the employer;
- (g) "Construction Work" means Construction operations at places or premises to which the Scheme relates and ordinarily performed by Construction Workers of the classes or descriptions to which the Scheme applies;
- (h) "employers register" means the register of employers employing or intending to employ Construction Labour maintained under the Scheme;
- (i) "Labour Officer" means the Labour Officer appointed by the Administrative Body under clause;
- (j) "register or record" means the register or record of Construction Workers maintained under the Scheme;
- (k) "registered Construction Worker" means a Construction Worker whose name is for the time being entered in the register or record;
- (l) "registered employer" means . employer whose name is for the time being entered in the employers' register;

- (m) "reserve pool" means a pool of registered Construction Workers who are available for work, and who are not for the time being in the employment of a registered employer;
- (n) "rules" means the Construction Workers (Regulation of Employment and conditions of Service) Rules, 1986;
- (o) "week" means the period of commencing for mid night of Saturday and ending on the mid night of the next succeeding Saturday;
- (p) "unauthorised construction work" means any Construction work by any employer registered with the Board or not so registered and employing any Construction Worker not registered with the Board in Contravention of Clause 15.

4. Constitution of the Board:- The Board shall be constituted in accordance with Section 7 of the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986.

5. Administrative Body:- (1) The respective State Governments may by notification in the official Gazette, appoint the required Administrative Bodies for the purpose of carrying on the day-to-day administration of the Scheme as set out in clauses 12 and 13.

(2) The Administrative Body shall, subject to the supervision and control of the Board and the President and Subject to the provisions of Clauses 6 and 7 carry on the day-to-day administration of the Scheme.

6. Functions of the Board: (1) The Board may take such measures as it may consider desirable for furthering the objectives of the Act and the Scheme set out in clause 2, including the following functions:

- (a) to regulate employment in Construction Industry;
- (b) take steps to prohibit/prevent any Construction activity outside the purview of the Act and the Scheme;
- (c) ensuring the adequate supply and the full and proper utilisation of the Construction Labour for the purpose of facilitating time bound and Scheduled Completion of Construction Work;
- (d) register Construction Labour and allocate Construction Labour to the employer and to discharge from the Construction Labour Register;
- (e) Register employers before the sanction of Construction plans and to register Contractors or agents as employers before issue of licence as such and to renew the licence in accordance with the and subject to the provisions of the Scheme;
- (f) review the number of registered employers and Construction Workers and determine from time to time the number to be maintained in the Register;
- (g) keeping and maintaining registers of employers;
- (h) keeping and maintaining registers and records of Construction Labour and removing from any

register/record the name of any worker on his own request or in accordance with the provisions of the Scheme;

- (i) Grouping or regrouping of all registered workers into such groups as may be determined by the Board after consultation with the Administrative Units and reviewing the grouping from time to time having regard to altered/changing conditions of nature of Construction Work;
- (j) determine the rate of wages for different categories of Construction Workers and the minimum guaranteed wages for a month;
- (k) collecting the wages so determined from the employers and disbursing the same to the Construction Workers;
- (l) levying and collecting from registered employers contribution in respect of expenses of the Scheme, social security, gratuity bonus, Provident Fund and such other heads as the Board may determine from time to time.
- (m) making provisions for application of the ESI or similar appropriate health and other measures for Construction/Work-ers' Medical units wherever required having regard to the number of Registered Construction Workers in a local area;
- (n) Maintaining and administering a Construction Labour Welfare Fund and collecting from all

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to constitute
Construction

registered employers' their contribution towards the Fund;

- (o) maintaining and administering of Provident Fund, death cum retirement Fund and Gratuity for Construction Labour;
- (p) provide for measure of safety and security at places of work, and measures for promoting the health and welfare of Construction Worker;
- (q) provide for immediate reliefs in cases of accidents;
- (r) debentures or other securities for the purpose of securing any debt or obligation mortgaging or charging all or any part of the property of the Board;

(2) The income and property of the Board from whatever source derived shall be applied solely towards the objects of the Scheme including health, safety, training and welfare measures for Construction Workers (including assistance by way of grant of loan or otherwise to co-operative Societies formed for the exclusive benefit of Construction workers and the Staff of the Board).

(4) Nothing contained in clauses (2) and (3) above shall prevent the payment of reasonable and proper remuneration and expenses to any staff of the Board or to any member of the Board in return for any service actually rendered to the Board, nor the payment of interest at a reasonable rate on money lent or reasonable and proper rent for premises demised

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lot to the Board nor prevent the incurring of expenditure on welfare measures if any, for the staff of the Board and the Administrative Bodies.

(5) The Board shall cause proper accounts to be kept of the cost of operating the Scheme and of all receipts and expenses under the Scheme.

