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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 applications:
 - (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 all types of Construction work as defined in clause (e) of sub-section (1) of Section 3 of the Act.
3. Definitions:

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 6.
 - (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;

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- (e) "Vice-President" means the Vice-President of the Construction Labour Board;
- (f) "employer's register" means the register of employers employing or intending to employ construction worker;
- (g) "Labour Officer" means one appointed by the Board under the Act;
- (h) "Worker's register or record" means the register or record of construction workers maintained by the Board;
- (i) "registered construction worker" means a construction worker whose name is entered in the register or record;
- (j) "registered employer" means a employer whose name is for the time being entered in the employer's register;
- (k) "Registered Pool" means a pool of construction workers registered with the Construction Labour Board, who are available for work. This will not include temporary workers in a provisional list or monthly rated workers in permanent employment;
- (l) "rules" means the construction workers (Regulation of Employment and Conditions of Service) Rules, 1988
- (m) "Work period" means a period of 8 hours during a day inclusive of rest periods;

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4. Constitution of the Board:

The Board shall be constituted in accordance with Section 8 of the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986.

5. Units of the Board:

- a) The Construction Labour Board will have units.
 - i) In every Revenue Districts.
 - ii) In every Municipal Town/City and
 - iii) Also centres of zones or local areas wherein not less than 1000 workers are normally engaged in construction work.
- b) The composition of the units shall be the same as provided for in respect of the State Construction Labour Board.
- c) The representatives of the workers of each unit shall be elected by secret ballot in a manner to be provided under the Rules.
- d) The representatives of employers shall be elected on like manner.
- e) The term of members of units shall be a period of three years.
- f) The units 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 payment of wages and welfare measures.

6. Administrative Body:

- (1) There shall be an administrative body in all units as provided under Section 11.

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- (2) The government 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 Board.
- (3) The Administrative Body, shall, subject to the supervision and control of the Board and the President carry on the day-to-day administration of the provisions of the Act, the rules and any regulations that may be framed under the Act.

7. 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) To register Construction Labour and allocate construction labour to the employer and to discharge from the Construction labour register.
 - c) For ensuring adequate supply and full and proper utilisation of the Construction labour for the purpose of facilitating time bound and scheduled completion of construction work.
 - d) To register employers before obtaining 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 and subject to the provisions of the Act.
 - e) To review the number of registered employers and construction workers and determine from time to time the number to be maintained in the register.

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- f) For keeping and maintaining registers of employers.
- g) For keeping and maintaining registers and records of construction labour, register of workers who are temporarily not available for work and for removing from any register/record the name of any worker on his own request or in accordance with the provisions of the Rules.
- h) For grouping or regrouping of all registered workers into such groups as may be determined by the Board after consultation with the units of the Board and reviewing the grouping from time to time having regard to any alterations or changes in the nature of construction work.
- i) For making provisions for training, imparting of skills and welfare of registered workers including provisions for housing, education, creches and leisure time activities.
- j) For levying and recovering from registered employer, contribution in respect of expenses of the Board.
- k) For making provisions for application of the ESI, health and safety measures for construction labour.
- l) For maintaining and administering a Construction Labour Welfare Fund and recovering from all registered employers contribution towards the fund.
- m) For maintaining and administering of Provident Fund, death cum retirement Gratuity Fund, for construction Labour.

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- n) To call for annual meeting of District units.
- o) To determine the rate of wages for different categories of construction workers and the minimum guaranteed wages for a month.
- p) To provide for safety and security, at places of work, and for promoting the death and welfare of construction workers.
- q) For borrowing or raising money for the purpose of securing any debt or obligation, mortgaging or charging all, or any part of the property of the Board.

8. Application of Income and Property

- a) The income and property of the Board from whatever source derived shall be applied solely towards the objects of the Act 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.
- b) No portion of the income or property of the Board shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of benefit to the members of the Board.
- c) The Board may however make provisions for the payment of reasonable and proper remuneration and expenses to any officer or servant of the Board or to any member of the Board in return for any service actually rendered to the Board.

