

Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969

An Act for regulating the employment of unprotected manual workers employed in certain employments in the State of Maharashtra to make provision for their adequate supply and proper and full utilization in such employments, and for matters connected therewith;

WHEREAS, it is expedient to regulate the employment of unprotected manual workers such as, Mathadi, Hamal etc., engaged in certain employments, to make better provision for their terms and conditions of employment, to provide for their welfare, and for health and safety measures where such employments require these measures; to make provision for ensuring an adequate supply to, and full and proper utilization of, such workers in such employments to prevent avoidable unemployment; for these and similar purposes, to provide for the establishment of Boards in respect of these employments and (where necessary) in the different areas of the State; and to provide for purpose connected with the matters aforesaid;

It is hereby enacted in the Twentieth Year of the Republic of India as follows :-.

1. SHORT TITLE, EXTENT, APPLICATION AND COMMENCEMENT :-

(1) This Act may be called the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1969.

(2) It extends to the whole of the State of Maharashtra.

(3) It applies to the employments specified in the Schedule hereto.

(4A) Notwithstanding anything contained in sub-section (4), and in Government Notification, Industries and Labour Department, No. UMA. 1272/Lab-IV, dated the 28th March 1972, this Act shall be deemed to have come into force in the areas specified in column 2 of the Table below on the dates and in respect of the employments specified in columns specified in columns 3 and 4 against each such

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areas in the said Table, respectively. (4) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas, and for different employments, and for different provisions of the Act.

2. DEFINITIONS .-

- (1) "Board" means a Board established under section 6;
- (2) "contractor", in relation to an unprotected workers, means a person who undertakes to execute any work for an establishment by engaging such workers on hire or otherwise, or who supplies such worker either in groups, gangs (tollis), or as individuals; and includes a sub-contractor, an agent, a mukadum or a tolliwala;
- (3) "employer", in relation to any unprotected workers engaged by or through contractor, means the principal employer and in relation to any other unprotected worker, the person who has ultimate control over the affairs of the establishment, and includes any other person to whom the affairs of such establishment are entrusted, whether such person is called an agent, manager or is called by any other name prevailing in the scheduled employment;
- (4) "establishment", means any place or premises, including the precincts thereof, in which or in any part of which any scheduled employment is being or is ordinarily carried on;
- (5) "family", in relation to an employer, means, the spouse, son, daughter, father, mother, brother or sister of such employer who lives with him and is wholly dependent on him;
- (6) "Inspector" means an Inspector appointed under section 15;
- (7) "principal employer" means an employer who engages unprotected workers by or through a contractor in any scheduled employment;
- (8) "prescribed" means prescribed by rules;

(9) "scheduled employment" means any employment specified in the Schedule hereto or any process or branch of work forming part of such employment;

(10) "scheme" means a scheme made under this Act;

(11) "unprotected worker" means a manual worker who is engaged or to be engaged in any scheduled employment;

(12) "worker" means a person who is engaged or to be engaged directly or through any agency, whether for wages or not, to do manual work in any scheduled employment and, includes any person not employed by any employer or a contractor, but working with the permission of, or under agreement with the employer or contractor; but does not include the members of an employer's family.

(13) "wages" means all remunerations expressed in terms of money or capable of being so expressed which would, if the terms of contract of employment, express or implied were, fulfilled, be payable to an unprotected worker in respect of work done in any scheduled employment, but does not include - (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 State Government;

(ii) any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance and the interest which may have accrued thereon;

(iii) any traveling allowance or the value of any traveling concession;

(iv) any sum paid to the worker to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

3. SCHEMES FOR ENSURING REGULAR EMPLOYMENT OF UNPROTECTED WORKERS .-

(1) For the purpose of ensuring an adequate supply and full and

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proper utilization of unprotected workers in scheduled employments, and generally for making better provision for the terms and conditions of employment of such workers the State Government may by means of a scheme provide for the registration of employers and unprotected workers in any scheduled employment or employments, and provide for the terms and conditions of work of registered unprotected workers, and make provision for the general welfare in such employments.

