

CITU
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The Construction Workers (Regulation of
Employment and Conditions of Service)
Bill, 1986

Statement of Objects and Reasons

The Nature of the Industry:

1. The construction industry employs, next only to agriculture, the largest number of workers in our country. This industry covers a variety of workers and operations ranging from construction of dams, power houses and bridges, harbours, roads, railway tracks and runaway to factories and offices, schools, hospitals, hotels and ordinary residential buildings. These activities cover the entire length and breadth of our country. Most of these operations are seasonal and at times involves fluctuations in the employment pattern.

2. The nature of the construction industry being so different from other occupations that the normal patterns of relationship between the employers and employees are not relevant. Frequent changes take place in the employers as far as the workmen are concerned and in the workmen as far as the employers are concerned. In this industry the product of the industry remains stationary while the employers and the employees move out after completion of the work to different locations and may be, to different activities. Because of its seasonal nature and uncertainty of continued availability of work both for the employers and the workmen, it has become necessary regulate the Industry.

The extent of work Force:

3. The exact or even the approximate number of persons employed in this industry is not known. In the words of the National Commission on Labour "the last census (1961) estimated that over two million workers were employed in major sectors of Construction and maintenance. According to the estimates of the Planning Commission the Construction industry was expected to have added about 2.3 millions work opportunities during the 3rd Five Year Plan." Of the 24.46 crore economically active population reported in the 1981 census, 35.65 lakhs were in Construction of which 10% were women. Another estimate, based on the assumption that every one lakh rupee worth of construction generates 3100 mandays of unskilled labour and 1300 mandays of technical/managerial personal, puts the economically active population engaged in construction in 1982-83 at 1.133 crores. Thus the estimates of employment vary widely. The pocket Book of Labour Statistics 1984 published by the Labour Bureau, Simla estimates employment in Construction at the end of March, 1982 at 1.112 millions in the public sector and 71 thousand in the private sector. Considering that a very large portion of construction activity takes place in the private sector in the rural areas and in non-project activities, as also house buildings in the urban areas also, the figures of the Labour Bureau in respect of the private sector could be off the mark. It may be Noticed that a large portion of the total outlay on

plan and non-plan activities of Governments and also private investment is spent on Construction activities, an estimate of employment in the industry for the country as a whole at about 1.5 crores will appear reasonable. 10% of this would constitute women workers. It is no doubt true that a very high percentage of the work force in the construction industry would be of the unskilled type who do the work of helpers or are engaged in other unskilled activities and may seek other avocations, particularly in agriculture during the slack season.

4. It is also necessary to recognise that when we refer to the Construction industry, we also include in it persons engaged in quarrying stone breaking and stone-crushing and those engaged in the brick kiln Industry. Despite their large numbers, the work force is highly unorganised. The results of verification of membership of Central Trade Union Organisation as on 31.12.80 undertaken by the Chief Labour Commissioner (Central) show that the verified membership of workers in the building, Civil Engineering and public works Industry as also in the brick kiln industry adds up to a total of less than one lakh. Even this may be made up predominately of workers in the organised sector of the industry largely under Government Departments or in public sector corporations engaged in construction activities.

Need for Central Legislation:

5. It is no doubt true that a number of labour laws can be said to apply to the workers in the construction industry, such as the Minimum Wages Act, 1948, the Contract Labour (Regulation and Abolition) Act, 1970, the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, the Equal Remuneration Act, 1976 etc. and in certain exceptional cases, the Employees Provident Fund Act, the Employees State Insurance Act, the Payment of Gratuity Act and the like. Despite this in actual practice the workmen in this industry are totally neglected and helpless. The nature of the industry, the shifting employer-employee relationship, the seasonal and discontinuous nature of employment, the general apathy of the labour administration, and above all, their total lack of organisation have resulted in the bulk of the workmen in the industry not merely being denied their rights and benefits under these statutes but also even the minimum wages prescribed under law. The judgements of the Supreme Court in the Asiad Case and the Bandhana Mukthi Morcha are a standing endorsement and indictment of the conditions of these workmen, even in the capital of Delhi.

6. Another major contributing cause of this state of affairs is the total inapplicability of the normal type of labour laws to the situation obtaining in the construction industry. If the benefits of labour legislation will have to reach this large mass of workers

it is then necessary that the law should take note of the unique features of the industry and should provide not merely for welfare of the workmen, but also for the regulation of employment itself in the industry. Such regulation could not be left to be taken care of by the employers or by the administrative hierarchy, but must be entrusted on autonomous body statutorily set up and consisting of representatives of the workers, government and the employees. Arrangements for regulating employment on the basis of compulsory registration of the employers and of the workmen, restriction on employment in the industry to only those workers who are registered under the law to be employed by employee who are also registered under the law, equitable sharing of the available employment on the basis of rotational booking of workmen category-wise vesting of responsibility for determining and disbursement of wages in the autonomous body, provision of all facilities including Social Security and a minimum guarantee of employment body are some of the features that must be incorporated in a law that must be centrally enacted and implement through a statutory constituted body at the national level for purposes of co-ordination and similar bodies at the level of State Governments/ Union Territory administration below for purposes of implementation.

7. For the purposes of the law, there is no need to bring in the concept of the Principal employer, unlike in the Contract Labour (Regulation and Abolition) Act, 1970. The actual employer-employee relation subsists, howsoever temporarily, and between the actual contractor who executive the work and the concerned workmen and it is the Contractor employer who should be responsible as employer for fulfilling all the obligations cast on the employees. In the case of a private individual who under-takes a Construction activity say building a house, directly not through a Contractor, he will be treated as his own Contractor and thus as employer under the law.

