

## **ABSTRACT OF THE BUILDING AND OTHER CONSTRUCTION WORKERS' (REGULATION OF EMPLOYMENT AND CONDITION OF SERVICE), 1996**

An Act to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.

### **APPLICABILITY**

#### **This act applies**

- To every establishment in which 10 or more workmen are employed or were employed on any day of the proceeding 12 months as building worker [Sec 2(e)]

**Explanation:** For the purpose of this subsection, the building workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of the building workers employed in the establishment.

### **Administration**

The Act is administered by the Central or State Advisory Committee, as the case may be, whereon the Labour Commissioner will be a member [Sec 3 & 4]

### **Important Definitions:**

- a) **Beneficiary:** means a building worker registered under section 12.
- b) **Building or Other Construction Work:** means the construction, alteration, repairs, maintenance, or demolition of, or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation work, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate govt, by notification, but does not include any building or other construction work to which the provisions of the Factory Act, 1948 (63 of 1918), or the Mines Act, 1932 (35 of 1952), apply.
- c)
- d) **Building Worker:** means a person who is employed to do any skilled, semi skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, in connection with any building or other construction work but does not includes
  - i) any person employed mainly in a managerial or administrative capacity; or
  - ii) a person being employed in a supervisory capacity but draw wages exceeding Rs. 1600/- per mensem or exercises either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature; or
- e) **Employer:** means the owner and includes:
  - i) in relation to a building or other construction work carried on by or under the authority of any department of the Govt., directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;
  - ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;
  - iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

### **The responsibility of the employer**

An employer shall be responsible for providing constant and adequate supervision of any building or other construction worker employed by him and such wages shall be paid on or before such date as may be prescribed.

In case the Contractor fails to make payment of wages within the prescribed period or makes short payment, then the employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the building worker, employed by the Contractor and recover the amount so paid from the Contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the Contractor [Sec 45]

### **Employer's Obligation**

Every employer of an establishment shall, under this Act, make an application to the Registering Officer in Form I for registration of his establishment. If the establishment fails to so register, it is prohibited to employ building worker after the expiry of the period permitted for making the application [Sec 7(1) & (2)]

## **RESPONSIBILITIES AND DUTIES OF EMPLOYERS, ARCHITECTS, PROJECT ENGINEERS AND DESIGNERS, BUILDING WORKERS, ETC.**

### **A) Duties and responsibilities of employers, employees and others –**

(1) It shall be the duty of every employer who is undertaking any of the operations or works related to or incidental to building or other construction work to which these rules apply –

(a) to comply with such of the requirements of these rules as are related to him :

Provided that the requirements of this clause shall not affect any building worker if and so long as his presence in any place of work is not in the course of performing any work on behalf of his employer and he is not expressly or impliedly authorized or permitted by his employer to do the work, and

(b) to comply with such of the requirements of these rules as are related to him in relation to any work, act or operation performed or about to be performed by him.

(2) It shall be the duty of every employer who erects or alters any scaffold to comply with such of the requirements of the provisions of these rules as relate to the erection or alteration of scaffolds having regard to the purpose or purposes for which the scaffold is designed at the time of erection or alteration, and such employer, who erects, installs, works or uses any plant or equipment in a manner which complies with those provisions.

(3) where a contractor, who is undertaking any of the operations or works to which these rules apply, appoints any artisan, tradesman or other person to perform any work or services under a contract for services, it shall be the duty of the contractor to comply with such of the requirements of these rules as affect that artisan, tradesman or other person and for this purpose any reference in these rules to an employee shall include a reference to such artisan, tradesman or other person and the contractor shall be deemed to be his employer.

(4) It shall be the duty of every employee to comply with the requirements of such of these rules as are related to the performance of or the refraining from an act by him and to co-operate in carrying out these rules.

(5) It shall be the duty of every employer not to permit an employee to do anything not in accordance with the generally accepted principles of standard safe operating practices connected with building and other construction work as specified by the State Government.

(6) No employee shall do anything, which is not in accordance with the generally accepted principles of standard safe operating practices connected with building and other construction work as specified by the State Government.

(7) No person related with any building and other construction work shall willfully do any act, which may cause injury to him or to others.

(8) It shall be the duty of every employer not to allow lifting appliance, lifting gear, lifting device, transport equipment, vehicles or any other device or equipment to be used by the building workers which does not comply with the provisions given in these rules.

(9) It shall be the duty of the employer to maintain the latrines, urinals, washing facilities and canteen in a clean and hygienic condition. The canteen shall be located in a place away from the latrines and urinals and polluted atmosphere and at the same time be easily accessible to the building workers.

(10) It shall be the duty of the employer to abide by the dates fixed and notified by him for payment of wages for a period in accordance with these rule and no change in such dates and such period shall be effected without notice to the building workers and the inspector. The employer shall ensure timely payment of wages as specified under these rules and at the place and time notified by him. Where the

employer is a contractor, he shall ensure that the wages of building workers are paid in the presence of a representative of the employer of establishment or owner of premises from whom he has taken the work on contract and obtain signatures of such representative in token of having witnessed the payment of wages.

(11) It shall be the duty of the employer to ensure that the lifting appliance, lifting gear, earth moving equipment, transport equipment or vehicles used in the building or other construction work undertaken by him conforms to the requirements relating to testing, examination and inspection of such equipment as provided under these rules. It shall be the duty of every person in the service of the Government or any local or other public authority to comply with the requirements relating to him as given in these rules.