(2) In particular, a scheme may provide for all or any of the following matters that is to say - (a) for the application of the scheme of such classes of registered unprotected workers and employers, as may be specified therein;

(b) for defining the obligations of registered unprotected workers and employers subject to the fulfillment of which the scheme may apply to them;

(c) for regulating the recruitment and entry into the scheme of unprotected workers, and the registration of unprotected workers and employers, including the maintenance of registers, removal, either temporarily or permanently, of names from the registers, and the imposition of fees for registration;

(d) for regulating the employment of registered unprotected workers, and the terms and conditions of such employment, including rates of wages, hours of work, maternity benefit, overtime payment, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

(d-i) for providing the time within which registered employers should remit to the Board the amount of wages payable to the registered workers for the work done by such workers; for requiring such employers who, in the opinion of the Board, make default in remitting the amount of wages in time as aforesaid, to deposit with the Board, an amount equal to the monthly average of the wages to be remitted as aforesaid; if at any time the amount of such deposit falls short of such average, for requiring the employer to make good the amount of such average, and for requiring such employers who persistently make default in making such remittances in time to pay also by way

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of penalty, a surcharge of such amount not exceeding 10 per cent. of the amount to be remitted as the Board may determine;

(e) for securing that, in respect of period during which employment or full employment is not available to registered unprotected workers though they are available for work, such unprotected workers will, subject to the conditions of the scheme, receive a minimum wage;

(f) for prohibiting, restricting or otherwise controlling the employment of unprotected workers to whom the scheme does not apply, and the employment of unprotected workers by employers to whom the scheme does not apply;

(g) for the welfare of registered unprotected workers covered by the scheme in so far as satisfactory provision therefore, does not exist, apart from the scheme;

(h) for health and safety measures in places where the registered unprotected workers are engaged, in so far as satisfactory provision therefore, is required but does not exist, apart from the scheme;

(i) for the constitution of any fund or funds including provident fund for the benefit of registered unprotected workers, the vesting of such funds, the payment and contributions to be made to such funds, (provision for provident fund and rates of contribution being made after taking into consideration the provisions of the Employees' Provident Funds Act, 1952, and the scheme framed there under with suitable modifications, where necessary, to suit the conditions of work of such registered unprotected workers) and all matters relating thereto;

(j) for the manner in which, the day from which (either prospective or retrospective) and the persons by whom, the cost of operating the scheme is to be defrayed

(k) for constituting the persons or authorities who are to be responsible for the administration of the scheme, and for the administration of funds constituted for the purposes aforesaid;

(k-i) for specifying the powers and duties which the persons or

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authorities referred to in clause (k) may exercise or perform, for providing appeals and revision applications against the decisions or orders of such persons and authorities; and for deciding such appeals and applications and for matters incidental thereto;

y be

(l) for such incidental and supplementary matters, as necessary or expedient for giving effect to the purposes of a scheme;

(3) The scheme may further provide that a contravention of any provision thereof shall be punished with imprisonment for such term as 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 extend to such amount as may be specified (but in no case exceeding five hundred rupees in respect of the first contravention, or one thousand rupees in respect of any subsequent contravention) or with both imprisonment and fine and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

4. MAKING, VARIATION AND REVOCATION OF SCHEME .-

(1) The State Government may, after consultation with the Advisory Committee, by notification in the Official Gazette and subject to the condition of previous publication, make one or more schemes for any scheduled employment or group of scheduled employments, in one or more areas specified in the notification; and in like manner add to, amend, vary or substitute another scheme for, any scheme made by it :

Provided that, no such notification shall come into force, unless a period of one month has expired from the date of publication in the Official Gazette:

Provided further that, the State Government may - (a) if it considers necessary, or

(b) if a demand or request is made by a majority of the employers or workers in any other scheduled employment, that the provisions of any scheme so made for any scheduled employment or any part

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thereof should be applied to such other scheduled employment, after consulting the employers and workers in such scheduled employment by notification in the Official Gazette, apply the provisions of such scheme or part thereof to such scheduled employment, with such modifications, if any, as be specified in the notification.

(2) The provisions of section 24 of the Bombay General Clauses Act, 1904, shall apply to the exercise of the power given by sub-section (1) as they apply to the exercise of a Power given by a Maharashtra Act to make rules subject to the condition of previous publication.

5. DISPUTES REGARDING APPLICATION OF SCHEME .-

If any question arises whether any scheme applies to any class of unprotected workers or employers, the matter shall be referred to the State Government and the decision of the State Government on the question, which shall be taken after consulting the Advisory Committee constituted under section 14, shall be final.

