

Social Security.

91. Establishment of Social Security Corporation.-

(1) A fund to be known as the "Social Security Fund" will be established by the Board, within one year of it being set up, by the appropriate Board, which shall be regularly contributed to by the employer, including the contractor, and the workers at such rates as may be prescribed by the Board, provided that the total rate of the employer's contribution shall not exceed 1.5% of the total contract value.

(2) All social security benefits to the workers employed at any place of work in the Building and Construction Industry, other than those which the employer has to directly pay to the worker shall be administered from this Board and it shall, in addition, be the function as an insurer of such social security benefits, as hereinafter specified.

(3) All contributions required to be paid under this Chapter shall be paid into this Fund.

(4) The fund shall be earmarked separately for each of the following:

- a) <sup>Gratuity</sup> health, employment and injury benefits;
- b) provident fund;
- c) voluntary insurance for terminal and unemployment benefits;
- d) labour welfare fund.
- e) training fund for workers.

(5) Every branch of social security specified under sub-section (4) shall constitute an independent division within the fund, having its separate finances and no division shall be liable for the obligation of another.

(6) The appropriate Board may accept grants, donations and gifts from the Central or any State Government, local authority or any individual or body, whether incorporated or not for all or any of the purposes of this Chapter.

(7) Subject to the other provisions contained in this Act and to the provisions of any Rules or Schemes, made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be approved by the Board and credited to the account of the Fund.

(8) Such account shall be operated on by such Officers as may be authorised by the appropriate Board.

92. Investment of funds.-

The appropriate Board shall invest its funds in securities recognised under section 20 of the Indian Trust Act, 1882 or in other authorised investments.

93. Benefits to workers and dependents.-

(1) All workers issued with the Board shall, subject to the provisions of this Act, be entitled to the following payments and benefits, namely:

(i) Sickness (cash) benefit, i.e. a periodical payment in case of sickness of the worker certified as such by a duly appointed medical practitioner, at such rates as may be prescribed by the appropriate Board.

(ii) Maternity benefit, i.e. a periodical payment in case of confinement, sickness arising out of pregnancy, premature birth or miscarriage of a woman worker certified to be eligible for such payment by a duly appointed medical practitioner at such rates as may be prescribed by the appropriate Board.

(iii) Disablement benefit, i.e. a monetary compensation of periodical payment or lump-sum payment, to a worker suffering from temporary disablement, permanent total disablement, or permanent partial disablement, as a result of employment injury or accident or occupational disease arising out of and in the course of employment, according to such rates as may be prescribed by the appropriate Board.

Explanation.-

(a) "Temporary Disablement" means a condition resulting from an employment injury, accident or occupational disease which requires medical treatment and renders a worker as a result of such injury, temporarily incapable of doing the work, which he was doing prior to or at the time of injury, accident or the contracting of an occupational disease.

- (b) "Permanent total disablement" means such disablement of a permanent nature, as incapacitates a worker for all work, which he was capable of performing at the time of the injury, accident or the contracting of occupational disease;

Provided that permanent total disablement shall be deemed to result from every injury or from any combination of injuries where the aggregate percentage of the loss of earning capacity, amounts to one hundred per cent, or more.

- (c) "Permanent partial disablement" means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment, which he was capable of undertaking at the time of the injury, accident or contracting of an occupational disease by less than one hundred percent.

- (d) "Employment Injury" means a personal injury to a worker caused by accident or occupational disease arising out of and in the course of his employment, in building and construction industry.

(iv) "Dependent's benefit", i.e. a periodical payment or lump-sum payment to the dependents of a worker who dies as a result of employment injury or accident or occupational disease, at such rates as may be prescribed by the appropriate Board.

(v) "Funeral benefit", i.e. payment to the eldest surviving member of the family of an insured person, who has died as a result of natural death, accident or employment injury or occupational disease towards the expenditure on funeral of the deceased insured person, or where the deceased person

did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased person.

Provided that the amount of such payment shall not exceed one hundred rupees and the claim for such payment is made within three months of the death of the worker or within such extended period as the appropriate Board or any authorised Officer thereof may allow.