(6) The Board shall submit to the Central Government -

(i) as soon as may be after the first day of April in every year and not later than the thirty-first day of October, an annual report on the working of the Scheme during the preceding year ending the thirty-first day of March together with an audited balance sheet; and

(ii) copies of proceedings of the meetings of the Board.

(7) Responsibilities and duties of the Board in meeting:-

The Board in meeting shall be responsible for dealing with all matters of policy and in particular may -

(a) lay down guidelines to the Administrative Bodies in regard to fixing the number of workers to be registered under various categories;

(b) cause the increase or decrease of the number of workers in any category on the register from time to time as may be necessary after a periodical review of the registers and anticipated requirements of Construction activities;

- (c) sanction the temporary registration of a specified number of the workers in any category for a specific period for purposes of specific construction work;
- (d) consider registration of new employers and to sanction the same;
- (e) determine the wages, minimum guaranteed wages allowances and other conditions of service, and re-fix the minimum guaranteed wages for a month after annual review;
- (f) fix the rate of Construction levy;
- (g) fix the rate of contribution to be made by registered employers to the Construction Workers Welfare Fund;
- (h) appoint, abolish or reconstitute Committees for ensuring compliance with the provisions of the Scheme;
- (i) Constitute and reconstitute District Committee or Local area Committees for carrying out the functions of the scheme;
- (j) sanction the annual Budget;
- (k) sanction the creation of posts and make appointments to such posts;
- (l) make recommendations to the Central Government about any modifications in the Scheme;
- (m) make recommendations to the State Government about any modification in the Scheme;
- (n) constitute dispute resolution councils at such district/local area level for adjudication of any

disputes (i) between employers and Construction Workers or (ii) between Construction Worker and the Board/District Unit/Local area units (iii) between employers and the Board/District Units Local area units, and (iv) between employers and their agents in respect of discharge of their obligation under the Act.

- (o) discuss statistics of output of labour and record its observations and directions,
- (p) sanction the opening of accounts in such scheduled Banks as it may direct and the operation of such accounts by such persons as the Board may from time to time direct;
- (q) prescribe forms, records, registers, statements and the like required to be maintained under the Scheme;

8. Annual Estimates:- The President shall, at a special meeting to be held before the end of February in each year, lay before the Board the annual budget as received from the Administrative Body under clause 11(i) of this Scheme, for the year commencing on the first day of April then next ensuing in such detail and form as the Board may, from time to time, prescribe. The Board shall consider the estimate so presentation, sanction the same either unaltered or subject to such alterations as it may deem fit.

9. Responsibilities and duties of President:

- (1) The President shall have full administrative and executive powers to deal with all matters relating to the

day-to-day administration of the Scheme and in particular;

- (a) to ensure that the decisions of the Board in regard to the maintenance of the registers of workers are carried out expeditiously;
- (b) to ensure that the sanction for temporary registration of workers are carried out without delay;
- (c) (i) to supervise and control the working of the Administrative Bodies;
- (ii) to take suitable steps if any irregularities are detected by him or brought to his notice;
- (d) to ensure that the provisions of the scheme in regard to transfer and promotion of workers are carried out;
- (e) to ensure that conditions, laid down in the Scheme, for the registration of employers are complied with by them;
- (f) to sanction the transfer of a Registered Construction worker to the reserve pool at the request of the employer or the workers, as provided for in the Scheme;
- (g) to fill any casual vacancy in the post of Vice-President for any period till the appointment is made by the Board in accordance with the provisions of the scheme.

- (h) to ensure that all forms, registers, returns and documents, prescribed, under the Scheme are properly maintained;
 - (i) to discharge all other duties and responsibilities specifically vested in the President under the Scheme.
- (2) The President may delegate in writing to the Vice-President any of the functions under sub-clause (1) above excepting those mentioned in items (c) & (1). Such delegations, however, shall not divest the President of his powers.
10. Responsibilities and duties of the Vice-President:- The Vice-President shall be a whole time office of the Board and shall assist the President in the discharge of his functions and in particular shall -
- (a) function as President of Board and preside over the meeting of the Board in the absence of the President.
11. Structure of Administrative Body of the Board:
- (a) There shall be an Administrative Body with Units
 - (i) in every municipal Town/City and
 - (ii) also in centres or ones or Local areas wherein no less than 1000 workers are normally engaged in construction industry;
 - (b) In every Revenue District, there shall be District Committees comprising of a Presiding Officer duly appointed by the Board.

- (e) The District Committees shall comprise of representatives of workers, Government and employers in the ratio.. of 2:1:1
- (d) The Committee shall be presided by a presiding Officer who shall supervise the functioning of various units in the District and shall send reports to the Board generally and in particular with reference to the employment, payment of wages, social security and other welfare measures.

