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The Orissa Labour Welfare Fund Act, 2005

Act 14 of 2005

Keyword(s):

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***THE ORISSA LABOUR WELFARE FUND ACT**

(ORISSA ACT 14 OF 2005)

[Received the assent of the President on the 28th November, 2005, first published in an extraordinary issue of the *Orissa Gazette*, dated the 16th November 2005 (No. 2071)]

AN ACT TO PROVIDE FOR THE CONSTITUTION OF A FUND FOR THE FINANCING OF ACTIVITIES TO PROMOTE WELFARE OF LABOUR IN THE STATE OF ORISSA AND FOR THE ESTABLISHMENT OF BOARD FOR CONDUCTING SUCH ACTIVITIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Legislature of the State of Orissa in the Fifty-sixth Year of the Republic of India as follows :-

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Labour Welfare Fund Act, 2005.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Board" means the Orissa Labour Welfare Board established under Section 4 ;

(b) "Employee" means—

(i) any person who is employed for hire or reward to do any work, skilled or unskilled, manual, supervisory, clerical or technical, in an establishment for a period of thirty days during the period of twelve months, whether the terms of employment be expressed or implied, but does not include any person—

(a) who is employed mainly in a managerial capacity ; or

(b) who, being employed in a supervisory capacity, exercises either by the nature of the duties attached to the office or by reason of the powers vested in him functions mainly of a managerial nature ; or

(c) who is employed as an apprentice or on part-time basis.

Explanation— An apprentice means a person who according to the Certified Standing Orders applicable to the establishment is an apprentice or who is declared to be an apprentice by the authority specified in this behalf by the Government ; and

(ii) any other person employed in any establishment whom the Government may by notification, declare to be an employee for the purposes of this Act ;

(c) "employer" means any person who employs either directly or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes—

(i) in a factory, any person named under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948 as the manager ;

63 of 1948.

*For the Bill, see *Orissa Gazette*, Extraordinary, dated the 20th March, 1996 (No. 298).

- (ii) in any establishment, any person responsible to the employer for the supervision and control of the employees or for the payment of wages ;
- (d) "establishment" means—
- (i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 ; 63 of 1948.
 - (ii) a motor transport undertaking as defined in clause (g) of section 2 of the Motor Transport Workers Act, 1961; 27 of 1961.
 - (iii) any other establishment as defined in clause (8) of section 2 of the Orissa Shops and Commercial Establishment Act, 1956 and includes a society registered under any law in force in the State relating to registration of Societies, and a charitable or other trust, whether registered or not, which carries on any business or trade or any work in connection with or ancillary thereto and which employs, or on any working day during the preceding twelve months employed, twenty or more persons, but does not include an establishment, not being a factory, belonging to or under the control of the Central or any State Government ; Orissa Act 30 of 1956.
- (e) "Fund" means the Orissa Labour Welfare Fund constituted under section 3 ;
- (f) "Government" means the Government of Orissa ;
- (g) "Inspector" means an Inspector appointed under section 18 ;
- (h) "prescribed" means prescribed by rules ;
- (i) "rules" means the rules made under this Act ;
- (j) "unpaid accumulations" means all payments due to an employee but not paid to him within a period of five years from the date on which they became due, whether before or after the commencement of this Act, including the wages and gratuity legally payable, but not including the amount of contribution, if any, paid by an employer to a provident fund established under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the contribution payable under the Employees State Insurance Act, 1948 ; 19 of 1952.
34 of 1948.
- (k) "Wages" means all remuneration capable of being expressed in terms of money which would, if the terms of the contract of employment, express or implied were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes bonus payable under the Payment of Bonus Act, 1965 but does not include— 21 of 1965.
- (i) the value of any house accommodation, supply of light, water, medical attendance, or any other amenity or any service excluded from the computation of wages by general or special order of the Government ;
 - (ii) any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance ;
 - (iii) any travelling allowance or the value of any travelling concession ;

- (iv) any sum paid to the employee to defray special expenses entailed on him by the nature of his employment ; or
- (v) any gratuity payable on termination of employment ;
- (l) "Welfare Commissioner" means the Welfare Commissioner appointed under Section 17.