6. CONSTITUTION OF BOARD .-

(1) The State Government may, by notification in the Official Gazette, establish a Board to be known by such name as may be specified in the notification of any scheduled employment in any area. One or more Boards may be appointed for one or more scheduled employments, and for one or more areas :

Provided that, the Boards established for the scheduled employments specified in column 4 of the Table appended to sub-section (4A) of section 1 in the area of Greater Bombay shall be the Boards deemed to have been established also for such scheduled employments in the areas and on the dates specified in columns 2 and 3 of the said Table, respectively.

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

(3) The Board shall consist of members nominated from time to time by the State Government representing the employers, the unprotected workers, and the State Government.

(4) The members representing employers and unprotected workers shall be equal in number, and the members representing the State Government shall not exceed one-third of the total number of members representing employers and unprotected workers.

(5) The Chairman of the Board shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.

(6) After nomination of all the members of the Board including the Chairman the State Government shall, by notification in the Official Gazette, publish the names of all the members of the Board.

(7) The term of office of members of the Board shall be such as may be prescribed. (7A) There shall be paid to every member (not being a member representing the State Government) from the fund of the Board, traveling and daily allowances.

For attending meetings of the Board at such rates as may be prescribed.

(8) The meetings of the Board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject to the approval of the State Government, be regulated by the Board itself.

6A. POWER OF STATE GOVERNMENT TO APPOINT BOARD CONSISTING OF ONE PERSON .-

(1) Where by reason of employers or unprotected workers in any scheduled employment refusing to nominate persons for representing them on the Board or for any reasons whatsoever, it appears to the State Government that it is unable to constitute a Board for such scheduled employment in accordance with the provisions of section 6, the State Government may, by notification in the Official Gazette, appoint a person who shall hold office until a Board is duly constituted under section 6 for such scheduled employment.

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(2) The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board by or under this Act. He shall continue in office until the day immediately preceding the date of the first meeting of such Board.

(3) The person constituting the Board shall receive such remuneration from the fund of the Board, and the terms and other conditions of service shall be such as the State Government may determine.

7. POWERS AND DUTIES OF BOARD .- (1) The Board shall be responsible for administering a scheme, and shall exercise such powers and perform such functions as may be conferred on it by the scheme.

(2) The Board may take such measures as it may deem fit for administering the scheme.

(3) The Board shall submit to the State Government, as soon as may be, after the 1st of April every year, and not later than the 31st day of October, an annual report on the working of the scheme during the preceding year ending on 31st day of March of that year. Every report so received shall be laid as soon as may be after it is received before each House of the State Legislature if it is in session, or in the session immediately following the date of receipt of the report.

(4) In exercise of the powers and discharge of its functions, the Board shall be bound by such directions as the State Government may, for reason to be stated in writing, give to it from time to time.

8. ACCOUNTS AND AUDIT .- (1) The Board shall maintain proper accounts and other relevant record and prepare an annual statement of accounts, including a balance-sheet in such form as may be prescribed.

(2) The accounts of the Board shall be audited annually by such qualified person as the State Government may appoint in this behalf.

(3) The auditor shall at all reasonable times have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require, or examine any member or officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon shall be forwarded annually to the State Government before such date as the State Government may specify in this behalf.

(5) The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.

(6) The cost of audit, as determined by the State Government, shall be paid out of the funds of the Board.

9. DISQUALIFICATIONS AND REMOVAL .- (1) No person shall be chosen as, or continue to be, a member of the Board who - (a) is a salaried officer of the Board; or

(b) is or at any time has been adjudged insolvent; or

(c) is found to be a lunatic or becomes of unsound mind; or

(d) is or has been convicted of any offence involving moral turpitude.

(2) The State Government may remove from office any 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.

(3) Notwithstanding anything contained in sub-sections (5) and (7) of section 6 or other provisions of this Act or the rules made thereunder, the members (including the chairman), whether nominated before or after the commencement of the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) (Amendment) Act, 1990, shall hold office during the pleasure of the

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State Government and, if in the opinion of the State Government, -
(a) the member representing the employers or the unprotected workers, ceases to adequately represent the employers, or as the case may be, the unprotected workers; or

(b) having regard to the exigencies of circumstances or service in the State Government, the member (including the Chairman) representing the State Government cannot continue to represent the State Government, the State Government may, by order remove all or any of them (including the Chairman from office at any time.