12. Functions of State Administrative Body:

- (i) The Administrative Body shall be responsible for the general administration of the scheme, and in particular will have the power.
- (ii) to authorise construction involving 500 workers and above.
- (iii) to effect transfer of worker or workers from one District to another.
- (iv) to prepare for the entire State, proposals for better administration of the scheme and present the same to the Board for approval.
- (v) to appoint Labour Officer for discharging the functions specified in the scheme.

13. Without prejudice to the powers and functions of the Board, the President and the Vice-President, the Administrative Body shall in particular be responsible for-

- (a) keeping, adjusting and maintaining the employers' register, entering or re-entring therein the name of any employee and, where circumstances

so require removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;

- (b) keeping, adjusting and maintaining from time to time such registers of records as may be necessary, of Construction Workers, including any registers or records of workers who are temporarily not available for construction work and whose absence has been approved by the Administrative Body and where circumstances so require, removing from any register or record the name of any registered construction worker either at his own request or in accordance with the provisions of the Scheme;
- (c) the employment and control of registered workers available for work when they are not otherwise employed in accordance with the scheme;
- (d) the grouping or re-grouping of registered workers in accordance with the instructions received from the Board in such groups as may be determined by the Board;
- (e) the allocation of registered workers in the reserve pool who are available for work to registered employers. For this purpose the Administrative Body shall-
- (i) be deemed to act as an agent for the employer;

- (ii) make the fullest possible use of registered workers in reserve pool ;
 - (iii) keep the record of attendance, at call stands or control points, of registered workers;
 - (iv) provide for the maintenance, of the records of employment and earnings;
 - (v) subject to the allotment of work by rotation under clause 21(3), allocate workers in accordance with clauses 19 and 20
 - (vi) make necessary entries in the Attendance and wage cards of workers in the reserve pool as laid down in clause 24.
- (f) (i) the collection of Construction levy, contribution to the Construction Workers' Welfare Fund or any other contribution from the employers as may be prescribed under the scheme;
- (ii) the collection of workers' contribution to the provident fund, Insurance Fund or any other fund which may be constituted under the Scheme;
- (g) appointing, subject to budget provision, such staff from time to time as may be necessary;
- (h) the keeping of proper accounts of the costs of operating the scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance sheet;

- (i) the framing of the annual budget and submission of the same to the Board on or before the fifteenth day of February in each year and getting it approved by the Board;
- (j) maintaining complete service records of all registered construction workers, and record sheets of all registered employers.
- (k) such other functions as may from time to time, such subject to the provisions of the scheme; be assigned to it by the Board or the President;

14. Functions of District Units

- i. Supervise the functioning of the respective units in the District;
- ii. Administer Welfare Fund in consultation with the approval of the State Board;
- iii. effecting transfer of workers;
- iv. To settle complaints through dispute resolution councils regarding registration, employment, non-employment, payment of wages and other payments, allocation of workers;
- v. To settle complaints regarding authorisation for construction and such other grievances of employers;
- vi. to nominate in rotation, members to participate in the various Administrative Committee of the District Units.
- vii. to give consent to construction where permanent labour are employed

(viii) prepare the annual budget for the District and credit the same to State Administrative Body.

15. Registration of Employers and Authorisation of Construction Work:

- (1) Every employer shall obtain sanction from the authorised unit of the Board before commencement of Construction work after paying the construction levy and any other contribution which shall be (not less than 1% of cost of building). No Construction Work shall commence without such sanction.
- (2) Every employer who obtains registered such sanction shall employ only Construction Workers through the board.
- (3) No person other than a Registered employer shall employ any worker on Construction Work.
- (4) Any construction work, attempting to employ or employing construction worker not registered with the Board shall be liable to be stopped forthwith by notice issued by the Board to the concerned employer.
- (5) Every contractor as employer shall get an authorisation from the respective unit of the Board after paying the aforesaid and any other Contribution before getting a licence and shall renew it every year subject to such terms and conditions as the Board may prescribe.

(6) The employer if intending to employ permanent labour shall get such authorisation from District units of the Board after furnishing necessary security which may be such percentage of the cost of construction or determined by the Board.

(7) Sanction or Authorisation shall be given subject to past performance of the employer/contractor in complying with provisions in the Act and the Scheme.

16. Record of authorisation:

Every unit shall maintain the records of authorisation of employers from time to time.

17. Exemption to Permanent Workers:

- (a) Permanent workers working with licenced contractors or construction companies having financial benefits and security and welfare measures more beneficial than those laid out in the scheme may be exempted from the application of scheme as also their employer provided an application is made on their behalf to the Board constituted under the Act, which after hearing both parties may grant exemption as may be just and equitable.
- (b) The Board may revoke the exemption granted under clause (a) on an application made by the workers or on their behalf if it is satisfied that the benefits are not at par with those available under the scheme or have ceased to be more beneficial than those available under the scheme.