9. Keeping of Accounts:

The Board shall cause proper accounts to be kept of

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the cost of operating the Board and of all receipts and expenses under the Act.

10. Annual Report:

- a) As soon as may be after the first day of April in every year and not later than the thirty-first day of October, the Board shall submit to the Government an annual report on the working of the Board during the preceding year ending the thirty first day of March together with an audited balance sheet and copies of proceedings of the meetings of the Board.
- b) The State Government may at any time call for a report from the Board in regard to satisfactory compliance with the provision of the Act.

11. 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 units in regard to fixing the number of workers to be registered under various categories;
- b) increase or decrease 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) sanction the temporary registration of a specified number of workers in any category;
- e) consider registration of new employers on the recommendation of the President;
- f) prescribe forms, records, registers, statements and the like required to be maintained under the Act;
- g) determine the wages, allowances and other condition of service, and re-fix the guaranteed minimum wages in a month after annual review;
- h) fix the rate of construction levy under sub-sec. (i) of section 25;
- i) fix the rate of contribution to be made by registered employers to the construction workers welfare fund;
- j) appoint, abolish or reconstitute committees for ensuring compliance with the provisions of the Act;
- k) constitute, reconstitute or abolish District Committees or Local area Committees for carrying out the functions of the Board;
- l) sanction the Annual Budget;
- m) sanction the creation of posts and make appointments to such posts;
- 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) constitute dispute resolution councils at such district/local area level for adjudication of disputes, as provided in clause (n) of section 8;
- q) discuss statistics of output of labour and record its observations and directions;
- r) 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; and
- s) prescribe forms, records, registers, statements and the like required to be maintained under the scheme;

12. 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 for the year commencing on the first day of April. The budget shall be in such detail and form as the Board may, from time to time, prescribe. The Board shall consider the estimate so presented and sanction the same with or without alterations.

13. Responsibilities and duties of the President:

(1) The President shall be a whole time officer of the Board during his tenure and shall have full administrative and executive/powers to deal with all matters relating to the day-to-day administration of the Board and in particular.

- a) To ensure that the sanction for temporary registration of workers are carried out without delay;
- b) To ensure that the decision of the Board in regard to the maintenance of the workers' registers are carried out expeditiously;
- c) to supervise and control the working of the units and its committees and Administrative Bodies and to take suitable steps if any irregularities are detected by him or brought to his notice;
- d) to ensure that the provisions of the Act in regard to transfer and promotion of workers are carried out;
- e) to constitute construction workers' Medical units wherever required having regard to the number of Registered Construction Workers in a local area;
- f) to ensure that conditions, laid down in the Act, for the registration of employers are complied with;
- g) to ensure that all forms, registers, returns and documents prescribed under the Act are properly maintained;
- h) to sanction the transfer of a temporary construction worker from the provisional list to the registered pool at the request of the employer or the worker, as provided for in the Act;
- i) 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 Act;
- j) to discharge all other duties and responsibilities specifically vested in the President under the Act.

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(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) and (j). Such delegations, however shall not divest the President of his powers.

14. Responsibilities and duties of the Vice-President:

The Vice-President shall be a whole time officer of the Board and shall assist the President in the discharge of his functions and in particular shall -

- a) function as President of Board to which he may be a nominated member;
- b) preside over the meeting of the Board in the absence of the President.

15. Functions of State Administrative Body:

- (a) The Administrative Body shall be responsible for the general administration of the scheme, and in particular will have the power.
- (b) To authorise construction involving 500 workers and above.
- (c) To effect transfer of worker or workers from one District to another.
- (d) To prepare for the entire State, proposals for better administration of the Scheme and present the same to the Board for approval.
- (e) To appoint Labour Officers for discharging the functions specified in the scheme.