8. While there are a few law purporting to relate inter alia, to regulation of employment such as the Contract Labour (Regulation and Abolition) Act, 1970, the Inter State Migrant Workmen (Regulation of Employment) and Conditions of Service) Act, 1979 etc. the proposed law for the construction workers is patterned on the lines of the Dock Workers (Regulation of Employment) Act, 1948. In fact, the conditions obtaining and among the dock workers before implementation of the above law was similar to the conditions that now obtain in the construction industry, the only difference being that the construction industry is spread over the length and breadth of the country unlike the dock industry which is confined to the ports.

9. Clauses (a) (d) (e) and (f) of Article 39 enjoins the State to direct its policy towards securing

- (a) that the citizens, men and women equally, have a right to an adequate means to livelihood;
- (b) that there is equal pay for equal work for both men and women;
- (c) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (d) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 41 directs the State to make effective provisions for securing the right towards, to education and to public assistance in cases of unemployment, old-age, sickness and disablement, and in other cases of undeserved want.

Article 42 provides that the State shall make provision for securing just and human conditions of work and for maternity relief.

Article 43 commands that the state shall endeavour to secure, by suitable legislation of economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

Article 43A provides that the State shall take steps by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any Industry.

Having regard to above said obligations of the State, and the need of the state, and the need to secure to citizens engaged in Construction Industry as Construction Labours or Workers, the rights which are latent in the above said provisions, It has been felt that a Central Legislation for Construction Labour is a Constitutional imperative and hence this legislation-

10. The proposed law to be called the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986 seek to active the above objectives.

Construction Workers (Regulation of Employment and
Conditions of Service) Act, 1986.

An Act to provide for the regulation of employment in the conditions of service and for their conditions of service and for matters connected therewith.

Be it enacted by Parliament in the Thirty Seventh Year of the Republic of India as follows:-

CHAPTER-I

PRELIMINARY

1. Short title, extent, commencement and application
 - (a) The Act may be called the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986.
 - (2) It extends to the whole of India.
 - (3) This section and sections 3 to 5 clauses (1) and (2) of section 6, and section 8 and 9 shall come into force at once in all the States and the remaining provisions of this Act shall come into force in a State on such date not being later than six months from the passing of this Act as the appropriate government may be notification in the Official Gazette appoint.
2. Declaration as to expediency of regulation. It is hereby declared that it is expedient in the public interest that the construction work as an industry, employing as it does, a very large number of workers, both men and women, and whose conditions of work and living need amelioration and to whom regularity of employment must be assured, should be regulated by law, so that the Directive Principles of the Constitution more particularly the relevant provisions in Article 39, 41, 42, 43 and 43-A of the Constitution are given effect to by a law made by Parliament with reference to entries 22, and 24 of List III in the 7th Schedule in the Constitution.
3. Definitions-(1) In this Act, unless the context otherwise requires -
 - (a) 'adolescent' means a person who has completed his fifteenth year of age but has not completed his eighteen year.
 - (b) 'adult' means a person who has completed his 18 years of age.
 - (c) 'Board' means a Construction Labour Board established under section 7 Chapter 2 of this Act.
 - (d) 'child' means a person who has not completed his 15 years of age.
 - (e) 'Construction Work' means:
 - (1) the construction, alteration, repair, maintenance or demolition of a building, which includes the works of masonry, carpentry, painting, electricwork, plumbing and fitting...2

or any such other work which go into making of aforesaid construction or the preparation for and the laying of the foundation of an intended building including boundary walls, or Construction of wells and includes the Construction of furnace, chimney, well or any ancillary structure and includes.

(3) the construction of any railway line or siding otherwise than upon an existing railway, the construction, structural alteration or repair, maintenance and laying of foundation or demolition of any, dock, harbour, canal, dams embankments including river-valley projects, tanks and water course, inland navigation, road, tunnel, bridge, viaduct, sower, sewage works, river works, water works, reservoir, pipelines, aqueduct, air fields, sea defence work gas works and any steel or reinforced concrete structure other than a building, or any other civil or constructional engineering work of a nature similar to any of the foregoing works or construction operations connected with the installation of machinery in any of the aforesaid Construction activities.

(4) Any other ancillary construction operation such as stone breaking, brickkiln and construction work for the purpose of erection or installation of machinery, wherever such installations takes place in a factory establishments or any engineering construction or in a mine.

f) 'Construction Worker' means a person engaged in Construction work but does not includes any person who is employed in a managerial or administrative capacity.

g) 'Employer' means any person who utilises construction Labour for the purpose of construction Work and include any agent or Contract by whatever name called who has undertaken the Construction work on behalf of the employer.

h) 'Establishment' means any establishment or industry engaged in any construction work as defined in Clause (e) above.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any contract or instrument drawing effect decree or order of any court, tribunal or authority.

5. Interpretations:

1) For the purposes of the Act the following provisions shall mean as stated under:-

a) May means shall, wherever it refers to some obligation to be discharged or power to be exercised.

CHAPTER II

Drawing up of Schemes and Constitution of Baroda

6.

Scheme for ensuring regular employment of Workers:

1)

The Central Governments may, in consultation with the Central Governments subject to the condition of previous publication, and after consulting the Central Construction on Labour Board, frame a scheme to be called the 'Construction Workers (Regulation of Employment and Conditions of Service) scheme, 1951 for ensuring greater regularity of employment for regulating the employment of construction workers and for prescribing conditions of service for the construction workers in the state.