18. A register of such exempted permanent workers and their respective employers shall be maintained at every district unit.

19. Principles for Registration of Construction Workers

- \dots (a) ^{5/1/60} All bonafide construction workers;

(i) who are members of and can establish membership of registered unions and

(ii) who submit certificates from employers of licensed contractors of having worked during the previous year shall be registered in reserve pool of construction labour.

(b) Persons who do not fall under clause (a) and who are desirous of offering their services for doing construction work shall be registered as temporary workers in a provisional list and (b)

- \dots ^{5/1/60} on completion of 180 days of working of marking attendance during the course of 210 days subject to availability of work within in the unit (c) temporary workers will become eligible for registration in the reserve pool with the Board in the reserve pool.

(c) Every construction worker after completing one year of registration shall be entitled to all benefits under the Act.

(d) During the 2nd half of the first year after registration they shall be entitled to attendance allowance;

20. Promotion and Transfer of Workers:

- (a) When a vacancy arises in a particular category in reserve pool other than casual vacancy a worker in the next lower category shall ordinarily be promoted to fill up the vacancy.
- (b) Transfer of a monthly worker to reserve pool may be effected by the Presiding Officer of the District Units on an application by employer or the worker concerned and after due enquiry into matter.
- (c) Temporary transfers from one unit to another unit within a District may take place on request from the receiving unit;
- (d) Mass temporary transfers (more than 100 workers) from one unit to another within a District may take place on request from the receiving unit on approval by District Committee/Presiding Office.
- (e) Temporary transfers from one District to another may take place on request from the receiving District.
- (f) Mass temporary transfers (more than 100 workers) from one District to another within a State may take place on request from receiving District on approval of State Board/President.
- (g) Inter State temporary transfers of construction labour shall take place only on request by the receiving State Board and of the consent of the receiving State Board.

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- (h) Permanent transfer of construction workers shall take place only on approval by District Presiding Officer.
- (i) Mass Permanent transfer of construction workers (of more than 500 workers) shall take place only on approval by State Board on recommendation by District Presiding Officer concerned.
- (j) On such transfer copies of, the existing register of workers shall also be sent to the transferred station/Unit.

21. Employment Norms:

- 1. A worker in the reserve pool shall be given preference over the worker in the temporary pool
- 2. No worker should ordinarily be employed for more than 8 hours in a day. Wherever a worker is required to work beyond the eight hour period he shall be paid over time wages to be computed by the Board having regard to the nature of the Construction Work, the place of work, the existing wage structure such other factors as may be relevant.
- (3) Workers of each category shall be allotted work by rotation.
- (4) Where work is carried on in a gang, the allotment of workers by rotation shall be by gangs.
- (5) Casual vacancies may be filled in the reserve pool in the following way - when a higher category worker is on leave, the Senior most worker of the

next lower category shall work in his place and the resultant vacancy shall be filled by leave reserve workers by rotation.

22. Facilities for Training:-

The Construction Labour Board shall make provisions for training of registered Construction Workers in the various skills of construction including opportunities for development of appropriate Construction technology suitable to different areas.

23. Registration Fee:-

A registration fee of rupees five shall be payable to the Board by each worker at the time of registration under the Scheme.

24. Supply of Cards:-

(1) Every registered worker shall be supplied free of cost the following cards in the forms prescribed by the Board, namely:-

- i. Identity Card,
- ii. Attendance Card, and
- iii. Wage Card.

(2) In case of loss of a card, a fresh card will be issued but the cost thereof which will be fixed by the Board, shall be payable by the worker concerned.

25. "Service Records" for Registered Workers:-

A 'Service Record' for all workers shall be maintained by the Administrative Body in a form to be

prescribed by the Board which shall contain, among other things a complete records of past performance, skills displayed efficiency, promotions, commendation for good work etc. Such details shall be supplied to the Administrative Body by the registered employers and shall also be communicated to the construction workers.

26. 'Record Sheets' for registered employers - The District units shall maintain a 'Record Sheet' in respect of each registered employer in a form to be prescribed by the Board which shall contain, among other things, a complete record of actions taken against the registered contractors and employers, non-compliance with the provisions of the Act and the Scheme and the violation thereof and action taken by the Board and penalties imposed.

27. Surrender of Cards:- A worker's card shall be surrendered to the Administrative Body in the following circumstances, namely:-

- a) When retiring from service,
- b) When dismissed or discharged from service
- c) On death.