16. Responsibilities of the Administrative Body:

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-

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- (a) Keeping, adjusting and maintaining the employers' register, entering or re-entering therein the name of any employer 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 or 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 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 Pooling centres 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; and
- (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 payment to each worker of all earnings properly due to the worker from the employer and the payment to such workers of all monies payable by the Board in accordance with the provisions of the Act and the Rules;
- (i) the keeping of proper accounts of the costs of operating the scheme and of all receipts and expenses under it and making the submitting to the Board and annual report and audited balance sheet;

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- (H) the framing of the annual budget and submission of of the same to the Board on or before the fifteenth day of February in each year and getting it approved by the Board;
- (K) maintaining complete service records of all registered construction workers; and record sheets of all registered employers;
- (L) 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.

17. Administrative bodies for units:

The Administrative bodies at each unit shall have the same responsibilities as the State Administrative Body as provided in section 22.

18. Functions of District Units:

The District units shall discharge the following functions:

- i) nominate in rotation, the members to participate in the various Committees of the District units;
- ii) supervise the functioning of units;
- iii) prepare the annual budget for the District and submit the same to the State Administrative Body;
- iv) administer welfare fund in consultation with and approval of the State Board;
- v) effecting transfer of workers;
- vi) settle complaints through dispute resolution councils regarding registration, payment of wages, allocation of workers and such other grievances of workers;

- vii) settle complaints regarding authorisation for construction and such other grievances of employers;
- viii) give consent to constructions where permanent labour are employed.

19. Registration of employers and authorisation of Construction work:

- (1) Every principal employer shall after paying the construction levy which shall be not less than 2% of cost of building, obtain consent from the concerned unit of the Board. No construction scheme shall be sanctioned by the local authority without such consent.
- (2) 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.
- (3) The employer if intending to employing permanent labour shall get such authorisation from the concerned units of the Board after furnishing necessary security which may be such percentage of the cost construction from stage to stage, as may be determined by the respective Board.
- (4) Sanction or authorisation shall be given subject to past performance of the employer/contractor in complying with provisions of the act.

20. Record of authorisation:

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

21. 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 provided in the Act, and such employers may be exempted from the application of Act.
- b) An application for this purpose shall be made on their behalf to the Board.
- c) The Board after hearing both parties in regard to grant of exemption may do so subject to such terms and conditions as may be just and equitable, consistent with the provisions of the Act.
- d) The exemption granted under clause (c) shall be revoked on an application made by the workers or on their behalf if the Board is convinced, that the benefits are not at par with those available under the Act or have ceased to be more beneficial than those available under the Act. A register of such exempted permanent workers shall be maintained at the respective units.

22. Principles for Registration of Construction Workers:

- a) All bonafide construction workers who can establish their bonafides through;

- (i) membership of previous year in a registered union or
- (ii) certificates from employers or licenced contractors of having worked for the previous year shall be registered in the registered pool of construction labour;
- (b) Construction workers who are not able to so establish their bonafides, shall be treated as temporary workers. They shall be entered in a provisional list of Temporary workers.
- (c) The provisional list of temporary workers may be reviewed by the Board and the temporary workers may be transferred to the Registered Pool subject to the following conditions:
 - (i) that the worker has to his credit a service of 360 days during the period of two years; and
 - (ii) availability of work within the unit.
- (d) Every construction worker registered in the reserve pool, after completion of one year of registration shall be entitled to the benefits guaranteed under sections 35, 36 and 37.

23. Promotion and Transfer of workers:

- a) The Board shall make provisions for effecting promotions of unskilled and skilled workers to skilled or highly skilled categories. The Board shall lay down norms and qualifications for effecting such promotions.
- b) Transfer of monthly worker to registered pool may be effected by the President of the District

Unit on an application by employer or the worker concerned and after due enquiry into the 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 involving more than 100 workers from one unit to another within a District may take place on request from the receiving unit and on approval from the District unit.
- e) Temporary transfers from one District to another may take place on request from the receiving district.
- f) Mass temporary transfers involving more than 100 workers from one district to another within a State may take place on request from receiving district and on approval from the state Construction Labour Board.
- 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.
- h) Temporary employment of construction labour in any area within the State of Karnataka from any other state shall be effected only by the Karnataka State Construction Labour Board. The provisions of sections of the inter state migrant workmen Act 1976 relating to registration of migrant workmen shall apply in this regard.
- i) Permanent transfer of construction workers shall take place only on approval by the President of the District Unit.