2)

In particular, the Scheme may provide:-

- a) for the application of the scheme to such classes of construction workers and employers as may be specified therein;
- b) for defining the obligation of employers and construction workers, subject to the fulfilment of which the scheme may apply to them and the circumstances in which the scheme shall cease to apply to any construction workers of employers;
- c) for regulating the recruitment and entry into the scheme of Construction Workers, (and the registration of Construction Workers and employers) including the maintenance of registers, the removal, either temporarily or permanently of names from the registers and the imposition of fees for registration;
- d) for regulating the employment of dock workers, whether registered or not, 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;
- e) for securing that, in respect of period during which employment, or full employment, is not available for Construction Workers to whom the scheme applies and who are available for work such workers will, subject to the conditions of the scheme, receive a minimum pay
- f) for prohibiting, restricting or otherwise controlling the employment of Construction Workers to whom the scheme does not apply and the employment of Construction workers by employers to who the scheme does not apply.

- g) for creating such fund or funds as may be necessary or expedient for the purposes of the scheme and for the administration of such fund or funds;
 - h) for the training and welfare of Construction Workers, in so far as satisfactory provision therefor does not exist apart from the scheme;
 - i) for the welfare of the officers and other staff of the Board;
 - j) for health and safety measures in places where construction Workers are employed in so far as satisfactory provision therefor does not exist apart from the Scheme
 - k) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defraed;
 - l) for constituting, the authority to be responsible for for the administration of the scheme;
 - m) for such incidental and supplementary matters as may be necessary for expedient for the purposes of the scheme
 - n) Setting up authorities at levels below the state to be responsible for the administration of the Scheme at those levels.
- 3) The Scheme may further provided for constituting adjudicating and appellate bodies to deal with disputes that may arise between the construction workers and the contractors or between the Construction workers and the Board.
- 4) A Scheme may further provide that a contravention of any provision thereof shall be punishable with imprisonment for such term may be specified but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention, or with fine which may extent to such amount as may be specified but in no case exceeding five thousand rupees in respect of a first contravention or ten thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.
- 5) In framing the scheme, the State Government shall keep in view the provisions of the model scheme in Schedule I and ensure that the provisions of the scheme framed are not in material particulars inconsistent or less beneficial to the construction

workers than the provisions of the model scheme; and the central Government shall in according its prior approval likewise ensure that the provisions of the Scheme are not in material particulars inconsistent or less benefit of the provisions of the model scheme.

7. Variation and revocation of Scheme:

(1)

The State Government may in consultation with the State Construction Law Board and by notification in the official gazette and subject to the condition of previous publication and with the prior approval of the Central Government, which approval has been accorded after consulting the Central Construction Labour Board, 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 for conferring additional benefits to the Construction Workers.

(2)

Pending the final publication of the scheme by the State Government, the provisions of the model scheme shall be applicable in that state.

8. Construction Labour Boards:

(1)

The Central Government Shall, by notification in the Official Gazetted, establish a Construction Labour Board for each State by such name as may be specified in the notification.

(2)

Every such Board shall be a body corporation and (as in Section 5A (2) of DW (Regulation of Employment) Act;

(3)

Every such Board shall consist of a President to be appointed from amongst its members by rotation annually and such members of other members as may be appointed by the Central Government in consultation with the State Government;

Provided that every such Board shall include such number of members representing both the State Government and the employers (contractors) of construction workers as not to be in excess of the number of members representing the construction workers:

(4)

The Central Government shall appoint Construction Labour Boards, on the same line as indicated sub-section (1) to (3) of this section, for each of the Union Territories of Delhi, Chandigarh, Pondicheery and Goa and for other Union Territories as the Central Government may decide.

(5)

The Central Government shall, by notification in of official Gazette, establish a central Construction Labour Board

consisting of a President to be appointed from any of its members by rotation annually and such member or members as may be appointed by it.

- (6) Such board shall have such member or members representing construction workers as is equal or in excess of the total number of members representing both the Government and the employers (contractors);
- (7) The representatives of workers shall include at least one representative of from each of State Governments and of the Union Territories where Construction Labour Board has been set up.
- (8) The State Government shall after consulting the State Construction Law Board, by notification in the official Gazette and subject to the condition of prior approval set up tripartite bodies at the district level and below on the same pattern as of the State Construction Law Board .
- (9) The representatives of workers shall be elected on the basis of secret ballot, in the manner prescribed.
- (10) Functions of the Boards:
 - (1) The Construction Labour Boards set up in a State and in a State and a or a Union Territory shall be responsible for administering the scheme and shall exercise such powers and perform such functions as may be conferred on it by the Scheme.
 - (2) The tripartite bodies set up under sub-section (8) of Section '8) shall likewise be responsible, for administering the scheme in the respective areas.
 - (3) The Central Construction Labour Board shall be a co-ordinating and advisory body without executive functions and the entire expenditure of the running of the Central Board shall be borne by the Central Government.
 - (4) No decision of the Boards which is adverse to the interests of construction workers generally shall be implemented except with the concurrence of the representatives of the workers on the concerned Board.

THE SCHEME

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

1. Name of the Scheme - The Scheme may be called the Construction Workers (Regulation of Employment Security and Welfare) Scheme, 1986 (hereinafter referred to as "the Scheme").

2. Objects and Application:-

1) The objects of the Scheme are to ensure regulation of Construction activities and employment of Construction Labour, greater regularity of employment for Construction Workers and to provide for security in the course of employment and other welfare measures construction workers.

2) The Scheme applies to the classes or descriptions of Construction Industry and Construction Workers as set out in Section 3 of the Act.

3) The Scheme shall apply to all registered Construction Workers, registered employers and establishments or industries, engaged in any Constructional Work.