28. Guaranteed Minimum Wages in a month:-

- (1) A worker in the reserve pool register shall be paid wages at least for twelve days in a month at the wage rate, inclusive of dearness allowance, as prescribed by the Board appropriate to the category to which he permanently belongs, even

though no work is found for him for the minimum number of 12 days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above. The guaranteed minimum wages in a month shall be -

- a) for the number of days for which wages are guaranteed in a month subject to the condition that the worker attendance marked for work on all days of the month as directed by the Administrative Body; or
- b) proportionate to the number of days on which the worker marked attendance for work provided he was excused from attendance on all the remaining days of the month.

(2) Subject to the provisions of sub-clause (1), the minimum number of days in a month for which wages are guaranteed may be fixed by the Board for each year on the basis of the monthly average employment obtained by the workers in the reserve pool during the preceding year until the minimum number of days reaches 21; provided that the number so fixed shall not, in any case be less than the number in the preceding year.

- 3) The minimum number of days for which wages shall be guaranteed under sub-clause (1) and (2) above shall not automatically apply

to workers in new categories who may be registered after the date of enforcement of Scheme.

- (4) The minimum number of days for which wages shall be guaranteed to these categories shall be determined after completion of one year of registrations.
- (5) Annual refixation of the minimum number of days as under sub-clause (2) shall be done independently in their case also.

Explanation I: In sub-clause (1), (2) and (3) of this clause a 'day' shall mean a 'shift'.

Explanation II: For the purpose, of this clause the expression 'month' shall not include the days of weekly off provided that there is no payment for the day of the weekly off.

29. Attendance allowance: Subject to the other provisions of the scheme, a registered worker who is available for work but for whom no work is found shall be paid attendance allowance at such reasonable rates as may be determined by the Board.

Provided further that no attendance allowance shall be payable for any day for which full wages, inclusive of dearness allowance, have been paid under clause 28 or for which disappointment money is paid under clause 30.

30. **Disappointment Money:** When a worker in the reserve pool presents himself for work and for any reason the work for which he has attended cannot commence or proceed and no alternative work can be found for him and he is relieved within 2 hours of his marking attendance for work, he shall be entitled to disappointment money equal to half the time-rate wage inclusive of dearness allowance, appropriate to the category to which he belongs. A worker detained for more than 2 hours shall be paid full time rate wage inclusive of dearness allowance.

31. **Holidays -** Each worker shall be entitled to 15 holidays in a year with pay at such rates as may be prescribed by the Board under clause 41 and 42 including National and Festival Holidays. Any payment made under this clause shall be exclusive of the payment calculated under clause 30.

32. Obligation of registered Construction Workers:

1. Every registered construction worker shall be deemed to have accepted the obligations of the scheme.
2. A registered construction worker in the reserve pool who is available for work shall be deemed to be in the employment of the Board and employed in such construction work as may be assigned by the Board.
3. A registered Construction worker in the reserve pool who is available for work shall carry out the directions of the Administrative Body and shall -
 - a) report at such call, stands or control points as may be fixed by the District/

Local area Units and at such times as may be specified by the Administrative Body and shall remain at such call stands or centres.

(i) throughout the work period, if instructed by the Administrative Body to that effect, on payment of such retention allowance as may be prescribed by the Board; or

(ii) for such period, not exceeding one hour, as may be specified; and

(b) accept any employment in connection with construction work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body;

5. A registered construction worker who is available for work when allocated by the Administrative Body for employment under registered employer shall carry out his duties in accordance with the directions of such registered employer or his authorised representative or supervisor and the rules of the Municipal Corporation of the area, in regard to norms and specifications of construction.

33. Obligations of registered employers:-

1. Every registered contractor and employer shall abide by the obligations of the scheme and shall

strive to promote harmonious and healthy working environments.

2. Subject to the provisions of clause 15 a registered employer shall not employ worker other than a construction worker who has been allocated to him by the Administrative Body in accordance with the provisions of Clause 12(e).
3. A registered employer shall, in accordance with arrangements made by the Administrative Body, submit all available information of his current and future labour requirements.
4. i) A registered employer shall be liable to pay to the Administrative Body in such manner and at such times as the board may direct the payments specified in clauses (1) to (O) of Clause 6.
5. A registered employer shall keep such record including health and accident records as the Board may require, and shall produce to the Board or to such persons as may be designated by the Board upon reasonable notice all such records and any other document of any kind relating to registered construction workers and to the work upon which they have been employed and furnish such information relating thereto as may be set out in any notice or directions issued by or on behalf of the Board.

34. Wages allowances and other conditions of service of certain classes of workers - Unless otherwise specifically provided for in the Scheme.

- (a) the rates of wages, allowances and overtime hours of work, rest interval, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers, and the fixation of wage period, time for payment of wages and deductions from wages shall be in accordance with the provisions of the payment of Wages Act, 1936.