10. RESIGNATION OF OFFICE BY MEMBER .- Any member of the Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of resignation, become vacant.

11. VACANCY TO BE FILLED AS EARLY AS POSSIBLE .- In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the State Government, and the vacancy shall be filled not later than ninety days from the date of the occurrence of the vacancy, and the person nominated to fill in the vacancy shall hold office so long only as the member in whose place he is nominated would have held it if the vacancy had not occurred :

Provided that, during any such vacancy, the continuing members may act as if no vacancy has occurred.

12. PROCEEDINGS PRESUMED TO BE GOOD AND VALID .- No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

13. DETERMINATION OF MONEYS DUE FROM EMPLOYERS AND WORKERS .- (1) The Board or such officer as may be specified by it in this behalf may, by order, determine any sum due from any employer or worker under this Act or any scheme made there under, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

(2) The Board or such officer, conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely :- (a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

(3) No order determining the sum from any employer or worker shall be made under sub-section (1), unless the employer or worker, as the case may be, is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be questioned in any Court.

(5) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.

14. ADVISORY COMMITTEE .- (1) The State Government may constitute a Advisory Committee to advise upon such matters arising out of the administration of this Act or any scheme made under this Act or relating to the application of the provisions of this Act to any particular class of unprotected workers and employers, or co-ordination of the work of various Boards, as the Advisory Committee may itself consider to be necessary or as the State Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the State Government and shall be of such number and chosen in such a manner as may be prescribed by rules made under this Act :

Provided that, the Advisory Committee shall include an equal number

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of members representing employers, workers and the Legislature of the State and members representing the State Government not exceeding one-fourth of its total number of members.

(3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.

(4) The State Government shall publish in the Official Gazette, the names of all the members of the Advisory Committee.

(5) The meetings of the Advisory Committee and procedure to be followed for the purpose shall be regulated according to rules made under this Act.

(6) The term of office of members of the Advisory Committee shall be such a may be prescribed.

(7) The member of the Advisory Committee (not being a member representing the State Government) shall receive traveling and daily allowances for attending meetings of the Committee at such rates as may be prescribed.

15. INSPECTORS AND THEIR POWERS .- (1) The Board may appoint such persons as it thinks fit to be Inspectors possessing the prescribed qualifications for the purposes of this Act or of any scheme and may define the limits of their jurisdiction.

(2) Subject to any rules made by the State Government in this behalf, an Inspector may - (a) entry and search at all reasonable hours, with such assistants as he thinks fit, any premises or place, where unprotected workers are employed, or work is given out to unprotected workers in any scheduled employment, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any scheme, and require the production thereof, for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an unprotected worker employed therein or an unprotected worker to whom work is

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given out therein;

(c) require any person giving any work to an unprotected worker or to a group of unprotected workers to give any information, which is in his power to give, in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work;

(d) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant, in respect of an offence under this Act or scheme, which he has reason to believe has been committed by an employer; and

(e) exercise such other powers as may be prescribed : Provided that, no one shall be required under the provisions of this section to answer any question or make any statement tending to incriminate himself.

(3) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

16. PROHIBITION OF EMPLOYMENT OF CHILDREN .- No child shall be required or allowed to work in any scheduled employment.

Explanation : 'Child' means a person who has not completed fourteen years of age.

17. OFFENCE TO BE TRIED BY LABOUR COURT .- Every offence punishable by or under this Act (including any offence made punishable by a scheme made under this Act) shall be tried by the Labour Court, within the local limits of whose jurisdiction the offence was committed.

17A. LABOUR COURT UNDER BOMBAY INDUSTRIAL RELATIONS ACT TO BE LABOUR COURT UNDER THIS ACT ALSO .-

A Labour Court constituted under the Bombay Industrial Relations Act, 1946, for local area, shall also be a Labour Court constituted for

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that area for the purposes of this Act; and accordingly shall have the same powers to try any offence made punishable by or under this Act, as it has to try any offence punishable by or under that Act. 17B. COGNIZANCE OF OFFENCE ON COMPLAINT.-No Labour Court shall take cognizance of any offence punishable by an Inspector or by a person specially authorised in this behalf by the Board or the State Government.