- j) Mass permanent transfer of more than 50 construction workers shall take place only on approval by the State Board on recommendation by the President of the concerned District unit.
- k) On such transfer copies of the existing register of workers shall also be sent to the transferred station/Unit.

24. Employment Norms:

- (1) A worker in the registered pool shall be given preference over the temporary worker in the provisional list.
- (2) No worker should ordinarily be employed for more than 8 hours in a day inclusive of rest time.
- (3) Whenever a worker is required to work beyond the eight hour period, he shall be paid overtime wages to be computed by the Board having regard to the nature of the construction work, the place of work, the existing wage structure and such other factors as may be relevant.
- (4) Workers of each category shall be allotted work by rotation.
- (5) Where work is carried on in a gang, the allotment of workers by rotation shall be by gangs.

25. Facilities for training:

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

26. Registration Fee:

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

27. Supply of cards:

- (1) Every registered worker shall be supplied free of cost with 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.

28. 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 record 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.

29. Guaranteed minimum wage in a month:

- 1) Whenever work is not available for twelve days in a month, a worker in the registered pool shall be paid wages for such 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. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above.

- 2) The guaranteed minimum wages shall be paid subject to the following conditions:
- a) that the worker reported for work on all days of the month as directed by the unit; or
 - b) in cases where the worker is excused from reporting for duty on all the days of the month for bonafide reasons, the worker shall be paid guaranteed minimum wages proportionate to the number of days on which the worker actually reported for work.
- 3) Subject to the provision of sub-section (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 registered pool during the preceeding year until the minimum number of days reaches 21.
- 4) The minimum number of days for which wages shall be guaranteed under sub sections (1) and (2) above shall not apply to temporary workers in the provisional list.

Explanation:

In sub sections (1) and (2) of this section a 'day' shall mean the work period. For the purpose of this section the expression 'month' shall not include the holidays declared by the Board provided that there is no payment for such holidays.

30. Attendance allowance:

Subject to the other provisions of the Act, a registered worker who is available for work but for whom no work is found shall be paid attendance allowance exclusive of dearness allowance at the rate of minimum

two rupees per day for the days on which during a calendar month he attended for work as directed by the unit and no work was found for him.

Provided further that no attendance allowance shall be payable for any day for which, full wages, inclusive of dearness allowance have been paid under section 35 or for which disappointment money is paid under section 37.

31. Disappointment money:

When a worker in the registered pool presents himself for work and for any reason the work for which the worker attended cannot commence or proceed and no alternative work can be found for the worker and the worker is relieved within 2 hours of his attending for work, shall be entitled to disappointment money equal to half the time-rate 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.

32. Holidays:

All workers are entitled to 15 days holidays in a year with pay at such rates as may be prescribed by the Board including National and Festival holidays. Any payment made under this clause shall be exclusive of the payment calculated under section 35.

33. Obligations of construction workers:

- (1) Every registered construction worker shall be deemed to have accepted the obligations of the Act.
- (2) A construction worker in the registered pool who is available for work shall be deemed to be in the employment of the Board.

(3) A construction worker in the registered pool who is available for work shall not engage himself for employment under a registered employer unless he is allocated to that employer by the unit.

(4) A construction worker in the registered pool who is available for work shall carry out the directions of the unit and shall

- a) report at such call, stands or control points and at such times as may be fixed by the unit and shall remain for such periods as may be specified by the Board;
- 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 unit.

(5) A registered construction worker who is available for work when allocated by the unit for employment under registered employer shall carry out his duties in accordance with the directions of such registered employer or his authorised representatives or supervisor and the rules of the local authority of the area, in regard to norms and specifications of construction.

6) No construction worker being under influence of liquor shall report for work or consume liquor during work period.

34. Obligations of employers:

1) Subject to the provisions of sub-section (a) of section 27 registered employers shall not employ workers other than construction workers who have been allocated to him by the unit.