**B) Responsibilities of architects, project engineers and designers –**

(1) It shall be the duty of the architect, project engineer or designer responsible for the design of any project or part thereof or any building or other construction work to ensure that, at the planning stage, due consideration is given to the safety and health aspects of the building workers who are employed in the erection, operation and execution of such projects and structures as the case may be.

(2) Adequate care shall be taken by the architect, project engineer and other professionals, involved in the project, not to include anything in the design which would involve the use of dangerous structure or other processes or materials, hazardous to health or safety of building workers during the course of erection, operation and execution as the case may be.

(3) It shall also be the duty of the professionals, involved in designing the buildings, structures or other construction projects, to take into account the safety aspects associated with the maintenance and upkeep of the structures and buildings where maintenance and upkeep may involve special hazards.

**C) Responsibilities of the person in the service of the State Government and the Board –** It shall be the duty of every person in the service of the Government of any State or a Board to comply with the directions given by the Central Government from time to time to carrying into execution in that State the provisions of the Act and these rules.

**D) Duties and responsibilities of workers. –**

(1) It shall be the duty of every building worker to comply with the requirements of such of these rules as relate to him, and act and co-operate in carrying out the requirements of these rules and if he discovers any defects in the lifting appliance, lifting gear, lifting device, concerning any transport equipment or other equipment, to report such defects without unreasonable delay to his employer or foreman or other person in authority.

(2) No building worker, shall unless duly authorized or except in case of necessity, remove or interfere with any fencing, gangway, gear, ladder, hatch covering, life saving appliances, lighting or other things whatsoever required by the Act and these rules to be provided. If any of aforesaid things is removed, such thing shall be restored at the end of the period during which its removal was necessary, by the person engaged in that work.

(3) Every building worker, shall use only means of access provided in accordance with these rules and no person shall authorize or order another to use means of access other than such means of access.

(4) It shall be the duty of a building worker to keep the latrines, urinals, washing points, canteen and other facilities provided by the employer for securing his welfare in a clean and hygienic condition.

**E) Exemption –** The Chief Inspector of Inspection of Building and construction may, by order in writing and subject to such conditions and for such period, as may be specified therein, exempt from all or any of the requirements of these rules to –

(a) any building or other construction work, if the Chief Inspector is satisfied that such building work is confined to such workers, where it is not convenient to take measures as provided in these rules ; or

(b) any appliance, gear, equipment, vehicle or other device, if the Chief Inspector is satisfied that the requirement of such appliance, gear, equipment, vehicle or other device is not necessary for use or equally effective measures are taken in lieu thereof :

Provided that the Chief Inspector shall not grant exemption under this rule unless he is satisfied that such exemption would not adversely affect the safety, health and welfare of building workers.

**Hours of Work, Welfare & Other conditions of Service, Safety and Health measures**

Every employer governed by this Act is responsible for maintaining such standards of Hours of Work, Welfare & Other conditions of Service, Safety and Health measures of building workers as prescribed in detail in the Act [Rule 234 to 247]

### **Registers and Records**

Registers of building workers: Every employer shall maintain in respect of each registered establishment a register of building workers in Form XV [Rule 240]

Service Certificate: On termination of employment for any reason whatsoever the employer shall issue to the workman whose service have been terminated a Service Certificate in Form XXIV [Rule 241(2)(b)]

Muster Roll, Wages Register, Deduction Register and Overtime Register: Every employer shall in respect of each work on which he engages building workers [Rule 241]

- maintain a Muster Roll and Registers of Wages in Forms XVI & XVII respectively provided that a combined Register of Wage- cum- Muster Roll in Form XVIII shall be maintained by the employer where the wage period is a fortnight or less;
- maintain a Register of Deductions for damage or loss, Register of Fines and Registers of Advances in Form XIX, Form XX and Form XXI respectively.
- Maintain a Register of Overtime in Form XXII recording therein the numbers of hours of, and wages paid for, overtime work if any.
- Every employer shall, where the wage period is one week or more, issue wage book in Form XXIII, to the building worker at least a day prior to the disbursement of wages to them. Every employer shall obtain the signature or thumb impression of the building worker concerned against the entries relating to him on the Register of Wages or Muster Roll-cum-Wages Register, as the case may be, and the entries shall be authenticated by the initials of the employer or his authorized representative

### **Display of the Act & Notices**

Every employer shall display an abstract of the Act and rules in English and Hindi and in the language spoken by the majority of workers in such form as may be approved by the Chief Labour Commissioner (Central) [Rule 241 (5)]. The employer shall also display notices showing rates of wages, hours of work, wage period, dates of payment of wages in conspicuous places at the establishment and the work site [Rule 249].

### **Returns**

Every employer shall, at least 30 days before of the commencement or completion of any building or other construction work under his control, submit a return to the Inspector, intimating the actual dates of commencement and completion of such contract work in Form IV [Rule 239(1)].

Every employer shall send annual return in Form XXV (in duplicate) so as to reach the Registering Officer concerned not latter than 15<sup>th</sup> February following the end of each calendar year with a copy to the Inspector having jurisdiction. [Rule 242]

### **Penalties**

Contravention of provisions of the Act will attract punishment by way of imprisonment or fine or both.