Constitution
of Fund.

3. (1) The Government shall constitute a fund to be called the Orissa Labour Welfare Fund and, notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid, at such intervals as may be prescribed, to the Board, and be credited to the Fund and the Board shall keep a separate account therefore until claims thereto have been decided in the manner provided in Section 8.

(2) There shall also be credited to the Fund—

- (a) unpaid accumulations paid to the Board under section 8 ;
- (b) all fines including the amount realised under Standing Order issued under the Orissa Industrial Employment (Standing Order) Rules, 1946 from the employees by the employers, notwithstanding anything contained in any agreement between the employer and the employee ;
- (c) deductions made under the proviso to sub-section (2) of section 9 of the Payment of Wages Act, 1936 ;
- (d) contribution by employers and employees ;
- (e) any interest by way of penalty paid under section 9 ;
- (f) any voluntary donations ;
- (g) any amount raised by the Board from other sources to augment the resources of the Board ;
- (h) any fund transferred under sub-section (6) of section 12 ;
- (i) any sum borrowed under Section 13 ;
- (j) grants, subsidies or advances made by the Government ;
- (k) any money deposited under sub-section (1) of section 8 of the Workmen's Compensation Act, 1923 as compensation in respect of a deceased workman where the Commissioner for Workmen's Compensation is satisfied after necessary enquiry that no dependant exists, subject however, to the deductions permissible under the said sub-section, as also any amount remaining undisbursed out of such deposits.

4 of 1936.

8 of 1923.

(3) The sums specified in sub-section (2) shall be paid to, or collected by such agencies, at such intervals, and in such manner, and the accounts of the Fund shall be maintained and audited in such manner, as may be prescribed.

Establishment
and functions
of Board.

4. (1) The Government shall, by notification, establish a Board for the whole of the State of Orissa to be called the Orissa Labour Welfare Board for the purpose of administering the Fund and to carry on such other functions as are assigned to the Board by or under this Act.

(2) The Board shall be a body corporate by the name of the Orissa Labour Welfare Board having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.

- (3) The Board shall consist of the following members, namely :-
- (i) Minister, Labour & Employment who shall be the Chairman ;
 - (ii) Secretary to Government, Labour & Employment who shall be the Vice-Chairman ;
 - (iii) Secretary to Government, Finance Department, *ex officio* ;
 - (iv) Secretary to Government, Industries Department, *ex officio* ;
 - (v) Secretary to Government, Welfare Department, *ex officio* ;
 - (vi) Secretary to Government, Women & Child Development Department, *ex officio* ;
 - (vii) Secretary to Government, Panchyati Raj Department, *ex officio* ;
 - (viii) Secretary to Government, Higher Education Department, *ex officio* ;
 - (ix) Special Secretary or, in absence, Additional Secretary to Government, Planning & Co-ordination Department, *ex officio* ;
 - (x) Labour Commissioner, Orissa who shall be the Member-Secretary ;
 - (xi) Director of Employment, Orissa, *ex officio* ;
 - (xii) Director, Employees' State Insurance Scheme, Orissa, *ex officio* ;
 - (xiii) Representatives of employers and employees in equal proportion, to be nominated by Government ;
 - (xiv) a woman member, to be nominated by Government.

(4) The members constituting the Board shall be notified in the Gazette.

(5) The term of office of the members except the Chairman and *ex officio* members of the Board shall be three years commencing on the date on which their names are notified under sub-section (4).

(6) The allowances, if any, payable to the members of the Board other than the *ex officio* members and the number and conditions of nomination of the representatives of the employers and employees shall be such as may be prescribed.