17C. APPEAL FROM LABOUR COURT TO INDUSTRIAL COURT .-

(1) Notwithstanding anything contained in this Act, an appeal shall lie to the Industrial Court, - (a) against a conviction by a Labour Court, by the person convicted;

(b) against an acquittal by a Labour Court, by the complainant;

(c) for enhancement of a sentence awarded by the Labour Court by the State Government.

(2) Every appeal shall be made within thirty days from the date of the conviction, acquittal or sentence, as the case may be :

Provided that, the Industrial Court may, for sufficient reasons to be recorded in writing, allow an appeal after the expiry of the said period.

17D. INDUSTRIAL COURT UNDER BOMBAY INDUSTRIAL RELATIONS ACT TO BE INDUSTRIAL COURT UNDER THIS ACT ALSO .- The Industrial Court constituted under the Bombay Industrial Relations Bom. Act, 1946, shall also be the Industrial Court constituted for the purposes of this Act; and accordingly shall have the same powers to entertain any appeals or references against or in any proceeding, decision, conviction, acquittal, sentence or order by or of the Labour Court, as it has in these matters under that Act.

17F. CASES TO BE DISPOSED OF BY LABOUR COURT AND INDUSTRIAL COURT WITHIN THREE MONTHS .- (1) An endeavor shall be made by the the Labour Court to hear and dispose of a complaint of an offence publishable by or under the Act, as far as possible, within three months from the date the complaint is made to it.

(2) An endeavor shall be made by the Industrial Court to hear and dispose of any appeal or reference made to it under this Act, as far as possible, within three months from the date such appeal or reference is made to it.

17G. OTHER RELEVANT PROVISIONS OF BOMBAY INDUSTRIAL RELATIONS ACT TO APPLY AND TO BE FOLLOWED .- Except as otherwise provided in this Act, in the trial of an offence punishable by or under this Act by the Labour Court, for hearing and disposal of any appeal or reference by the Industrial Court, and in other respects, the provisions of sections 85, 85A, 110 and 118B and other relevant provisions of the Bombay Industrial Relations Act, 1946, shall, so far as may be, apply, and be followed by these Courts and the parties concerned.

18. APPLICATION OF WORKMEN'S COMPENSATION ACT TO UNPROTECTED WORKERS .- The provisions of the Workmen's Compensation Act, 1923, and the rules made from time to time there under, shall mutatis mutandis apply to registered of unprotected workers employed in any scheduled employment to which this Act applies; and for that purpose they shall be deemed to be workmen within the meaning of that Act; and in relation to such workmen, employer shall mean where a Board makes payment of wages to any such workmen, the Board, and in any other case, the employer as defined in this Act.

19. APPLICATION OF THE PAYMENT OF WAGES ACT, 1936, TO WORKERS .- (1) Notwithstanding anything contained in the Payment of Wages Act, 1936, (hereinafter referred to in this section as "the said Act"), the State Government may, by notification in the official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of registered unprotected workers employed in any scheduled employment to which this Act applies, with the modification that in relation to registered unprotected workers employer shall mean where a Board makes payment of wages to any such worker, the Board, and in any other case, the employer as defined in this Act; and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of such provisions of the said Act within the local

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limits of his jurisdiction.

(2) The State Government may, only if the Advisory Committee so advises, by a like notification cancel or vary any notification issued under sub-section (1).

20. APPLICATION OF MATERNITY BENEFIT ACT, TO UNPROTECTED WOMEN WORKERS .- Notwithstanding anything contained in the Maternity Benefit Act, 1961 (hereinafter referred to in this section as "the said Act") the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to registered unprotected women workers employed in any scheduled employment to which this Act applies; and for that purpose they shall be deemed to be women within the meaning of the said Act; and in relation to such women employer shall mean where a Board makes payment of wages to such women, the Board; and in any other case, the employer as defined in this Act; and on such application of the provision of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of such provisions of the said Act within the local limits of his jurisdiction.

21. RIGHTS AND PRIVILEGES UNDER OTHER LAWS NOT AFFECTED, IN CERTAIN CASES .- Nothing contained in this Act shall affect any rights or privileges, which any registered unprotected worker employed in any scheduled employment is entitled to, on the date on which this Act comes into force, under any other law, contract, custom or usage applicable to such workers, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act and the scheme :

Provided that, such worker will not be entitled to receive any corresponding benefit under the provisions of this Act and the scheme.

