

Details of Proposed Amendments in the Bill No. 22 of 1996

THE BUILDING AND OTHER CONSTRUCTION WORKERS (WELFARE CESS ORDINANCE) THIRD
ORDINANCE, 1996 (NO. 25 OF 1996)

1. Page 2 Line 7 in Sec 3(1) *for* "not exceeding one percent "
 substitute "two percent "
2. Page 2 line 9 in Sec 3(1) at end of section *insert* "and an equal
 contribution from the appropriate Government"
3. Page 2 line in Sec 3(3) *for* "Consolidated Fund of India"
 substitute "consolidated fund of the Board"

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) THIRD ORDINANCE, 1996 (NO. 25 OF 1996)

1. Page 1 line 10 *after* "An Ordinance" *insert*
"to set up Tripartite Construction Labour Boards at
Centre and State levels"
2. Page 1 line 11 *after* "to provide for their" *insert*
"social security"
3. Page 2 line 7 In Sec 1(4) *for* "fifty or more building workers"
substitute "any number of construction workers"
4. Page 2 line 38 In Sec 2(1)(d) *after* "transmission towers" *insert*
"docks, harbours, embankments including river valley
projects, tanks, sewage, airfield, defence work, gas
work, engineering work of steel or reinforced
concrete, structure, excavation, laying of
foundation"
5. Page 3 line 1 In Sec 2(1)(d) *omit* " but does not include any
building or other construction work to which the
provisions of the Factories Act 1948 or the Mines
Act, 1952 apply"
6. Page 3 line 3 In Sec 2(1)(e) *for* "building worker" *substitute*
"construction worker"
7. Page 3 line 4 In Sec 2(1)(e) *after* "manual" *insert* "or apprentice"
8. Page 3 line 10 in Sec 2(1)(e)(ii) *for* "one thousand six hundred
rupees per mensem" *substitute* "five thousand rupees
per mensem"
9. Page 3 line 33 *after* Sec 2(i) (iii) *insert*
(iv) in relation to a building and other
construction work carried on by any person who
utilises construction labour for the purpose
of construction work and includes promoters of
building activities, agents, sub-contractors,
etc."
- 10 Page 3 line 39 in Sec 2 (1) (j) *after* "residence" *insert* "costing
less than one lac rupees"
- 11 Page 4 line 14 in Sec 3(2) *for* "building workers" *substitute*
"construction workers"
- 12 Page 4 line 23 in Sec 3(3) *for* "building workers" *substitute*
"construction workers"
- 13 Page 4 line 35 in Sec 4(2)(d) *for* "building workers" *substitute*
"construction workers"
- 14 Page 4 line 45 in Sec 4(3) *for* "building workers" *substitute*

"construction workers'

- 15 Page 5 line 2 in Sec 5(1) *after* "construction work" *insert* "in consultation with workers' representatives"
- 16 Page 6 line 25 in sec 12(1) *for* "has been engaged in any building or other construction fork for not less than ninety days during the preceeding twelve months" *substitute* " is engaged as a construction worker'
- 17 Page 6 line 30 in sec 12(3) *omit* "together with such fee not exceeding fifty rupees as may be prescribed"
- 18 Page 7 line 28 *for* Clause 16, *substitute*
"16 In the case of a construction workers who has been registered as a beneficiary under this Act, the employer and the appropriate Government shall pay equal amount of contribution as may be specified by the State Government in the Official Gazette"
- 19 Page 7 line 40 *for* Clause 17, *substitute*
"17 Once a construction worker: is registered as a beneficiary, he shall not cease to be a beneficiary till he leaves the work of construction worker and joins other trade or service"
- 20 Page 19 line 16 in Sec *after* "building workers " *insert* "including casual workers"
- 21 Page 21 line 24 in Sec *for* "and health " *substitute* "health medical facilities, social securities and maternity benefits "

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) THIRD ORDINANCE, 1996 (NO. 25 OF 1996)

1. Page 8 line 3 *for* Section 18 *substitute*

CONSTITUTION OF BOARDS, FRAMING OF SCHEMES

Construction Labour Boards :

(1) The Central Government shall, by notification in the Official Gazette, establish a Central Construction Labour Board.

(2) The Board shall consist of such number of members as may be appointed by the Central Government representing State Governments by rotation, Central Government ministers/departments, experts, employers and construction workers. The number of members representing construction workers shall not be less than the total strength of members representing employers and members as may be appointed by the Central Government.

(3) The Board shall have a President who shall be appointed from amongst its members. The appointment shall be in rotation for a period of two years.

(4) The representatives of workers shall include at least one representative from each Construction Labour Board of States and of the Union Territories wherever such Boards have been set up.

(5) The Central Government shall, in a like manner, by notification in the official Gazette, establish a Construction Labour Board for each State. Apart from the representatives of workers and employers, the Board shall also consist of representatives of the State Govt., one representative of the Central Government and such number of experts as are considered necessary.

(6) Every such Board shall consist of a President to be appointed from amongst its members by rotation annually.

(7) The Central Government shall appoint Construction Labour Boards on the same lines as indicated in sub-section (5) of this section, for each of the Union Territories of Delhi, Chandigarh, and Pondicherry and for such other Union Territories as the Central Government may decide.

(8) Every such Board shall be a body corporate with the name aforesaid having perpetual succession and common seal with power to acquire, hold and dispose off property and to contract and may by that name sue and be sued.

(9) The State Government shall after consulting the State Construction Labour Board, by notification in the official Gazette and subject to the condition of prior publication set up tripartite bodies at the district level and below on the same pattern as of the State Construction Labour Board.

(10) The representatives of workers on the Board shall be elected by registered construction workers every three years. Rules shall be framed for conduct of elections, subsequent to the completion of the registration process. Until that time, representatives of the workers shall be the representatives of Trade Unions of Construction Workers with such substantial membership as may be prescribed.