Disqualifica-
tions and
removal.

5. (1) No person shall be nominated as, or continue to be, a member under clauses (xiii) and (xiv) of sub-section (3) of section 4 of the Board who-

- (a) is a salaried official of the Board ; or
- (b) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors ; or
- (c) is found to be of unsound mind ; or
- (d) is, or has been, convicted of any offence involving moral turpitude, unless such conviction has been set aside ; or
- (e) is in arrears or any sum due to the Board.

(2) The Government may remove from office any nominated member who-

- (a) is, or has become, subject to any of the disqualifications mentioned in sub-section (1) ; or
- (b) is absent without leave of the Board for more than three consecutive meetings of the Board :

Provided that before taking action under this sub-section, the member concerned shall be given an opportunity to make his representation against the action proposed.

Resignation of office by members and filling up of casual vacancies.

6. (1) A nominated member may resign his office by giving notice thereof in writing to the Government and on the resignation being accepted, he shall be deemed to have vacated his office as such.

(2) A casual vacancy in the office of a nominated member shall be filled by nomination of another person from the concerned category and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.

(3) No act or proceedings of the Board shall be invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

Power to appoint Committees.

7. For the purpose of advising the Board in the discharge of its functions and in particular for carrying into effect any of the matters specified in sub-section (3) of Section 12, the Board may constitute one or more Committees consisting of at least one member of the Board and equal number of representative of employees and employers.

Unpaid accumulations transferred to the fund and claims thereto.

8. (1) All unpaid accumulations shall, subject to other provisions of this section, be deemed to be abandoned property and be transferred to the control and administration of the Board and shall vest in the Board.

(2) Any unpaid accumulations transferred to the Board in accordance with the provisions of this Act shall, on such transfer, discharge an employer of the liability to make payment to an employee in respect thereof, but to the extent only of the amount transferred to the Board, and the liability to make payment to the employee to the extent aforesaid shall be deemed to be transferred to the Board.

(3) As soon as possible, after the transfer of any unpaid accumulations to the Board, the Board shall publish a notice, containing such particulars as may be prescribed.

(4) Such notice shall be published ordinarily in the months of June and December of every year for a period of three years from the date of the transfer of the unpaid accumulations to the Board, in the following manner :-

- (a) by exhibiting on the noticeboard of the establishment in which the unpaid accumulations were earned ;
- (b) by publishing in the Gazette ; and
- (c) by publishing in any two newspapers having wide circulation and in the language commonly understood, in the area in which the establishment in which the unpaid accumulations, were earned, is situated, or in such other manner as may be prescribed, regard being had to the amount of the claim, and shall invite claims by employees for any payment due to them.

(5) Where any question arises whether the notice referred to in sub-section (3) was given publicity as required by sub-section (4), a certificate to that effect given by the Board shall be conclusive proof of such publication.

(6) Where a claim is received whether in pursuance of the notice aforesaid or otherwise, within a period of five years from the date of first publication of the notice in respect of such claim, the Board shall transfer such claim to the authority appointed under Section 15 of the Payment of Wages Act, 1936, having jurisdiction in the area in which the establishment is situated, and the said authority



shall proceed to adjudicate upon, and decide, such claim, and in hearing such claim, the said authority shall have the same powers conferred by, and follow the same procedure, in so far as it is applicable, laid down by or under the provisions of that Act.

(7) If the said authority, after making the enquiry into the validity of any claim, is satisfied that any such claim is valid and the employee is entitled to receive payment, it shall pass an order directing that the unpaid accumulation or any part thereof in relation to which the claim is made shall cease to be deemed to be abandoned property and to be transferred to the Board and that the Board shall pay the whole or such part of the accumulation as the authority decides to be the property due to the employee, and the Board shall make the payment accordingly :

Provided that the Board shall not be liable to pay any sum in excess of that transferred under sub-section (1) of Section 3 to the Board as unpaid accumulation in respect of the claim.