22. EXEMPTIONS .- The State Government may, after consulting the Advisory Committee, by notification in the Official Gazette, and subject to such conditions and for such period as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act or any scheme made there under, all or any

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class or classes of unprotected workers employed in any scheduled employment, or in any establishment or part of any establishment of any scheduled employment, if in the opinion of the State Government all such unprotected workers or such class or classes of workers, are in the enjoyment of benefits which are on the whole not less favourable to such unprotected workers than the benefits provided by or under this Act or any scheme framed there under :

Provided that, before any such notification is issued, the State Government shall publish a notice of its intention to issued such notification and, invite objections and suggestions in respect thereto, and no such notification shall be issued until the objections and suggestions have been considered and a period of one months has expired from the date of first publication of the notice in the Official Gazette :

Provided further that, the State Government may, by notification in the Official Gazette, at any time, for reasons to be specified, rescind the aforesaid notification.

23. ENQUIRY INTO WORKING OF THE BOARD .- (1) The State Government may at any time appoint any person to investigate or enquire into the working of any Board or scheme and submit a report to the State Government in that behalf.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of their investigation or inquiry, and furnish to him such documents, accounts or information in possession of the Board as he may require.

(3) Any person so appointed to investigate or inquire into the working of any Board or scheme may exercise all the powers of an Inspector appointed under this Act.

24. SUPERSESSION OF THE BOARD .- (1) If the State Government, on consideration of the report referred to in sub-section (1) of section 23 or otherwise, is of the opinion - (a) that the Board is unable to perform its functions; or

(b) that the Board has persistently made default in the discharge of its

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functions or has exceeded or abused its powers, the State Government may, by notification in the Official Gazette, supersede the Board and constitute it in the prescribed manner, within a period of twelve months from the date of supersession.

The period of Supersession may be extended for sufficient reasons by a like notification by not more than six months :

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the State Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the Board.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act shall be exercised and performed by the State Government, or by such officer or officers' as the State Government may appoint for this purpose.

(3) When the Board is superseded the following consequences shall ensue, that is to say - (a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1) vacate their office;

(b) all the powers and functions, which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such persons as may be specified in the notification;

(c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government and on the reconstitution of the Board, such funds and property shall revert in the Board.

25. CONTRACTING OUT .- Any contract or agreement, whether made before or after the commencement of this Act, whereby a registered unprotected worker relinquishes any right conferred by, or any privilege or concession accruing to him, under this Act or any scheme, shall be void and of no effect in so far as it purports to deprive him of such right or privilege or concession.

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26. AMENDMENT OF SCHEDULE .- The State Government after giving by notification in the Official Gazette not less than three months' notice of its intention so to do, may by like notification, modify any item of the Schedule or add to the Schedule any employment in respect of which it is of opinion that the provisions of this Act should apply and the provisions of this Act shall thereupon apply to such employment as modified or added.

27. GENERAL PENALTY FOR OFFENCES .- Save as otherwise expressly in this Act, any person, who contravenes any of the provisions of this Act or any rule made thereunder shall, on conviction by a Labour Court or the Industrial Court, be punished with fine which may extend to five hundred rupees, and in case of continued contravention thereof, with an additional fine which may extend to one hundred rupees per day for every day during which such contravention continues.

27A. PROTECTION OF ACTION TAKEN UNDER THIS ACT .- No suit, prosecution or other legal proceedings shall lie against the State Government or the Board or the Chairman, Secretary, or any member of the Board or Advisory Committee, or any Inspector or any other officers of the Board for anything which is in good faith done or intended to be done in pursuance of this Act, or any scheme or any rule or order made there under.

28. RULES .- (1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) Every scheme under this Act and rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the scheme or rule or both Houses agree that the scheme, any provision thereof or rule should not be made, the scheme or such provision or rule shall from the date of publication of a notification in the Official Gazette of such decision have effect only

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in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that scheme, provision, or as the case may be, rule.