- 2) A registered employer shall, in accordance with arrangements made by the Board submit all available information in respect of his current and future labour requirements.
- 3) A registered employer shall pay to the Construction Labour Board:
 - a) construction levy payable in advance in such manner and at such times as the Board may direct,
 - (b) the wage bill and allowances for the month payable under section 42 and 25.
 - (c) Contribution to ESI, Provident Fund, Gratuity and Maternity benefit payable under section 46.
 - (d) Bonus and any Insurance contributions that may be fixed by the Board.
 - (e) Cost of operating the Board under section 48.
- 4) A registered employer shall keep such record 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.

35. Restrictions on employment:

- a) No person other than a registered employer shall employ any worker on construction work;
- b) subject to the provisions of section 27 no registered employer shall employ a construction worker unless that worker is a registered construction worker.

36. Wages, allowances and other conditions of service:

- 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
- b) The Board shall also make provisions in regard to the time for the making of such payment specified in clause (a).
- c) The employer shall pay the monthly wage each month in advance.
- d) The fixation of wage periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of Wages Act, 1936.

37. Disentitlement Payments:

- 1) A registered construction worker while, in employment to which he has been allocated by the unit, fails without any adequate cause to comply with the provisions of sub-section (4) of section 39 unreasonably refuses to comply with any lawful orders given to him by his employer, may have his engagement terminated by the unit and may be returned to the registered pool, on a report from the Labour Officer.
- 2) Such termination of employment with the employer shall not take place by the unit without considering the said report in writing and also the explanations to be called for from the construction worker.
- 3) When a registered construction worker is so returned to the registered pool, the unit shall endorse his attendance and wage cards accordingly.

3) When a registered construction worker is so returned to the registered pool, the unit shall endorse his attendance and wage cards accordingly.

4) The registered construction worker whose engagement is terminated under sub section (1) shall not be entitled to any payment, or to such part of any payment under section 42 as the unit thinks fit in respect of the wage period in which such failure occurred or continues to occur.

38. Health and safety provisions:

1) Drinking water:

In every construction site, effective arrangements shall be made by the employer to provide and maintain at convenient places in the site a sufficient supply of wholesome drinking water for all workers.

2) Conservancy:

- a) In every site/land there shall be provided, by the employer 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,
- b) All latrines and urinals provided under sub-section 2(a) shall be maintained in a clean and sanitary conditions, with adequate supply of water.

3) Medical facilities

- a) In every construction site 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 Board.

b) If any construction site, medical facilities are not provided and maintained as required under subsection 3(a), the Labour Officer shall provide and maintain therein such medical facilities, and recover the cost thereof from the defaulting employer or contractor as the case may be.

4) Safety provision:

a) Wherever the worker is required to work at heights of more than ten feet, effective and safe measures should be provided for working at such heights, by providing the worker with metal or wooden scaffolding and wooden ladders with rubber shoes and supports which will not give in under weight.

b) Construction workers who are required to handle cement, lime, Tar, Paint and such other materials should be provided with adequate protection for hands, feet, nose, eyes as would be necessary to prevent injury or harm to health.

c) To prevent injuries on the head, every construction worker shall be provided with a safety helmet as may be prescribed by the Board.

d) The Board shall make rules regarding safety measures to be provided by the employers, in order to prevent any other occupational hazards.

5) Creches:

a) Creches shall be provided and administered by the Board in appropriate locations at worksites and residential areas in order to cater to the needs of the babies of women construction workers. The Board may involve organisations of workers and voluntary organisations towards discharging this obligations.

b) The Board shall make rules in respect of providing buildings, facilities and staff required.

39. Social Security:

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 in respect payment and disbursement of gratuity to registered construction workers.

3) The benefits of ESI shall be applied to construction worker and in cases of difficulties in applying such benefits the Board shall itself take steps for provision of medical facilities to the construction workers.

4) The Board shall make provisions for group insurance to construction workers.

40. Maternity benefit:

In cases where the benefits of ESI are not capable of application the women construction workers shall be provided with Maternity Benefits by the Board in accordance with the Maternity Benefit Act, 1962.