(8) Where a claim for payment is refused by the said authority, the employee shall have a right of appeal to the Court of the District Judge which shall lie within ninety days from the date of communication of the order of refusal of the said authority, and the Board shall comply with any order made by the Court in such appeal.

(9) The decision of the said authority if no appeal is filed, and the decision of the Court in appeal, where appeal, has been filed ; shall be final and conclusive as to the right to receive payment, as to the liability of the Board to pay and also as to the amount, if any, so payable.

(10) Where no claim is made within the time specified in sub-section (6) or a claim made has been refused as aforesaid by the said authority and no appeal has been filed within the time allowed for such appeal or an appeal filed has been dismissed by the Court, as the case may be, then the unpaid accumulations in respect of such claim shall accrue to, and vest in, the State as *bona vacantia*, and shall thereafter, without further enquiry and declaration, be deemed to be transferred to, and from part of the Fund.

Interest on unpaid accumulations or fines after notice of demand.

9. (1) If an employer does not pay to the Board any amount of unpaid accumulations, or fines realised from the employees, within the time specified therefor by or under this Act, the Welfare Commissioner may serve or cause to be served a notice on such employer to pay the amount within the period specified therein which shall not be less than thirty days from the date of service of such notice.

(2) If the employer fails, without sufficient cause, to pay any such amount within the period specified in the notice, he shall, in addition to the amount, pay by way of penalty to the Board simple interest—

- (a) for the first three months, at one per centum of the said amount for each complete month or part thereof after the last date by which he should have paid it according to the notice ; and
- (b) for each complete month or part thereof thereafter, at one and half per centum of that amount during the time he continues to make default in the payment of that amount.

Contribution to the Fund by employee and employer.

10. (1) Every employee shall contribute such sum, exceeding ten rupees, for every year and every employer shall, in respect of each employee, contribute such sum, exceeding twenty rupees, for every year to the Fund, as may be prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force, the employer shall be entitled to recover from the employee, the employee's contribution by deduction from his wages in such manner as may be prescribed and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936.

4 of 1936.

(3) Notwithstanding anything contained in any other law for the time being in force, any sum payable by the employer as its contribution including the sum recovered by the employer from the employees under sub-section (2) shall, in case the sum is not deposited into the fund within a reasonable period of time as may be prescribed, be recoverable from the employer as if it is a claim under Section 15 of the Payment of Wages Act, 1936.

4 of 1936.

Grants and
advances by
the Govern-
ment.

11. The Government may, from time to time, make grants or advance loans to the Board to the extent of the Fund available for the purposes of this Act on such terms and conditions as the Government may, in each case, determine.

Vesting and
application of
Fund.

12. (1) The Fund shall vest in, and be held and applied by, the Board as trustees subject to the provisions and for the purposes of this Act.

(2) The moneys in the Fund shall be utilised by the Board to defray the cost of carrying out measures which may be specified by the Government from time to time for promoting the welfare of labour and of their dependants.

(3) Without prejudice to the generality of the provisions in sub-section (2), the money in the Fund may be utilised by the Board to defray expenditure on the following :-

- (a) Labour Welfare Centres under the control of the Labour & Employment Department of the Government ;
- (b) reading rooms and libraries ;
- (c) games and sports ;
- (d) community necessities ;
- (e) excursions, tours and holiday homes ;
- (f) entertainment and other forms of recreation ;
- (g) home industries and subsidiary occupations for women and unemployed persons ;
- (h) corporate activities of social nature ;
- (i) vocational training ;
- (j) convalescent homes for tuberculosis patients ;
- (k) pre-schools ;
- (l) nutritious food to children of employees ;
- (m) construction and maintenance of the labour welfare centre buildings ;
- (n) cost of administering this Act including the salaries and allowances of the staff appointed for the purposes of this Act ;
- (o) medical aid to employees for specialised treatment in deserving cases ; and
- (p) such other objects as would, in the opinion of the Government, improve the standard of living and ameliorate the social conditions of labour :

Provided that the Fund shall not be utilized in financing any measure which the employer is required under any law for the time being in force to carry out :

Provided further that unpaid accumulations and lines shall be paid to the Board and be expended by it under this Act, notwithstanding anything in the Payment of Wages Act, 1936 or any other law for the time being in force.