(vi) Medical benefit, i.e. medical treatment for and attendance on worker and the hospitalisation of such worker or his dependents, at such rate as may be prescribed.

(vii) Authorised absence. A worker will be entitled to such period of authorised absence not exceeding 56 days in a year as may be recommended by the authorised medical practitioner.

94. Compulsory Provident Fund Scheme.-

A compulsory provident fund scheme shall be established by the appropriate Board, within one year of its commencement for the benefit of the workers as set out below:

- i) The scheme shall be called the Workers' Provident Fund Scheme;
- ii) Contributions to the scheme shall be compulsory for the workers.
- iii) The contribution shall be 6.25% of the wages payable to each worker employed at a place of work - whether directly by the principal employer or through a Contractor;

\* with an equal amount as employers Share from the fund created under Section and earmarked for the P.F.

- iv) The contributions at the credit of the worker/<sup>\*</sup>shall be payable to him or his nominee or legal heirs by the Board, with simple interest, on his death, retirement, resignation or termination of services by the employer; and
- v) The Board may after seeking for suggestions and objections from all persons affected by or interested in the Workers' Provident Fund Scheme and considering them, modify, add to amend or vary such scheme.

94A. Disbursement of benefits:

Every benefit under this Chapter shall be disbursed from the Fund.

94B. Extension of medical benefits to dependents.

The appropriate Board may, subject to such conditions as may be laid down in the Rules or any Schemes framed under this Act, regulations, extend the medical benefits to the dependents of a registered worker.

The details relating to and the manner in which the aforesaid benefits are to be accorded will be prescribed by the appropriate Board under any Schemes to be formulated under this Act.

94C. Reporting of Accidents and Employment Injuries.

Every accident or employment injury, arising out of or in the course of employment, which results in the death of a worker, at the place of work or elsewhere shall be reported by the employer to (1) the Inspector and (2) the

authorised Officer of the appropriate Board, within 48 hours of the death on the premises and in any other case<sup>\*</sup> within 7 days from the date of occurrence of the accident.

\* of accident not resulting in death

95. Choice of Benefits.-

. Where a person is entitled to more than one of the benefits mentioned in section 92 he shall be entitled to choose which benefits he shall receive.

96. Employer not to discontinue or reduce wages, etc.

No employer by reason only of his liability for any contribution payable under this Act shall, directly or indirectly reduce the wages of any worker or except as may be provided by the provisions of any Scheme framed under this Act or discontinue or reduce benefits payable to him under the conditions of his service.

97. Employer not to dismiss or punish, etc.-

(1) No employer shall dismiss, discharge or reduce or otherwise punish a worker during the period the worker is in receipt of sickness benefit or maternity benefit, nor shall he, except as provided under the provisions of any scheme framed under this Act, dismiss, discharge or reduce or otherwise punish a worker, during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified, in accordance with the provisions of the aforesaid scheme, to arise out of any pregnancy or confinement rendering the worker unfit for work.

(2) No notice of dismissal or discharge or reduction given to a worker during the period specified in sub-section (1) shall be valid or operative.

98. Health and Employment Injury Insurance.-

(1) All workers at every place of work shall be covered by a health and employment injury insurance under this Act.

(2) The cost of health and employment injury insurance shall be borne by employers and workers through the payment of contribution as may be prescribed by the Board in pursuance of the provisions of this Chapter.

(3) Contribution payable under this Chapter shall comprise of contributions payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the worker (hereinafter referred to as the workers contribution) and shall be paid to the Board,

(4) Contribution payable under this Chapter shall be made at such rate as may be prescribed by the Board and a month shall be the unit in respect of which all contributions shall be payable under this Act. The contribution shall be payable in each month and shall ordinarily fall due on the last day of the week and where a worker is employed for a part of the week or is employed under two or more employers during the same month, the contribution shall fall due on such days, as may be specified in the scheme to be prescribed under the Act.

98A. Training and Welfare Schemes.-

The appropriate way, as soon as practical and subject

to availability of funds formulate and implement suitable training and welfare schemes of reasonable standards, for the benefit of the workers, whether they are in employment or not.