3. Interpretations:- In this Scheme, unless there is anything repugnant in the subject or context --

a) " the Act" means, the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986;

b) "Administrative Body" means the Administrative Body appointed under clause 5

c) "Board" means the Construction Labour Board Constituted under the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986:

d) "President" means the President of the Construction Labour Board;

e) "Vice President" means the Vice President of the Construction Labour Board;

f) "employer" means the person by whom a Construction Worker is employed or is to be employed and includes any agent or contractor by whatever name called who has undertaken the Construction Work on behalf of the employer;

g) "Construction Work" means construction operations at places or premises to which the Scheme relates ordinarily performed by Construction Workers of the classes or description Workers of the classes or descriptions to which the Scheme applies;

- h) "Employers" register" means the register of employers employing or intending to employ construction Labour maintained under the Scheme;
- i) "Labour Officer" means the Labour Officer appointed by the Administrative Body under Clause;
- j) "Personnel Officer" means the Personnel Officer appointed under clause;--
- k) "register or record" means the register or record of construction Workers maintained under the Scheme;
- l) "registered Construction Worker" means a Construction Worker whose name is for the time being entered in the register or record.
- m) "registered employer" means a employer whose name is for the time being entered in the employer's register;
- n) "reverse pool" means a pool of registered Construction workers who are available for work, and who are not for the time being in the employment of a registered employer;
- o) "rules" means the Construction Workers (Regulation of Employment and Conditions of Service) Rules, 1986;
- p) "week" means the period commencing for mid night of Saturday and ending on the mid-night of the next succeeding Saturday.

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

5. Administrative Body:- (1) The Respective State Governments may be notification in the official Gazette, appoint the required Administrative Bodies for the purposes of carrying on the day-to-day administration of the Scheme as set out in clause (2) The administrative Body shall, subject to the supervision and control of the Board and the President and subject to the provisions of clause ----- carry on the day-to-day administration of the Scheme.

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

- a) Ensuring the adequate supply and the full and proper utilisation of the Construction Labour for the purpose of facilitating time bound and Scheduled Completion of Construction Work;

- b) to regulate employment in Construction Industry:
- c) Register Construction Labour and allocate Construction Labour to the employer and to discharge from the Construction Labour Register;
- d) 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 the subject to the provisions of the Scheme;
- e) review the number of registered employers and Construction workers and determine from time to time the number of to be maintained in the Register;
- f) Keeping and maintaining registers employer's ~~XXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
- g) Keeping and maintaining Registers and records of Construction Labour registers of workers who are temporarily not available for work and removing from any register/record the name of any worker of on his own request or in accordance with the provision of the Scheme;
- h) Grouping or regrouping of all registered workers into such groups as may be determined by the Board after consultation with the Administrative Units, reviewing the grouping from time to time having regard to the altered/changing conditions and nature of Construction Work;
- i) Making Provisions for training and welfare of registered Workers including Provisions for creches and housing;
- j) Levying and recovering from registered employer, Contribution in respect of expenses of the Scheme;
- k) Making provisions for application of the ESI, health and other safety measures for construction Labour;
- l) Maintaining and administering a Construction Labour Welfare Fund and recovering from all registered employers contribution towards the Fund;
- m) Maintaining and ~~xxxx~~ administering of Provident Fund, death claim retirement Gratuity Fund, for Constructions Labour;
- n) to call for annual meeting of District Units representatives of which shall be annual rotation;
- o) determine the rate of wages for different categories of Construction Workers and the minimum guaranteed wages for a month;

p) Provide for measures of safety and security, at places of work, and measures for promoting the health and welfare of Construction Worker;

q) Borrowing or raising money and issuing debentures or other securities for the purpose of securing any debt or obligation mortgaging or charging all or any part of the property of the board;

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

3) No portion thereof 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.

4. Nothing herein shall prevent 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, nor the payment of interest at a reasonable rate on money lent or reasonable and proper rent for premises demised or let, by any member to the Board nor prevent the incurring of expenditure on welfare measure if any, for the staff of the Board and the Administrative Bodies.

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

6. The Board shall submit to the Central Government --

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

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

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

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

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

- b) 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 workers in any category for a specific period, for purposes of Specific Construction Work;
- d) consider registration of new employers on the recommendation of the President;
- e) Prescribe forms, records, registers, statements and the like required to be maintained under the Scheme;
- f) determine the wages, allowances and other condition of service and refix the guaranteed minimum wages in a month after annual review;
- g) fix the rate of Construction or contribution to be made by registered employers to the Construction Workers Welfare Fund;
- i) appoint, abolish or reconstitute Committees for ensuring compliance with the provisions of the Scheme;
- j) Constitute, reconstitute or abolish District Committees or Local area Committees for carrying out the functions of the Scheme;
- k) sanction the Annual Budget;
- L) subject to the provisions of clause 6, sanction the creation of posts and make appointments to such posts;
- m) make recommendations to the Central Government about any changes in Schedule I.
- n) make recommendations to the State Government about any modifications in the Scheme;
- o) constitute dispute resolution councils at such district/local area level for adjudication of disputes between Construction Workers inter se or between employers and their agents qua discharge of their obligations,
- p) discuss statistics of output of labour and record its observations and directions, and
- q) sanction the opening of accounts in such scheduled Banks it may direct the operation of such accounts by such persons as the Board may from time to time direct.

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

9. Responsibilities and duties of Presidents:

1) The President shall have full administrative and executive powers to deal with all matters relating to the day-to-day administration of the Scheme and in particular.

- a) to ensure that the decisions of the Board in regard to the maintenance of the worker's registers are carried out expeditiously; to
- b) to ensure that the sanction for temporary registrations of workers are carried out without delay;
- c) (i) To supervise and control the working of the administrative Bodies;
(ii) To take suitable steps if any irregularities are detected by him or brought to his notice;
- d) to ensure that the provisions of the Scheme in regard to transfer and promotion of workers are carried out,
- e) to constitute Construction Worker's 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 Scheme, for the registration of employers are complied with by them;
- g) to ensure that all forms, registers, returns and documents, prescribed under the Scheme and properly maintained.
- h) to declare a 'state of emergency' and to take action as authorised under the scheme;
- i) to make a report, when necessary to the Central Government under rule 6 of the Construction Workers (Regulation of Employment and conditions of Service) Rules, 1936);
- i) to make a report, when necessary to the Central Government under rule 6

- j) to sanction the transfer of a Registered Construction Worker to the reserve pool at the request of the employer of the worker, as provided for in the scheme;
- k) to deal with appeals under clauses 48 and 49,
- l) to fill any casual vacancy in the post of Vice-President for any period till the appointment is made by the Board in accordance with the provisions of the scheme.
- m) to discharge all other duties and responsibilities specifically vested in the President under the Scheme.