4 of 1936.

(4) The Board may, with the approval of the Government, make a grant out of the Fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour approved by the Government.

(5) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the Government, whose decision thereon shall be final.

(6) It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment, if the said fund is duly transferred to the Board.

Power of Board to borrow.

13. Subject to the other provisions of this Act, the Board may, from time to time with the previous sanction of the Government, and subject to such conditions as may be specified by the Government in this behalf, borrow any sum required for the purposes of this Act.

Deposits of Fund and placing of accounts and audit report before Government.

14. (1) All moneys and receipts forming part of the Fund shall be deposited in the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 or in the State Bank of India constituted under the State Bank of India Act, 1955 or any corresponding new Bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or any other scheduled Bank or the State Co-operative Bank or such other Co-operative Bank as the Government may, by notification, specify, and the Bank account shall be operated upon by such officers of the Board as may be authorised by the Board and in such manner as may be prescribed.

2 of 1934.
23 of 1955.
5 of 1970.

(2) The accounts of the Board as certified by the auditor, together with the audit report thereon shall be forwarded yearly to the Government and the Government may issue such instructions to the Board in respect thereof as they may deem fit and the Board shall comply with all such instructions. A copy of the accounts of the Board as certified by the Auditor, together with a copy of the audit report thereon, shall also be laid before the State Legislature.

Investment of Fund.

15. Where the Fund or any portion thereof can not be utilised within a period of ninety days for fulfilling the objects of this Act, the Board shall invest the same in any of the securities specified in clauses (a) to (d) of Section 20 of the Indian Trusts Act, 1882 or in fixed deposit bonds of the State Co-operative Bank or such other Co-operative Bank as the Government may, by notification, specify from time to time, or in such other security as may be expressly authorised by the Government in this behalf.

2 of 1882.

Directions by Government to Board.

16. The Government may give to the Board such direction as in their opinion are necessary or expedient in connection with the expenditure from the Fund or for carrying out the purposes of this Act and the rules, and it shall be the duty of the Board to comply with all such directions.

Appointment and powers of Welfare Commissioner.

17. (1) The Board shall, with the previous approval of the Government, appoint an officer of the Labour Department of the Government not below the rank of Joint Commissioner of Labour, as Welfare Commissioner who shall be the Chief Executive Officer of the Board :

Provided that the first Welfare Commissioner shall be appointed by the Government as soon as may be practicable after the commencement of this Act, for such period not exceeding five years, and on such conditions, as the Government may think fit.



(2) It shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and the rules are duly carried out, and for this purpose, he shall have the power to issue such orders, not inconsistent with the provisions of this Act or the rules, as he deems fit, including any order implementing the decisions of the Board taken under this Act.

Appointment
of Inspectors.

18. (1) The Board, with the prior approval of Government, may appoint Inspectors to inspect records in connection with the sums payable into the Fund.

(2) Any Inspector may—

- (a) with such assistance as he thinks fit, enter at any reasonable time any premises for carrying out the provisions of this Act ;
- (b) exercise such other powers as may be prescribed ;
- (c) make such examination and hold such inquiry, as may be necessary for ascertaining whether the provisions of this Act have been and are being complied with ;
- (d) require the production of any prescribed register and any other document in possession of the employer in connection with the sums payable to the Fund.

Appointment
of officers and
staff by the
Board.