99. Principal employer/s to pay contribution in the first instance.-

(1) The principal employer shall pay in respect of every worker whether directly employed by him or through any contractor, both the employer's contribution and the worker's contribution.

(2) Subject to the provisions of this Act and the Rules and Schemes, if any, made thereunder, the principal employer shall, in the case of a worker directly employed by him be entitled to recover from the worker the workers' contribution by deduction from his wages and not otherwise.

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the same representing the workers' contribution for the period.

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the contractor shall be entitled to deduct the employer's contribution from any wages payable to a worker or otherwise to recover from him.

(4) Any sum deducted by the principal employer from wages under this Act shall be deemed to have been entrusted to him by the worker for the purpose of paying the contributions in respect of which it was deducted.

(5) The principal employer shall bear the expenses of remitting the contribution to the appropriate Board.

100. Recovery of contribution from immediate employer.-

(1) A principal employer, who has paid contribution in respect of a worker employed by or through an immediate employer shall be entitled to recover the amount of the contribution so paid (that is to say the workers contribution as well as employer's contribution, if any), from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract or as a debt due by the Contractor.

(2) In the case referred to in sub-section (1), the contractor shall be entitled to recover the workers contribution from the worker employed by or through him by deduction from wages and not otherwise, subject to the conditions specified in the provision to sub-section (2) of Section 97.

101. Modification of Scheme.-The Board may after consulting the persons likely to be affected by or interested in, such manner as may be prescribed, add to, amend or vary the scheme framed under this Act.

102. Voluntary Insurance.

(1) The Board shall formulate and provide for a scheme of voluntary insurance, insuring the liability of the employer in respect of any matter or matters specified below:

- (i) compulsory gratuity;
- (ii) retrenchment compensation;
- (iii) compensation in case of the transfer of an establishment;
- iv) compensation for closure;
- v) lay-off compensation.

(2) All employers who desire to avail themselves of

such a scheme on payment of the prescribed premium or premia, may insure for such voluntary insurance scheme with the Board.

Provided, however, that such an insurance shall not in any way prejudice the right of a worker to recover from the employer, in the first instance, any gratuity or other compensation due to him.

(3) The employer, after payment of gratuity or compensation, as the case may be, may recover the amount from the Board, after satisfying the Board, with such evidence as is required that he has paid the amount in due satisfaction of his legal obligation.

(4) A payment made under a mediation agreement or an award shall be presumed to be a payment made in satisfaction of a legal obligation.

103. Maintenance of Reserve Fund.-

(1) The Board shall allocate and maintain a reserve fund for each branch of social security fund, as follows:-

- (a) in respect of sickness and health insurance branch, a reserve fund equal to the average of six months' expenditure for that branch during the last three years;
- (b) for the provident fund/<sup>and Gratuity Scheme</sup> branch a reserve fund equal to the expenditure on both the Counts during the last three years;
- (c) for the voluntary insurance branch a reserve fund equal to the average annual expenditure for that branch during the last three years.

(2) When any reserve fund falls below the prescribed minimum, the Board shall examine the situation and make provision for increasing the rate of contributions in order to restore the reserve fund to the prescribed minimum.

(3) Pending the accumulation of the various benefit payments to the extent necessary to determine the expenditures and average expenditures referred to in sub-section (1), the Board shall as a temporary measure, prescribe an amount by way of security reserve to be allocated to insure the Boards solvency.

104. Accounts and Audit.-

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form as may be prescribed.

(2) The accounts of the Board shall be audited annually by an Auditor approved by the appropriate Government and any expenditure incurred by him in connection with such audit shall be payable by the Board.

(3) The Auditor appointed by the appropriate Government shall have the right to demand the production of and to inspect books, accounts, connected vouchers and other documents and papers maintained by the Board.

(4) The accounts of the Board, as certified by the Auditor appointed by the appropriate Government, together with the audit report thereon, shall be forwarded to the appropriate Government and that Government shall cause the same to be laid before each of the Legislature or House of Parliament, as the case may be.