2. The President may delegate in writing to the Vice-President any of the functions under sub-clause (1) above excepting those mentioned in items (c), (h), (i), & (1),. Such delegations, however, shall not divest the president of his powers.

10. Responsibilities and duties 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 function and in particular shall--

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

11. Structure of Administrative Body:

- a) There shall be an administrative body with units.
 - (i) in every municipal Town/City and
 - (ii) also to centres of zones or Local areas wherein not less than 1000 workers are normally engaged in construction industry;
- b) In every Revenue District, there shall be District Committees comprising of a Presiding Officer duly appointed by the Board and of equal Number of representatives of Government, workers and employees;
- c) The Committee shall be presided by a presiding Officer who shall supervise the functional/ing of various units in the District and shall send reports to the Board generally in and particular with reference to the payment of wages, and welfare measures.

12. Functions of State Administrative Body:

- (i) The Administrative Body shall be responsible for the general administration of the scheme,
- (ii) to authorise construction involving 500 workers and above
- (iii) effecting transfer of worker from one District to another.
- (iv) to prepare for the entire State, proposals for better administration of the Scheme and present the same to the Board for approval.

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

- a) keeping, adjusting and maintaining the employer's 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 be determined by the Board,
- e) The allocation for registered workers in the reverse pool who are available for work to registered employers and for this purpose the Administrative Body shall--
 - (i) be deemed to act as an agent for the employer,
 - (ii) make the fullest possible use of registered workers in reserve pool,
 - (iii) keep the record of attendance, at call stands or control points, of registered workers,

- iv) provide for the maintenance, of the records of employment and earnings,
- v) subject to the allotment of work by rotation under clause 29 (3), allocate workers in accordance with clauses 19 and 30, and
- vi) make necessary entries in the Attendance and wage cards of workers in the reserve pool as laid down in clause 27,

- f) (i) the collection of Construction levy, contribution to the Construction Worker's Welfare Fund or any other contribution for from the employers as may be prescribed under the Scheme;
- (ii) the collection of worker's contribution to the provident fund, Insurance Fund or any other fund which may be constituted under the scheme the Scheme
- (iii) the payment as agent of the registered employer 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 to those workers in accordance with the provisions of the scheme;

9. appointing, subject to budget provision, such officers and servants from time to time as may be necessary.

provided that the creation of posts the maximum salary of which exclusive of allowance is above rupees three hundred per month and appointment of persons to such posts shall be subject to sub-clause b) of Clause 7;

- h) the keeping of proper accounts of the costs of operating the Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance sheet,
- i) the framing of the budget annually submitting the same to the Board on or before the fifteenth day of February in each year and getting it approved by the Board,
- j) maintaining complete service records of all registered construction workers, and
- k) such other functions as may from time to time, subject to the provisions of the scheme, be assigned to it by the Board of the President.

14. Functions of District Units:

- (i) to nominate in rotation, the members to participate in the various Administrative Committees of the District units;
- (ii) Supervise the functioning of units;
- (iii) prepare the annual budget for the District and credit the same to State Administrative Body.
- (iv) administer Welfare Fund in Consultation with the approval of the State Board; (effecting transfer of workers)--(v)
- (vi) to settle complaints through dispute resolution councils regarding registration payment of wages, allocation of workers and such other grievances of worker;
- (vii) to settle complaints regarding authorisation for construction and such other grievances of employers;
- (viii) to give consent to construction where permanent labour are employed.

15. Registration of Employers and Authorisation of Construction Work:

- 1) Every principal employer shall obtain sanction from the authorised unit of the Board before commencement of construction work after paying the construction levy and any other contribution which shall be (not less than 1% of cost of building)- No construction work shall commence without such sanction.
- 2) Every 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 District 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 Board.
- 4) Sanction or Authorisation shall be given subject to past performance of the employer/contractor in complying with provisions in the act and the Scheme.

16. Record of authorisation:

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

17. Exemption to permanent Workers:

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

18. Principles for Registration of Construction Workers ;

- a) All bonafide construction workers who can establish their bonafides through
 - i) Registered union's membership of previous year
 - ii) Certificates from employers or licensed contractors of having worked for the previous year shall be registered in the reserve pool of construction labour;
- b) Construction workers who are not able to establish their bonafides shall be temporary workers in a provisional ~~shall~~ ~~be~~ list and subject to completing of 180 days of working/ marking attendance in the next 220 (210) days and availability of work within the unit the list shall be modified accordingly.
- c) Every construction worker after completing one year of registration shall be entitled to all financial benefits under the Act,
- d) During the 2nd half of the first year, they shall be entitled to attendance allowance;

20. Promotion and Transfer of workers:

- a) When a vacancy arises in a partidular category in reverse pool other than casual vacancy a worker in the next Lower category shall ordinarily be promoted to fill up the vacancy.
- b) Transfer of a monthly worker to reserve pool may be effected

by the presiding Officer of the District Units on an application by employer or the worker concerned and after due enquiry into matter.