(11) Women construction workers shall have proportionate representation among representatives of workers in all bodies.

(12) The term of the members of the Boards and the District and local area bodies shall be for a period of three years.

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) THIRD ORDINANCE, 1996 (NO. 25 OF 1996)

1. Page 8 line 38 *for* Section 22 *substitute*

Scheme for ensuring regular employment of workers :

(1) The appropriate Government may, in consultation with its Construction Labour Board and after consulting the Central Government frame a scheme or schemes to be called the 'Construction Workers (Regulation of Employment and Conditions of Service) Scheme, 1988 for ensuring greater regularity of employment, for regulating the employment of construction workers and for prescribing conditions of service for the construction worker covered by the scheme.

(1)(a) The Scheme may be for a specified area and/or for a specified category of construction workers or for the whole State/Union Territory and for all categories of workers.

(2) In particular, the Scheme may provide for any or all of the following :

- (a) for the application of the Scheme to such classes of construction workers and employers as may be specified therein ;
- (b) for regulating employment in the construction industry and providing benefits to workers ;
- (c) for laying down norms for the discharge of statutory obligation by employers and construction workers ;
- (d) for regulating the recruitment and entry into the Construction Labour Board, by way of registration of construction workers and employers including the maintenance of registers, temporary or permanent ; removal of names of workers or employers from the registers and the imposition of fees for registration ;
- (e) for regulating the employment of construction workers, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof ;
- (f) for providing for a minimum payment to workers who are available for work in respect of periods during which full employment, or even part employment, is not available ;
- (g) for prohibiting, restricting or otherwise regulating the employment of construction workers who are not registered workers and the employment of construction workers by employers who are not registered employers ;
- (h) for exempting any self-employed construction workers from the purview of the Scheme on such terms and conditions as the Board may lay down.
- (i) for creating such fund or funds as may be necessary or expedient for the purposes of social security and other welfare benefits and for the administration of such fund or funds ;
- (j) for training, imparting skills to, and providing welfare for construction workers ;
- (k) for the welfare of the officers and other staff of the Board ;
- (l) for health and safety measures in places where construction workers are employed ;

- (m) for formulating the manner in which, and the persons by whom, the cost of operating the Scheme and the functions of the Board is to be defrayed ;
- (n) for constituting, Administrative Bodies at various levels as may be necessary for the administration of the Scheme ;
- (o) for setting up units of the Board at various levels, the appropriate government being responsible for the administration of the Board at these levels ;
- (p) for constituting, primary and appellate forums to adjudicate disputes that may arise between construction workers and contractors, or between construction workers and the Board, or between construction workers and construction workers ;
- (q) for formulating appropriate provisions for taking disciplinary action if necessary against employers and workers, and the functionaries of the Boards and its bodies.

(3) The Scheme may further provide for constituting appropriate dispute resolution bodies for speedy resolution of disputes that may arise between workers, the contractors and the Board, or any two of the construction workers, the contractors and the Board.

(4) The Scheme may further provide for the consequences and penalties for contravention of any provisions of the Scheme.

(5) In framing the scheme, the appropriate Governments shall keep in view the provisions of the model scheme as may be prescribed and by the Central Government, and ensure that the provisions of the scheme framed are not in material particulars inconsistent with or less beneficial to the construction workers than the provisions of the model scheme. The Central Government shall in according its prior approval likewise ensure that the provisions of the Scheme are not in material particulars inconsistent with or less beneficial to the construction workers than the provisions of the model scheme.

Variation and revocation of Scheme :

(1) The appropriate Government may, by notification in the official gazette, amend alter or vary the scheme made by it for the purpose of more effective implementation of the Scheme having regard to any special condition obtaining in the State and/or for conferring additional benefits to the construction workers.

(2) Such amendments, alterations or variations of the Scheme may be effected in consultation with the Central Government and the State Construction Labour Board.

(3) Pending the formulation and final publication of the scheme by the State Government, the provisions of the model scheme in Schedule I shall be applicable in that State.

Functions of the Boards :

(1) The Central Construction Labour Board shall be a co-ordinating and advisory body without executive functions and the entire expenditure of the Central Board shall be borne by the Central Government.

(2) The Construction Labour Boards set up in a State or in a Union Territory shall be responsible for administering the schemes and shall exercise such powers and perform such functions as may be conferred on them by the schemes.

(3) The tripartite bodies set up under sub-section of section 8 shall likewise be responsible for administering the Schemes in their respective areas.

(4) No decision of a Board which is adverse to the interests of construction workers shall generally be implemented except with the concurrence of the representatives of the workers on the concerned Board.

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) THIRD ORDINANCE, 1996 (NO. 25 OF 1996)

1. Page 14 line 31 *after* Sec.41 of Chapter VII, *insert*

DISPUTE RESOLUTION BODIES AND THEIR CONSTITUTION

Resolution of Disputes :

All disputes arising out of the enforcement of the provisions of this Act and scheme shall be resolved only by Dispute Resolution Councils and other authorities duly constituted under this Act.

Constitution of Dispute Resolution Councils and Appellate Authority :

(1) The Dispute Resolution Council in every district unit or local area unit shall comprise of three members, representing the Government, 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 in composition and be constituted in the same manner by the Board.

Reference of disputes :

(1) Where the appropriate unit of the Board is of the opinion that dispute exists or is apprehended it may at any time, by order in writing—

(a) refer the dispute to the Board for promoting a settlement thereof ; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Council for inquiry ; or for resolution of the dispute as provided in the Scheme.

(2) No proceedings pending before a Dispute Resolution Council or the appellate authority in relation to a dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such council or appellate authority shall complete such proceedings and submit its award to the appropriate unit of the Board.