19. The Board shall have power to appoint such officers and staff as it thinks fit to carry out its functions under this Act and to supervise and control the activities of any other body financed from the Fund :

Provided that the expenditure on account of the officers and staff so appointed and any other administrative expenses to be incurred by the Board shall not exceed fifteen per centum of the annual income of the Fund.

Deputation of
certain officers
and staff to
Board.

20. (1) As soon as may be after the commencement of this Act, the Government may, after consulting the Board, direct by general or special order published in the Gazette that such of the officers and employees serving immediately before the notified date in connection with the affairs of the State as are specified in the order shall be deputed to the Board on and with effect from such date and subject to such terms and conditions, if any, as may be specified in the order :

Provided that no such order shall be issued in respect of any officer or employee without his consent for such deputation.

(2) The officers and employees so deputed to the Board may permanently be absorbed in the services of the Board provided they give consent to that effect in writing.

(3) On and with effect from the date the officers and other employees give consent as aforesaid shall become employees of the Board and shall cease to be officers or employees of the Government :

Provided that the conditions of service as applicable to any such person immediately before the date specified in the order made under sub-section (1) shall not be varied to his disadvantage.

(4) The moneys standing to the credit under the Provident Fund Account of any officer or employee permanently absorbed in the Board shall stand transferred to and vest in the Board.

(5) The Board shall, as soon as may be, constitute, in respect of the moneys transferred to and vested in it under sub-section (4) a similar fund and may invest the accumulations under the fund in such securities and subject to such conditions as may be specified by the Board with the approval of the Government.

Powers of Government or authorised officer to call for records.

21. The Government or any officer authorised by them in this behalf, may call for and examine the records of the Board for the purpose of supervising the working of the Board and may pass such orders as they or, as the case may be, he may think fit.

Mode of recovery of sums payable to Fund.

22. Any sum payable into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as an arrear of land revenue :

Provided that Government may confer powers as it may feel expedient so to do on such officers as it deems fit to realise dues payable to the fund under the provision contained under section 15 of the Payment of Wages Act, 1936 to the extent the dues are recoverable from the employer.

4 of 1936.

Penalty for obstructing inspection or for failure to produce documents, etc.

23. Any person who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act and the rules or fails to produce for inspection on demand by an Inspector any register, record or other document maintained in pursuance of the provisions of this Act or the rules or to supply to him on demand true copies of any such document shall, on conviction, be punished, -

(a) for the first offence, with imprisonment for a term which may extend to three months or with the fine which may extend to five hundred rupees or with both ; and

(b) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court in any case where the offender is sentenced to fine only, the amount of fine shall not be less than fifty rupees.

Cognizance of offence.

24. (1) No Court shall take cognizance of any offence punishable under this Act except on a complaint by, or with the previous sanction in writing of the Welfare Commissioner.

(2) No Court inferior to that of a Magistrate of First Class shall try any offence punishable by or under this Act.

Offences by Companies.

25. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

- (a) 'company' means a body corporate and includes a firm or other association of individuals ; and
- (b) 'director' in relation to a firm, means a partner in the firm.

Limitation of prosecution.

26. No court shall take cognizance of an offence punishable by or under this Act, unless a complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Power to supervise the welfare activities of an establishment.

27. In regard to any money set apart in any establishment specifically for the purpose of promoting the welfare of the employees in such establishment, the Board shall have power—

- (i) to require the production of any document in possession of the employer of the establishment in connection with such money to satisfy itself as to whether such money is being applied for such purposes ;
- (ii) to call for any such information from the employer of the establishment as it may deem relevant ; and
- (iii) to issue such directions to the employer of the establishment as it may deem fit for the purpose of utilising the Fund for promoting the welfare of the employees in the establishments.

Penalty for non-compliance with the direction of Board.

28. Any person who wilfully fails to produce any document required by the Board or to furnish any information called for by the Board or to comply with any direction issued by the Board under Section 27 shall, on conviction, be punished with—

- (i) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both ; and
- (ii) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

Provided that in the absence of special and adequate reasons to the contrary, to be mentioned in the judgement of the Court, in any case where the offender is sentenced to fine only, the amount of fine shall not be less than fifty rupees.