- c) Temporary transfers from one unit to another unit within a District may take place on request from the receiving unit;
- d) Mass temporary transfers (more than 100 workers) from one unit to another within a District may take place on request from the receiving unit on approval by District Committee/ presiding Officer,
- e) Temporary transfers from one District to another may take place on request from the receiving District.
- f) Mass temporary transfers (more than 100 workers) from one District to another within a State may ~~xxx~~ take place on request from receiving District on approval of State/Board President.
- g) Inter State temporary transfers of construction labour shall take place only on request by the receiving State Board and of the consent of the receiving State Board.
- h) Permanent transfer of construction workers shall take place only on approval by District presiding Officer.
- i) Mass Permanent transfer of Construction workers (of more than 50 workers) shall take place only on approval by State Board on recommendation by District Presiding Officer Concerned.
- J0 On such transfer copies of, the existing register of workers shall also be sent to the transferred station/unit.-

21. EMPLOYMENT NORMS

- 1. A Worker in the regular pool shall be given preference over the worker in reserve pool.
- 2. No worker should ordinarily be employed for more than 8 hours in a day. Wherever a worker is required to work beyond the eight hour period he shall be paid 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.
- 3. Workers of each category shall be allotted work by rotation.
- 4. Where work is carried on in a gang, the allotment of workers

by rotation shall be by gangs.

5. Casual Vacancies may be filled in the reserve pool in the following way ---

When a higher category worker is on leave, the Senior most worker of the next lower category shall work in his place and the resultant vacancy shall be filled by leave reserve workers by rotation.

22. Facilities for Training:-

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

23. Registration Fee.

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

24. Supply Cards:

i) 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.

25. "Service Records" for registered workers:

A 'Service Record' for all workers shall be maintained by the Administrative Body in a form to be prescribed by the Board which shall contain, among other things a complete records of past performances, skills displayed efficiency, promotions, commendation for goods worketc. Soon details shall be supplied to the Administrative Body by the registered employers.

26. 'Record Sheets' for registered employers--

The Personnel Officer shall maintain a 'Record Sheet' in respect of each registered employer in a form to be prescribed by the Board which shall contain, among other things, a complete record of actions taken against the registered contractors and employers,

non-compliance with the provisions of the Act and the scheme and the violation thereof.

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

- b) When retiring from service,
- c) When dismissed for discharged from service,
- e) On death.

28. Guaranteed Minimum Wages in a Month--

i) A worker in the reserve pool register shall be paid wages, at least for twelve days in a month at the wage rate, inclusive of dearness allowance, as prescribed by the Board appropriate to the category to which he permanently belongs, even though no work is found for him for the minimum number of twelve days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above. The guaranteed minimum wages in a month shall be--

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

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

NOTE: The method of assessing the average employment is detailed in Schedule II.

3) The minimum number of days for which wages shall be guaranteed under sub-clause 1) and 2) above shall not automatically apply to workers in new categories who may be registered after the date of enforcement of scheme. The minimum number of days for which wages shall be guaranteed to these categories shall be determined after completion of one year of registrations annual re-fixation of the minimum number of days as under sub-clause (2) shall done independently in their case also.

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

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

29. Attendance allowance:- Subject to the other provisions of the Scheme, a registered worker who is available for work but for whom no work is found shall be paid attendance allowance 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 Administrative Body 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 clause 31 or otherwise or for which disappointment money is paid under clause 34.

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

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

32. Obligations of registered Construction Workers--

Every registered construction worker shall be deemed to have accepted the obligations of the Scheme.

2. A registered Construction Worker in the reserve pool who is, available for work shall be deemed to be in the enjoyment of the Board.

3. A registered construction Worker in the reserve 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 Administrative Body.

4. A registered Construction worker in the reserve pool who is available for work shall carry out the directions of the Administrative Body and shall-

- a) report at such call, stands or control points as may be fixed by the District/Local area units and at such times as may be specified by the Administrative Body and shall remain at such call stands or control points:-
 - (i) throughout the work period, if instructed by the Administrative Body to that effect, on payment of such retention allowance as may be prescribed by the board; or
 - (ii) for such period, not exceeding one hour, as may be specified; and
- b) accept any employment in connection with construction work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body.

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

33. Obligations of registered employers:-

1. Every registered contractor and employer shall accept the obligations of the Scheme.
2. Subject to the provisions of clause 28 a registered employer shall not employ worker other than a Construction Worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 11 (e).
3. A registered employer shall, in accordance with arrangements made by the Administrative Body, submit all available information of his current and future labour requirements.
4.
 - i) A registered employer shall pay to the Administrative body in such manner and at such times as the board may direct at any rate each month in advance the wage bill for the month and Construction levy payable under clause and the gross wage due to the workers.
 - ii) A registered employer shall make payments of allowances and contribution to E.S.I., Provident Fund, Gratuity and

and the Contributions to the Construction Workers welfare Fund under clause 48.

5. A registered employer shall keep such records as the Board may require, and shall produce to the Board or to such persons as may be designated by the Board upon reasonable notice all such records and any other document of any kind relating to registered Construction Workers and to the work upon which they have been employed and furnish such information relating thereto, as may be set out in any notice for directions issued by or on behalf of the board.

34. Restriction on employment --

1. No person other than a registered employer shall employ any worker on Construction work nor shall a registered employer engage subject to the relaxation, given in clause 18 (2), for employment or employ a worker on Construction work unless that worker is a registered Construction worker.

2) Notwithstanding the foregoing provisions of this clause--

a) Where the Administrative Body is satisfied that--

- (i) A construction work is emergently required to be done, and
- (ii) it is not reasonably practicable to obtain a registered Construction worker for that work.

the Administrative Body, may subject to any limitations imposed by the Board, allocate to a registered employer a person who is not a registered Construction Worker. In selecting such workers the local Employment exchange Organisation shall, as far as possible, be consulted;

Provided that whenever unregistered workers have to be employed, the Administrative Body shall obtain, if possible, the prior approval of the Chairman to the employment of such workers, and where this is not possible shall report to the Chairman within 24 hours and the full circumstances under which such workers were employed and the Chairman shall duly inform the Board of such employment at its next meeting;

b) In the case referred to in item (a) the person so employed as aforesaid by a registered employer shall, for the purpose of the clause 38(4), (5) and (6) and clauses 41 and 42 be treated in respect of that Construction work as if he were a daily worker.

