

BUILDERS' ASSOCIATION OF INDIA

NOTE

ON

the draft Bill for the Building and Construction Industry Workers (Conditions of Employment, Service, Safety, Social Security, Regulation of Relations and Welfare Act, 1957.

The Building and Construction Industry covers a vast field of activities. Such activities are not confined only to construction of roads, bridges or buildings, as is commonly understood. These activities include construction of dams, barrages, tunnels, canals, power plants, industrial structures, factories, sewerages, laying of railways, tramways, pipe-lines, cables and ropeways and erection of towers chimneys, cables, etc. It also includes demolition of structures and services. It involves both engineering mechanical and civil construction processes.

2. The Industry has got its own peculiar characteristics. It is distinctly different from other conventionally established industries. There are no fixed premises and the work is carried out at construction sites, wherever the project is situated. In this industry, the special feature is that the final product is sold before it is actually produced/constructed and the rates are fixed before the job is undertaken. Geographically, building

construction jobs may be located either nearer urban areas or in jungles, mountains, rivers or seas. The environment in this industry is thus subjected to the vagaries of nature and climate, such as rains, floods, high elevations, low depressions, uncertainties of geological conditions of soil, sands, rocks, unstable rocks in underground works, spring water percolations, and exposed to extreme hot and cold temperatures and inclement weather.

3. The work in the Industry ranges from highly labour intensive jobs to highly mechanised and capital intensive jobs. The entire activities in the Industry are generally seasonal, mobile, intermittent and non-repetitive. The duration of different activities in the Industry is also uncertain, ranging from short to long, depending upon the time frame from the completion of a particular project. The pattern and duration of the employment in the Industry also varies according to the quantum of work involved in different trades, such as earth work in excavation and embankment, rock excavation, quarrying and mining form work and scaffolding, reinforcement of steel brick work and masonry and so on. The size of the construction jobs and the construction technology and equipments used also keep varying, from time to time and job to job.

4. Since the Industry is thus essentially of a seasonal nature, the employment therein is also not of a seasonal nature. Labour force in the Industry is therefore, diversified to the size, sequence, quantum and skills required for different trade activities, adopting different methods used, normally depending upon the material, equipment and type of labour available. The labour force in the Industry has also its own peculiar characteristics, such as abundance of unskilled rural labour, short supply of skilled labour, migratory character of labour, availability of certain types of labour during certain periods of the year only, etc.

5. It is on account of these peculiar and special characteristics of the Building and Construction Industry and the labour employed therein that it is not possible to apply and administer the general labour laws applicable to most of the other industries in the Country to this particular Industry. This is not to say that no labour legislation should apply to the Industry, but is only to suggest that a separate, special, single and codified legislation, which takes care of the interests of both the employers, including the contractors and the sub-contractors, and the workers, can alone satisfactorily

work in the Industry. Attached hereto is a draft of such a legislation, which has been tentatively worked out by the Building and Construction Industry. The draft, being the first attempt on the subject, would undoubtedly require to undergo modifications and amendments, with necessary polishing up and tying up of loose ends, before it can be said to be final, for which purposes the Building and construction Industry craves indulgence to submit a finalised draft, shortly. Nevertheless, the attached draft, at this stage, could be considered as a working framework, for the purpose on hand.

6. The draft Bill seeks to consolidate and comprehensively codify all existing legislation pertaining to employment, working and service conditions, health, safety, social security and welfare of workers and settlement of labour disputes between the employers and the workers in the Building and Construction Industry and also makes provision for certain other related and incidental matters. The Bill comprises XIII Chapters and runs into 135 Sections. The scheme of the Bill is to have corporate autonomous Boards, at the Central and State levels, comprising equal representatives of the Central/State Governments, employers (including contractors) workers and

independent persons, with such number of Officers, Inspectors and staff, as the Board may consider necessary, for administering the various provisions of the Bill in their respective jurisdictions. The Board will register employers (and license contractors) and workers, on payment of prescribed fees. The Board may, on receipt of notice from the registered employers, send registered workers to the employers, for consideration of employment at their work places, but the employers are not obliged to give them employment but only to give them preference for employment, other things being equal. The Board will fix minimum wages in the prescribed manner, for the workers in the Industry, and will also provide for mediation and adjudication services in labour disputes between the employers and the workers in the Industry. Leave and Holidays are sought to be standardised under the Bill at 21 and 8 respectively per annum. The Bill also provides for payment of retrenchment and closure compensation to the workers, who have worked for not less than 240 days in a period of 12 months. The rate of lay-off compensation provided is 50% of wages and the rate of retrenchment or closure compensation is 15 days wages per completed year of service. Likewise, the Bill also provides for payment of gratuity by the employers to the workers at the rate of 15 days wages per completed year of service, subject to a maximum of 20 months wages. The Bill further provides for each Board setting up a "social security fund", which will be contributed to both by the employers, including the Contractors, and the workers, at such rates as may be prescribed provided

that the employers contribution to the fund shall not be more than 1.5% of the total value of the work undertaken at a work-place. From this fund, the workers will be entitled to receive sickness, accident, disablement, maternity, provident fund benefits etc. on his employment coming to an end with his employer. Finally, the Bill contains the usual definition, penal, exemption, rule making provisions, etc., care being taken to ensure that the definition provisions are meticulously worked out to suit the peculiar needs of the Industry and the employment therein. The penal provisions of the Bill have also been so drafted, so as to ensure the smooth working of the Act, in the initial stages.

7. The novel feature of the Draft Bill is that it is a self-contained Code on labour in the Building and Construction Industry, which will be administered not by Government, but by corporate autonomous Boards, comprising persons, we are generally well-versed with the working of the industry and would, therefore, be in a better position to administer the legislation in the Industry. The employers and the workers in the Industry would also find it easier to deal with one single forum of labour instead of several Authorities under different labour Acts, as at present. Thus, the draft Bill is tailored to suit the needs of the Industry and the labour employed therein.