105. Mode of Application.-

An applicant for benefits under this Chapter shall:

- (a) submit a claim or application, as may be prescribed by the Board for each separate case;
- (b) produce such Certificates, documents and give such information as the Board may require;
- (c) consent to undergo such medical examination or re-examination, as the Board may require.

106. Time-limit for claiming benefits etc.-

The right to any benefits under the health and employment injury insurance branch shall lapse, if no claim thereto is made within one year from the date such benefits become payable.

Provided that any such claim may be entertained, after the expiry of the said period, if the appropriate Board is satisfied that the applicant had sufficient cause for not making the claim within the said period.

107. Benefits not transferable.-

(1) Benefits payable under this Act shall not be assigned, transferred or sold. Any such alienation shall be null and void.

(2) Benefits payable under this Chapter shall not be attached in satisfaction of any debt due by an insured person.

108. Actuarial review of the implementation of the social security measures.-

The Board shall carry out once in every three years an actuarial review of the operation and application of the

provisions of this Chapter and the report on the financial situation of each social security branch and the adequacy or otherwise of the contributions payable under this Act to support the benefits payable thereunder shall be considered by the Board for such remedial action as it may deem fit.

109. Review of the real value of the benefits.-

Following any fundamental changes in the general level of wages, resulting from substantial changes in the cost of living, the Board shall investigate the situation and shall take appropriate steps for adjusting the social security measures, in order to maintain the real value of cash benefits.

110. Exemption from stamp duty.-

Applications, claims and all documents relating to any of the benefits payable under this Act shall be exempt from stamp duty.

110. Power of appropriate Government to supersede the Board.-

(1) if at any time the appropriate Government is of opinion:-

(a) that on account of a grave emergency the Board established under this Act is unable to perform the duties imposed, on it under the provisions of this Act, or

(b) that the Board has persistently made default in the performance of the duties imposed upon it under the provisions of this Act and as a result of such default the financial position

or the administration of the Board has greatly deteriorated;

The appropriate Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months at a time, as may be specified in the notification;

Provided that before issuing a notification under this sub-section, the appropriate Government shall give a reasonable time of not less than 3 months 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) Upon the publication of a notification issued under sub-section (1) superseding the Board:-

(a) all the members of the Board shall including the Chairman ~~xx~~ from the date of supersession, vacate their offices as members;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board, shall until the Board is reconstituted under clause (b) or clause (c) of sub-section ( ) vest in the appropriate Government and be exercised and performed by such person or persons as the appropriate Government may direct;

(c) all property vested, if any, in the Board shall, until the Corporation is reconstituted under clause (b) or clause (c) of sub-section ( ) below, vest in the appropriate Government.

(3) On the expiration of period of supersession specified in the notification issued under sub-section (1), the appropriate Government may -

- (a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary, or
- (b) re-constitute the Board by fresh appointment and in such case any persons, who vacated their offices under clause (a) of sub-section (3) above, shall not be deemed disqualified for appointment, or
- (c) re-constitute the Board by appointment, only for such period as it may consider necessary, and in such a case the persons who vacated their offices under clause (a) of sub-section (2) above shall not be deemed disqualified for such appointment merely because they were members when the Board was superseded;

Provided that the appropriate Government may, at any time, before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section take action under clause (b) or clause (c) or this sub-section.

111. Right of appeal to the Adjudicator.-

(1) Any employer or worker aggrieved by any action taken by the Board under the Chapter shall have a right of appeal to the appropriate Adjudicator.

(2) No suit or prosecution shall lie against any manner officer or inspector of the Board for any act done

by him in the discharge of his duties under this Chapter.

110. Regulations.-

The Board shall frame schemes for the purpose of giving effect to the provisions of this Chapter after prior approval of the same the appropriate Government and publication in the Official Gazette.

111. Speedy payment of benefits.-

The Board shall ensure speedy payment of benefits to under this Chapter to the workers, and for this purpose shall organise its business and procedures in an efficacious and effective manner and, if necessary shall utilise aid of mechanical and electrical appliances and devices.

112. Identification Cards.-

The Board shall provide each worker with identification card with a special code number. This card shall identify the worker and will be evidence of entitlement of benefits due to him under this Chapter.