35. Circumstances in which the Scheme ceases to apply --

i) The Scheme ceases to apply to any registered Construction worker when his name has been removed from the registered or record

in accordance with the provisions of the scheme.

2) The Scheme shall cease to apply to a registered employer when his name has been removed from the employers register in accordance with the provisions of the Scheme.

3) Nothing in this clause shall affect any obligations incurred or right accrued during any time when the person was a registered Construction worker or a registered employer.

36. Wages, allowances and other conditions of service of certain classes of workers - unless otherwise specifically provided for in the Scheme.

(a) the rates of wages, allowances and overtime hours of work, rest interval, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers; and

(b) 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) Pay in respect of unemployment and underemployment --

i) Subject to the conditions set out in this and the next following clause, when in any wage period, a registered construction worker is available for work but is not given employment or full employment, he shall be entitled to receive from the Board such amount as may be admissible to him under Clause 31, 32, and 34.

2) The conditions subject to so which is a registered Construction worker is entitled to the said payment (if any) from the Board that --

- a) he attended as directed at the call stands or control points, &
- b) or his attendance was recorded.

38. Disentitlement of Payment:-

1) A registered Construction Worker while, in employment to which he has been allocated by the Administrative Body, fails without any adequate cause to comply with the provisions of clause 38(5) or fails to comply with any lawful orders given to him by his employer, may have his engagement terminated and may be returned to the reserve pool and whether or not he is so returned, may be reported in writing to the Labour Officer, out such termination of employment with the employer shall not take place. Without a report in writing containing the explanations to be given by the Construction Worker. When a

registered construction worker is so returned to the reserve pool, the Administrative Body shall endorse his attendance and Wage cards accordingly.

(2) The Labour Officer shall consider any matter arising under sub-clause (1) including Construction of report there under and if, after investigating the matter, he notifies the registered Construction worker that he is satisfied that the Registered Construction worker has failed to comply with a lawful order as aforesaid, the registered construction worker shall not be entitled to any payment, or to such part of any payment under clause 43 as the Labour Officer thinks fit in respect of the wage period in which such failure occurred or continues.

39. Enforcement Procedures:-

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

2) The dispute resolution council may after investigation into the matter referred it to, pass, the following orders, appropriate to the matter:

a) cessation of Construction Work, till the employer, contractor or their agents removes the defect amounting to non-compliance with the Act and the Scheme.

b) imposition of fines not exceeding a certain 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 employer's register for such period as may be determined by the Board, or permanently in case of grave offences or non compliance with the provisions of the scheme.

3) A registered Construction worker in the reserve pool, who fails to comply with any of the provisions of the Scheme, or commits any act of indiscipline or mis-conduct may be reported in writing to the Dispute resolution Council through the Presiding Officer which may after investigation the matter take any of the following steps as regards that worker that is to say, it may

- a) give him a warning in writing, or
- b) determine that, for such period as it thinks proper,

that the worker shall not be entitled to any payment or part payment under clause 43.

c) suspend him without pay for a period not exceeding three days.

- 4) a) Where in a case reported to the Presiding Officer under sub-clause (3) he is of the opinion that the act of indiscipline or misconduct is so serious that the worker has disentitled himself for work the Presiding Officer may pending investigation of the matter, suspend the worker and report immediately to the dispute resolution council which after preliminary investigation of the matter shall pass order thereon whether the worker, pending final orders, should remain suspended or not,
- b) Where a worker has been suspended by an order under clause (a), he shall be paid for the first fifteen days from the date of suspension, a subsistence allowance to one-half of the basic, wages, dearness and other allowances to which he would have been entitled if he were on leave leave with wages, and thereafter the president; in exceptional cases, grant higher subsistence allowance not exceeding threefourths 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, he shall be entitled to such payments as the Council certified that the worker would have received on the time rate basis or under clause 32 had not been suspended.
- f) The amounts so payable shall be reduced by the amount of subsistence allowance payable or already paid during a particular period;

4) Where a construction worker has failed to comply with any of the provisions of the Scheme wilfully and recklessly or has committed a service act of indiscipline or misconduct, or has consistently failed to produce the standard output or has been inefficient in any other manner, the Council may make or cause to be made such further investigation as it may deem fit, and thereafter take any of the following

steps, as regards the worker concerned, that is to say, it may impose any of the following penalties:

- i) suspend him without pay for a period not exceeding 3 months
- ii) terminate his services after giving 14 day's notice or 14 day wages inclusive of dearness allowance in lieu thereof; or
- iii) remove the worker from the registers of the Board.

5) Before any action is taken under this clause the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him and such person may, if he so desires, adduce evidence in respect of such action.

6) The Administrative Body shall be informed simultaneously about the action taken under this clause.

40. Termination of Employment --

1) The employment of a registered Construction Worker in the reserve pool shall not be terminated except in accordance with the provisions of the Scheme.

2) A registered Construction Worker in the reserve pool shall not leave his employment with the Board except by giving fifteen day's notice in writing to the Board.

3) When the employment of a registered Construction Worker with the Board, has been terminated under sub-clause (1) or (2) above, his name shall forthwith be removed from the register or record by the Administrative Body.

41. Appeal by Workers --

1) Save as otherwise provided in this clause a registered worker or a worker in the reserve pool who is aggrieved by an order passed by the dispute resolution council may prefer an appeal against such order to the appellate authority.