Annual report.

29. The Board shall, as soon as may be after the end of each year, prepare and submit to the Government before such date and in such form as may be prescribed, a report giving an account of its activities during the previous year and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Board in the next year. A copy of such report shall be laid before the State Legislature.

Earlier reconstitution of Board in certain cases.

30. If the Government are of opinion that the Board is unable to perform or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers, they may, by notification, reconstitute the Board at any time notwithstanding anything in sub-section (5) of section 4.

Delegation of powers.

31. (1) The Board may, by general or special order in writing, delegate to the Welfare Commissioner or any other officer of the Board such of its powers and functions under this Act, except the power to make regulations under section 36, as it may deem necessary, and it may in like manner withdraw such delegation.

(2) The exercise of any power delegated under this Act shall be subject to such restrictions and conditions as may be specified in the order and also subject to the control and revision by the Government or by such officers as may be empowered by the Government in this behalf or, as the case may be, by the Board or such officer as may be empowered by the Board in this behalf.

(3) The Government or the Board, as the case may be, shall also have the power to control and revise the acts and proceedings of any officer so empowered.

Officers and employees of Board to be public servants.

32. All officers and employees of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Protection of action taken in good faith.

33. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith, done or intended to be done in pursuance of this Act or any rules or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government or the Board for any damage caused or likely to be caused by anything which is, in good faith, done or intended to be done in pursuance of this Act or any rules or order made thereunder.

Powers of the Government to make rules.

34. (1) The Government may, by notification, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the agency for and the manner of collection of sums referred to in sub-section (3), of Section 3, and the period within which the same shall be paid to the credit of the Fund ;
- (b) the manner in which the accounts of the Fund shall be maintained and audited under sub-section (3) of Section 3 ;
- (c) the procedure for making grants out of the Fund ;
- (d) the procedure for defraying the expenditure incurred in administering the Fund ;
- (e) the number or representatives of the employers and employees on the Board ;
- (f) the allowances, if any, payable to them under Section 4 ;
- (g) the procedure to be followed at the meetings of the Board and the manner in which the Board shall conduct its business ;
- (h) the particulars in the notice regarding unpaid accumulations ;
- (i) the duties and powers of the Welfare Commissioner and the Inspectors and the conditions of service of the Welfare Commissioner and the Inspectors and other staff appointed by the Board under this Act ;
- (j) the registers and records to be maintained by the Board or its officers and staff under this Act including the register to be kept separately for the account of unpaid accumulations ;
- (k) the publication of the report of the activities of bodies financed from the Fund together with a statement of receipts and expenditure of the Fund and statement of accounts ;

(l) any other matter which is required to be, or may be, prescribed.

Power of
Board to
make
regulations.

35. (1) The Board may, by notification, make regulations, not inconsistent with this Act and the rules, for the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for :-

- (a) all matters expressly required or allowed by this Act or the rules, to be made by regulations ;
- (b) the terms and the conditions of appointment and service and the scales of pay of officers and staff of the Board, including the payment of travelling and daily allowances in respect of journeys undertaken by such officers and staff of the Board;
- (c) the supervision and control over the acts and proceedings of the officers and staff of the Board and the maintenance of discipline and conduct among the officers and staff of the Board ;
- (d) the procedure in regard to the transaction of business at the meeting of the Board including the quorum ;
- (e) the purpose for which and the manner in which temporary association of persons may be made ;
- (f) the duties, the functions, the terms and conditions of service of the members of the Committees ;
- (g) the manner and the form relating to the maintenance of the accounts of the Board.

(3) No regulation or its cancellation or modification shall have effect until the same has been approved by the Government.

(4) The Government may, by notification, rescind any regulation made under this section and, thereupon, the regulation shall cease to have effect.