41. Accidents:

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 eruption of water, or

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

(d) a premature collapse of any part of the scaffolding and the building or part thereof;

The employer including those exempted under clause 21 of the Scheme shall give immediate notice of the occurrence to the Units of the Board. Details of all such accidents shall be maintained in a Register called the accident Register.

(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 ensure the workers on their site/land under accident insurance before obtaining the sanction of the plan for the construction.

42. Construction Workers Welfare Fund:

1) The cost of amenities, welfare and health measures and recreation facilities including activities for children of registered construction workers shall be met from a separate fund called Construction Workers Welfare Fund which shall be administered by the Board.

2) Contributions to this fund shall be made by all registered employers at such rates as may be determined by the Board from time to time.

3) The Board shall frame rules in respect of contributions and administration of the Fund.

43. Cost of operating the Board:

1) The cost of operating the Board shall be met by payments made by registered employers to the Board and grants from the State government.

2) Every registered employer shall pay to the Board alongwith the wages payable under section(42) such amount as may be prescribed by the Board from time to time with reference to the annual estimates of wages payable to registered constructionworkers as specified in sub section(3)of section 40.

3) While determining payments to be made by registered employers under sub section (2) the Board may fix

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different rates of levy for different categories of work, provided that the uniform rates of levy shall apply to all employers who are in like circumstances.

4) 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 section (2) as the Board may consider necessary.

44. 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 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 documents 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 reported to the respective unit of the Board within whose jurisdiction such obstruction/wilful refusal takes place as well as the State Board which may also take appropriate action in accordance with the Act.

45 . Offences & Penalties:

1) Any commencement of construction work, without getting the consent of the board as required under clause 25 of the Act, shall be an offence, punishable by way of imprisonment for six months and a fine of five thousand rupees.

2) Any undertaking of or proceedings with the construction work in contravention of section 41 shall be an offence punishable with six months imprisonment and a fine of five thousand rupees.

3) Any contractor or employer attempting to contravene the provisions of sub clause (2) of clause 25 shall be held, tried and punished with imprisonment for 3 months or a fine of five thousand rupees or both.

4) Every offence punishable under this Act, shall be cognizable only by the Chief Judicial Magistrate of the area concerned.

5) The Labour Officer shall or any other person may, in writing complain to the Chief Judicial Magistrate for trying the offences under the Act.

6) 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 proceed against the Labour Officer for abatement of any of the offences involved.

46. Enforcement:

1) If a registered employer fails to make the payment due from him under sub section (2) or any other amount due and payable to the Board in any other capacity or account within the time prescribed by the Board shall serve a notice on the employer to the effect that, unless the employer pays his dues within three days from the date of receipt of the notice, the supply of registered construction workers to the employer 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.

2) No proceedings involving payment of dues or compensation or any other amount pending before a Dispute Resolution Councils or the Appellate Authority shall lapse merely by reason of the death of any of the parties to the dispute and such Council or Appellate Authority shall complete such proceedings and pass an award which shall be binding on the parties to the dispute.

47. Procedures for Adjudication:

1) The President of the District Unit or of the local units 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 Act or orders passed under the Act shall cause the immediate investigation of the matter through the dispute resolution council of the respective unit.

2) The dispute resolution council may after investigation into their 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 which constitutes non-compliance with the relevance provisions of the Act.

b) imposition of fines not exceeding a certain percentage of the monthly wage bill to be fixed by the Board from time to time which amount will be credited to the workers welfare fund.

c) removal from the employers' register for such period as may be determined by the Board, or permanently in case of grave offences or recurring non-compliance with the provisions of the Act.

3) (a) Where in a case reported to the President under Sub-section (1) the President is of the opinion that the act of indiscipline or mis-conduct is so serious that the worker disentitled himself for work the president 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 orders thereon as to whether the worker, pending final orders, should remain suspended or not.