2) A worker who is aggrieved by an order --

- i) Placing him in a particular group in the register or record; or
- ii) refusing registration under clause 18 ; or
- iii) requiring him under clause 37(4) (b) to undertake any work which is not of the same category to which he belongs may prefer any appeal to the president of the District committee or the local unit as the case may be

- 3) Every appeal referred in sub-clause (1) and
- 2) shall be in writing and preferred within 14 days of the date of receipt of the order appealed against.
- 4) The appellate authority may after giving an opportunity to the appellant to be heard, if he so desires, and with reasons to be recorded in writing pass such order as it thinks fit and the order so passed shall be final and conclusive.
- 5) Every order passed under sub-clause (4) shall be communicated to appellant.

PROVIDED that the appellate authority may for reasons to be recorded admit and appeal preferred after expiry of 14 days.

- 6) An appellant shall not be ordinarily entitled to be represented by a legal practitioner before 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 of or by a registered trade union Construction Worker, wherever an applicant or request is made to this effect and the appellate authority is considers the request reasonable having regard to the nature of the pass.
- 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 from the panel Board/Committees or of the registered trade union of which he is a member.

42. Appeals by employers --

- 1) A registered employer who is aggrieved by an order of the dispute resolution council under cause 45 (1) (i) may also appeal to the appellate authority, whose order shall be final and conclusive and there shall be no appeal against it.
- 2) An employer who has been refused registration under clause w 15 (1) (c) 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 in to sub-clauses (1) and (2) shall be in writing and preferred within 4 days of the receipt of the order appealed against.
- 4) An appellant shall not be entitled to be represented by a legal practitioner before the appellant authority but he shall be entitled to be represented by a representative of the association of registered employer of which he is a member of or by a registered employer.

43. Power of revision of the revisional authority Notwithstanding anything contained in this Scheme, the revisional authority, in the case of an order under clause 45, may at any time call for the records of any proceedings for the purpose of satisfying itself as to the legality or propriety thereof and may think fit; Provided that the revisional authority shall not pass any order under this clause which may prejudicially affect the interests of any person without giving such person a reasonable opportunity of being heard.

44. Stay of order in case of certain appeals - where an appeal is lodged by a worker in accordance with the provisions of clause 48 against an order of termination of service on 14 day's notice or where an appeal is lodged by an employer in accordance with the provisions of clause 49 against an order removing him or his name from the employer's register under clause 45(1) (ii) (b), the appellate authority may suspend the operation of the order appealed from pending the hearing and disposal of the appeal.

45. Special Provisions for action in an emergency --

1) If at any time the President is satisfied that an emergency has arisen which will seriously affect the construction work, he may by order in writing and for such period as he may from time to time specify therein, make a declaration to that effect; and pass such or such orders as may be necessary action committee defined in sub-clause of clause _____ for dealing with the matter.

2) So long as an order under sub-clause (1) is in force, the following provisions shall apply, namely :--

i) If any allegation is made that a registered employer has failed to carry out the provisions of the Scheme, the committee, after holding a summary inquiry into the allegation, take any of the following steps as regards that employer, that is to say, i.e. he may --

- a) give the registered employer a warning in writing, or
- b) direct that the name of the registered employer shall be removed forthwith from the employer's register either permanently or for such period as he may determine.

ii) In any allegation of indiscipline, "go-slow" or misconduct construction worker, the Committee may suspend him forthwith pending inquiry, hold a summary inquiry into the allegation and take any one or more of the following steps against that worker, that is to say, it may --

- a) determine that for such period as he thinks proper, that

worker or workers shall not be entitled to any payment under clause 43 ;

- b) give him a warning in writing;
- c) suspend him without pay for a period not exceeding 3 months
- d) terminate his services after giving 14 days notice or 14 day's wages inclusive of dearness allowance in lieu thereof or
- e) remove him from the registers of the Board

3) The provisions of the Scheme relating to disciplinary action against registered employers and registered construction workers shall apply to any order passed by the Committee under sub-clause (2)

4) Any registered Construction worker or registered employer who is aggrieved by an order passed by the committee under sub-clause (2) may, within 30 days of the date of receipt of the order, file a revision petition to the revisional authority.

45. Cost of operating the Scheme --

(1) The cost of operating the Scheme shall be defrayed by payments made by registered employees or employers to the Board. Every registered employer shall pay to the Board such amount by way of construction Levy in respect of monthly workers and Reserve Pool workers together with and at the same time as or earlier than the payment of gross wages due from him under clause 38(5) (i), as the Board may from time to time, prescribe by a written notice to registered employers.

2) In determining what payments are to be made by registered employers under sub-clause (1) the Board may fix different rates of levy will for different categories of work or workers, provided that the levy shall be fixed that the rate of levy will apply to all Construction employers who are in the like circumstances.

3) A registered employer shall on demand make a payment to the Board by way of deposit, or provide such other security for the due payment of the amount referred to in sub-clause (1) as the Board may consider necessary.

(4) If a registered employer fails to make the payment due from him under sub-clause (1) or any other amount due and payable to the Board in any other capacity or account within the time prescribed by the administrative Body, the Administrative Body shall serve a notice on the employer to the effect that, unless he pays his dues within three days from the date of receipt of the notice, the supply of registered Construction workers to him shall be suspended. On the expiry of the notice period, the Administrative Body shall suspend

the supply of registered construction workers to a defaulting employer until he pays his dues.

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

In case of any revision of dearness allowance or grant of revised wages or other allowances, with the retrospective effect, in pursuance of any award or recommendation of any board or body set up or of any order, by the Central Government, the Board may out of its funds, pay the registered workers arrears upto the date of the award or, as the case may be, of the recommendation or order, if the Board so decides.

47. Provident Fund and Gratuity: --

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

(2) The Board shall frame rules for payment of gratuity to registered Construction Workers.

48. Construction workers welfare Fund: --

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

49. Penalties --

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