35. Offences and Penalties:

- (a) Any person who engages in unauthorised construction work shall be liable to be prosecuted on a report in writing by the Labour Officer or a complaint by the aggrieved party.

36. Enforcement Procedures:

- (1) The Presiding Officer of the District Committee or of the local units as provided under sub-clause (i) and (ii) of clause 11 on receipt of information whether on a complaint or otherwise, that a registered employer, contractor or their agents have failed to carry out the provisions of the Scheme shall cause the immediate investigation of the matter through the dispute resolution council of the unit or of the Local Area as the case may be.

- (2) The dispute resolution council may after investigation into the matter referred to it, pass the following orders, appropriate to the matter:-
- (a) Cessation of Construction work, till the employer, contractor or their agents removes the defect amounting to non-compliance with the Act and the Scheme.
 - (b) imposition of fines not exceeding a certain wage bill to be fixed by the Board percentage of the monthly ^{from time to time} which amount will be credited to the workers welfare fund.
 - (c) removal from the employer's register for such period as may be determined by the Board, or permanently in case of grave offences for non-compliance with the provisions of the Scheme.
- (3) Similarly instances of a non-compliance by registered Construction Workers in the reserve pool with any of the provisions of the Scheme, or commits any act of indiscipline or mis-conduct may be reported in writing to the Dispute resolution Council through the Presiding Officer which may after investigating the matter take any of the following steps as regards that worker that is to say, it may
- (a) give him a warning in writing, or
 - (b) determine that, for such period as it thinks proper, that the worker shall not be entitled to any payment or part payment.

- (c) suspend him without pay for a period not exceeding three days.
4. (a) Where in a case reported to the Presiding Officer under Sub-Clause (3) he is of the opinion that the act of indiscipline or misconduct is so serious that the worker disentitled himself for work the Presiding Officer may pending investigation of the matter, suspend the worker and report immediately to the dispute resolution council which after preliminary investigation of the matter shall pass order thereon whether the worker, pending final orders, should remain suspended or not.
- (b) Where a worker has been suspended by an order under clause (a), he shall be paid for the first fifteen days from the date of suspension, a subsistence allowance to one-half of the basic wages, dearness and other allowance to which he would have been entitled if he were on leave with wages, and thereafter the president, in exceptional cases, grant higher subsistence allowance not exceeding three fourths of such basic wages, dearness and other allowances;
- (c) the subsistence allowance so paid shall not be recoverable or liable to for-feiture in any case whatsoever.

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- (d) The amounts due as certified by the council shall be paid within fifteen days from the date of the order.
- (5) Where a construction worker has failed to comply with any of the provisions of the Scheme wilfully and recklessly or has committed a serious act of indiscipline or misconduct, or has consistently failed to produce the standard output or has been inefficient in any other manner the Council may make or cause to be made such further investigation as it may deem fit, and thereafter take any of the following steps, as regards the worker concerned, that is to say, it may impose any of the following penalties;
- (6) Before any action is taken under this clause person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him and such person may, if he so desires, shall be entitled for legal aid.
- (7) The Administrative Body shall be informed simultaneously about the action taken under this clause.
- (8) Every order passed by the dispute resolution council shall also be immediately communicated to the Local Legal Aid Committee and to the worker concerned for Legal Aid.

37. Termination of Employment:-

- (1) The employment of a registered Construction Worker in the reserve pool shall not be terminated except in accordance with the provisions of the Scheme.
- (2) A registered Construction Worker in the reserve pool shall not leave his employment with the Board except by giving fifteen days' notice in writing to the Board.
- (3) When the employment of a registered Construction Worker with the Board, has been terminated under sub-clause (1) or (2) above, his name shall forthwith be removed from the register or record by the Administrative Body.

38. Appeal by Workers:-

- (1) Save as otherwise provided in this clause a registered worker or a worker in the reserve pool who is aggrieved by an order passed by the dispute resolution council may prefer an appeal against such order to the appellate authority.
- (2) A worker who is aggrieved by an order -
 - (i) Placing him in a particular group in the register or record under sub-clause (d) of clause 12, or
 - (ii) refusing registration under clause 19 or
 - (iii) requiring him under clause 31 (4) (b)

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to undertake any work which is not of the same category to which he belongs; may prefer an appeal to the president of the District Committee or the local unit as the case may be

- (3) Every appeal referred in sub-clause (1) and (2) shall be in writing and preferred within 60 days of the date of receipt of the order appealed against.
- (4) The appellate authority may after giving an opportunity to the appellant to be heard, if he so desires, and with reasons to be recorded in writing pass such order as it thinks fit. and the order so passed shall be final and conclusive.
- (5) Every order passed under sub-clause (4) shall be communicated to the appellant.