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b) Where a worker has been suspended by an order under sub section 3(a) above worker shall be paid for the first fifteen days from the date of suspension, a subsistence allowance of one half of the basic wages, dearness and other allowances 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) Where such enquiry is prolonged beyond a period of fifteen days for reasons directly attributable to the worker the subsistence allowance shall, for the period exceeding the said period, be reduced to one fourth of the basic wages, dearness and other allowances.

d) The subsistence allowance so paid shall not be recoverable or liable to forfeiture in any case whatsoever.

e) Where a worker is found not guilty, the worker shall be entitled to such payments as the Council certified that the worker would have received as if the worker had not been placed under suspension.

f) The amounts so payable shall be reduced by the amount of subsistence allowance payable or already paid during a particular period.

g) Where a construction worker has failed to comply with any of the provisions of the Act 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 President may make or cause to be made such further investigations as may deemed fit, and after due enquiry pass any of the following orders:

- i) give the worker a warning in writing, or
- ii) determine that, for such period as it thinks proper, that the worker shall not be entitled to any payment or part payment under section 43 or
- iii) suspend the worker without pay for a period not exceeding 3 days;
- iv) suspend the worker without pay for a period not exceeding 3 months;
- v) terminate the services of the worker after giving 15 days notice or 15 days wages inclusive of dearness allowance in lieu thereof; or
- vi) remove the worker from the registers of the Board.

5) Before any action is taken under this section the person shall be given an opportunity to show cause why the proposed action should not be taken against the worker and the worker may give explanations and adduce evidence in defence.

48. 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 Act.
- 2) Construction worker in the registered 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-sections (1) or (2) above, his name shall forthwith be removed from the register or record by the Administrative Body.

49. Reference by workers:

- 1) Any registered construction worker, who is aggrieved by any order passed under sub section (5) of section 54, may seek a reference to the Dispute Resolution Council.
- 2) On an application made to the Board, by or on behalf of the aggrieved construction worker, the Board shall refer the matter to the Dispute Resolution Council.
- 3) The Council after due enquiry and after giving an opportunity to the construction worker to be heard, may confirm, alter, modify or vary the orders under reference.

50. Appeal by workers:

- 1) A registered worker or a temporary worker in the provisional list 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 in a particular group in the register or record;
 - ii) refusing registration under section 28; or
 - iii) requiring the worker under section 39(4) (b) to undertake any work which is not of the some category to which he belongs may prefer any appeal to the President of the District, or the local unit as the case may be.
- 3) Every appeal referred in sub Sections (1) and (2) shall be in writing and preferred within 15 days of the date of receipt of the order appealed against provided that the appellate authority may for reasons to be recorded in writing condone the delay and admit an appeal preferred after the expiry of 15 days.

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 to pass shall be final and conclusive.

5) Every order passed under sub section (4) shall be communicated to the appellant.

6) The worker shall not be ordinarily entitled to be represented by a legal practitioner before the Dispute Resolution Council or the appellate authority; but he shall be entitled to be represented by a representative of the registered trade union of which he is a member or by a registered construction worker, wherever an application or request is made to this effect and the council or the appellate authority considers the request reasonable having regard to the nature of the dispute.

7) Where the employer is sought to be represented by a person qualified in law or in company secretary course, the worker shall have the right to be represented by a legal practitioner of his choice or a counsel from the panel of legal aid and advice Board or Committees, or by a representative of the registered trade union of which he is a member.

51. Appeal by employers:

1) Appeal by employers: A registered employer who is aggrieved by an order of the dispute resolution council under section 51 or under section 54 (2) (a) 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 section 25(2) may appeal to the Board through President. 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 sections (1) and (2) shall be in writing and preferred within 15 days of the receipt of the order appealed against.

4) An employer shall not be entitled to be represented by a legal practitioner before the council or the appellate authority; but he shall be entitled to be represented by a representative of the association of registered employers of such he is a member.

52. Bar of Jurisdiction of Civil and Labour Courts:

1) No civil or labour court shall entertain any suit or application in respect of any matters or disputes arising under the Act or the Scheme.

2) No suit or other proceedings shall be in a Civil Court on the ground of Jurisdiction of the Dispute resolution bodies, to adjudicate and determine any dispute as aforesaid.