PROVIDED that the appellate authority may for reasons to be recorded admit and appeal preferred after expiry of 60 days.

- (6) An appellant may be represented by a registered trade union or a counsel engaged through the Legal Aid Committee.

39. Appeals by employers:-

- (1) A registered employer -
A registered employer who is aggrieved by an order of the dispute resolution council under clause 39 (2) may also appeal to the appellate

authority, whose order shall be final and conclusive and there shall be no appeal against it.

(2) An employer who has been refused registration under clause 15 (1) may appeal to the Board. The order of the Board shall be final and conclusive and there shall be no appeal against it.

(3) Every appeal referred to in sub-clause (1) and (2) shall be in writing and preferred within 30 days of the receipt of the order appealed thereof.

40. Power of revision of the revisional authority:-

Notwithstanding anything contained in this Scheme, the revisional authority, in the case of an order under sub-clause 920, 930 and 950 39, may at any time call for the records of any proceedings for the purpose of satisfying itself as to the legality or propriety thereof and may pass such orders as it may think fit, provided that the revisional authority shall not pass any order under this clause which may prejudicially affect the interests of any persons without giving such person a reasonable opportunity of being heard and in the case of a worker an opportunity of recurring Legal Aid.

41. Cost of operating the Scheme:-

(1) The cost of operating the Scheme shall be defrayed by payments made by registered employers to the Board. Every registered employer

shall pay to the Board such amount by way of construction Levy in respect of monthly workers and Reserve Pool workers together with and at the same time as and earlier than the payment of gross wages due from him under clause 38 (5) (i), as the Board may from time to time, prescribe by a written notice to registered employers.

- (2) In determining what payments are to be made by registered employers under a sub-clause (1) the Board may fix different rates of levy for different categories of work or workers, provided that the levy shall be fixed that the rate of levy will apply to all construction employers who are in like circumstances.
- (3) A registered employer shall on demand make a payment to the Board by way of deposit, or provide such other security for the due payment of the amount referred to in sub-clause (1) as the Board may consider necessary.
- (4) If a registered employer fails to make the payment due from him under sub-clause (1) or any other amount due and payable to the Board in any other capacity or account within the time prescribed by the Administrative Body, the Administrative Body shall serve a notice on

the employer to the effect that unless, he pays his dues within three days from the date of receipt of the notice, the supply of registered construction workers to him shall be suspended. On the expiry of the notice period the Administrative Body shall suspend the supply of registered construction workers to a defaulting employer until he pays his dues.

42. PROVISIONS AS TO HEALTH AND SAFETY:

(1) Drinking Water:

In every site/land, effective arrangements shall be made by the employers and ensured by the units of the Board to provide and maintain at convenient places in the site/land a sufficient supply of wholesome drinking water for all workers.

(2) Conservancy:

(i) In every site/land there shall be provided, separately for males and females a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(ii) All latrines and urinals provided under sub section (1) shall be maintained in a clean and sanitary condition, with water facility.

(3) Medical Facilities:

- (i) In every site/land there shall be provided and maintained so as to be readily available such medical facilities, such as a first-aid box, for the workers, as may be prescribed by the State Government.
- (ii) In any site/land, medical facilities are not provided and maintained as required by sub-section (1), the Labour Officer may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer/contractor as the case may be.
- (iii) For the purposes of such recovery, the Labour Officer may recover the costs as a penalty by way of a fine from the employer/contractor as the case may be.
- (iv) Arrangements shall be made to provide necessary medical facilities through E.S.I. or such other Units.

(4) Safety provisions:

- (i) Wherever the worker is required to work at heights of more than ten feet, effective safety measures should be provided for working at such heights, by providing the worker with metal or wooden scaffolding and wooden ladders with rubber shoes or

appropriate foot wear and supports which will not give way under weight.

(ii) Where work is of such nature involving workers to come into contact with cement, lime and such other materials which will be hazardous to handle with bare hands, such workers should be provided with rubber gloves and also adequate protection for the feet by way of boots which come upto the knees.

(iii) Nose guard:

Every workman and woman should be provided with proper nose guard while he/she is engaged in the construction activity when handling substances such as, cement, lime, tar etc.

ACCIDENTS

43. Notice to be given of accidents:

(1) Where there occurs in or about a Site/Land where construction activity is being carried out.

(a) an accident causing loss of life or serious bodily injury, or

(b) an accidental explosion, ignition, spontaneous heating, out-break of fire or irruption of water, or

(c) an accidental breakage of ropes, chains or other gear by which worker are lowered or raised, or

- (d) a premature collapse of any part of the scaffolding, the employer shall give immediate notice of the occurrence to the Units of the Board.
- (2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the concerned unit of the Board shall make an inquiry into the occurrence immediately within 24 hours of the receipt of the information and the result of such enquiry shall be sent to the Board. The Board shall within fourteen days thereof make the due payments to the dependents entitled for such payment.
- (3) The Central Government may by notification in the official Gazette, direct that accidents other than those specified in sub section (1) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1).
- (4) The rules shall also provide for the rates of compensation to be paid in respect of different category of accidents.
- (5) A copy of the entries in the register referred to in sub-section (3) shall be sent by the employer within fourteen days after the 30th

day of December, in each year, to the Board.

- (6) Every employer/Contractor shall compulsorily insure the workers on their site/land under accident insurance before obtaining the sanction of the plan for the construction.

44.

WELFARE:

(1) Canteens:

(i) The state government shall make rules requiring that in every site/land wherein one hundred workers are employed for a period of 90 days or more, one more canteens shall be provided and maintained by the employer/contractor as the case may be, for the use of the workers.

(ii) Without prejudice to the generality of the foregoing power, such rules may provide for;

(a) the date by which the canteen shall be provided;

(b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipments of the canteens;

(c) the food-stuffs which may be served therein and the charges which may be made therefor;

(d) the constitution of a managing

committee for the canteen and the representation of the workers in the management of the canteen;

(2) Creches:

(i) In every Site/Land wherein fifty or more women workers are employed or were employed on any day of the preceding twelve months, three shall be provided and maintained by the employer suitable a room for the use of children of the woman workers, who are below the age of six years;

(ii) Such rooms shall -

(a) provide adequate accommodation and provided with necessary materials for taking care of children;

(b) be adequately lighted and venti-llated;

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

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

(iii) The State Government may make rules prescrib-ing the location and the standards of such rooms in respect of their construc-tion and accommodation and the equip-ment and amenities to be provided therein.

(3) Recreational facilities:

The State Government may make rules requiring every employer to make provision in his/her Site/Land for such recreational facilities for the workers and children employed therein as may be prescribed.

(4) Housing facilities:

It shall be the duty of every employer to provide and maintain for every worker and his family residing in the Site/Land, and for workers brought from outstation, necessary housing accommodation.

(5) Power to make rules relating to housing:

The State Government may make rules for the purpose of giving effect to the provisions of Section 16 and in particular providing for:

- (a) the standard and specification of the accommodation to be provided;
- (b) the constitution of advisory boards consisting of representatives, of the State Government, the employer and the workers' Union for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified;

- (c) the selection and preparation of sites/lands for the construction of houses and the size of such plot;
- (d) the fixing of rent, if any, for the housing accommodation provided for workers;
- (e) the allotment to workers and their families of housing accommodation and the definition of what constitutes the family of a worker for the purposes of section 16;
- (f) access to the public to those parts of the Site/Land wherein the workers are housed;
- (g) Amenities such as drinking water, sanitation and lighting and provision of ration cards and of fair-price shops for the supply of essential commodities.

(6) Other facilities:

The State Government may make rules requiring that in every Site/Land, the employer shall provide the workers with such number and type of umbrellas, blankets, rain coats and other like amenities for the protection of workers from rain or cold as may be prescribed.

45. Arrears of dearness allowance wages and other allowances:-

In case of any revision of dearness allowance or grant of revised wages or other allowances, with the retrospective

effect, in pursuance of any award or recommendation of any board or body set up or of any order, by the Central Government, the Board may out of its funds, pay the registered workers arrears upto the date of the award or, as the case may be, of the recommendation or order if the Board so decides.

46. Provident Fund and Gratuity:

- (1) The Board shall frame and operate rules providing for contributory provident fund. The rules shall provide for the rate of contribution from the workers and the employers, the manner and method of payment and such other matters as may be considered necessary;
- (2) The Board shall frame rules for payment of gratuity to registered Construction workers.

47. Construction Workers Welfare Fund:

Cost of amenities, welfare and health measures and recreation facilities including cre-ches for children of registered workers shall be met from a separate fund called Construction Workers Welfare Fund which shall be maintained by the Board, Contribution to this Fund shall be made by all registered employers at such rate as may be determined by the Board. The Board shall frame rules

for contributions, to maintenance and operation of. the Fund.

48. The Board may also permit any voluntary association or organisation including a registered union to undertake activities for the promotion of health, education, maintenance of creches and such other activities pertaining to the general welfare of Construction Workers and their families.

49. Penalties:-

Any contravention of clause 39 shall be punishable with imprisonment for a period not exceeding three months in respect of first contravention, of six month in respect of any subsequent contravention or with fine not exceeding five thousands rupees in respect of a first contravention or ten thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid. The fines shall be part of the Welfare Fund.

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