Sch.1. THE SCHEDULE. .-

See section 2(9)

1. Employment in Iron and Steel Market or shops in connection with loading, unloading, stacking, carrying weighing, measuring or such other work including work preparatory or such operations.
2. Employment in Cloth and Cotton Markets or shops in connection with loading, unloading, stacking, carrying, weighing, 1 measuring, filing, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.
3. Employment in docks in connection with loading, unloading, stacking, carrying, weighing, measuring or such other work including work preparatory or incidental to such operations, but does not include employment of a Dock Worker within the meaning of the Dock Workers (Regulation of Employment) Act, 1948.
4. Employment in Grocery Markets or shops, in connection with loading, unloading, stacking, carrying, weighing, measuring, filing, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.
5. Employment in markets, and factories and other establishments, in connection with loading, unloading, stacking, weighing, measuring, filing, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations carried on by workers not covered by any other entries in this Schedule.
6. Employment in railway yards an goods-sheds in connection with loading, unloading, stacking, weighing, measuring or such other work preparatory or incidental to such operations by workers who are not employed by Railway Authorities.

7. Employment in connection with loading of goods into public transport vehicle or unloading of goods therefrom and any other operation incidental and connected thereto.
8. Employment in vegetable markets (including onions and potatoes markets) in connection with loading, unloading, stacking, carrying weighing, measuring, filling, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.
9. Employment in markets or subsidiary markets established under Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.
10. Employment in Khokha making, and in timber market.
11. Employment in salt pans.
12. Employment in fishing industry.
13. Employment in connection with the loading, unloading and carrying of foodgrains into godowns sorting and cleaning of foodgrains, filling foodgrains in bags, stitching of such bags and such other work incidental and connected thereto.
14. Employment in establishment engaged in cleaning, sorting, loading, unloading, stacking, carrying, weighing, measuring, stitching, filling of onions or onion bags and such other work including the work preparatory or incidental or such operations.

Sch.2.. SCHEDULE I .-

see section 20(2)

THE INDUSTRIAL DISPUTES ACT, 1947

1. In section 3, to sub-section (1), the following proviso shall be added, namely :- "Provided that, where there is a recognised union for any undertaking under any law for the time being in force, then the

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recognised union shall appoint its nominees to represent the workmen who are engaged in such undertaking.

Explanation : In the proviso to sub-section (1), the expression "undertaking" includes an establishment.

2. In section 10, in sub-section (2), after 'appropriate Government' insert "on such application being made by a union recognised for any undertaking under any law for the time being in force, and in any other case."

3. In section 10-A - (a) in sub-section (1) after the words "workmen" the words "and where under any law for the time being in force, there is a recognised union in respect of any undertaking, the employer and such recognised union" shall be inserted;

(b) to sub-section (3-A), the following proviso shall be added, namely "Provided that, nothing in this sub-section shall apply, where a dispute has been referred to arbitration in pursuance of an agreement between the employer and the recognised union under sub-section (1) of this section;"

(c) in sub-section (4-A), after the words, brackets, figure and letter "sub-section (3-A)" the words "or where there is a recognised union for any undertaking under any law for the time being in force and an industrial dispute has been referred to arbitration" shall be inserted.

4. In section 18, - (a) to sub-section (1) the following proviso shall be added, namely :- "Provided that, where there is a recognised union for any undertaking under any law for the time being in force, then such agreement (not being an agreement in respect of dismissal, discharge, removal, retrenchment, termination of service, or suspension of an employee) shall be arrived at between the employer and the recognised union only; and such agreement shall be binding on all persons referred to in clause (c), and clause (d), of sub-section (3) of this section." (b) in sub-section (3), after the word, figure, and letter "section 10A" the words "or an arbitration award in case where there is a recognised union for any undertaking under any law for the time being in force" shall be inserted. 5. In section 19, - (a) after sub-section (2), the following sub-section shall be added, namely :-

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"(2A) Notwithstanding anything contained in this section, where a union has been recognised under any law for the time being in force, or where any other union is recognised in its place under such law, then notwithstanding anything contained in sub-section (2), it shall be lawful to any such recognised union to terminate the settlement after giving two months' written notice to the employer in that behalf." (b) to sub-section (7), the following shall be added, namely :- "and where there is a recognised union for any undertaking under any law for the time being in force, by such recognised union." 6. In section 36, to sub-section (1), the following shall be added, namely :- "Provided that, where there is a recognised union for any undertaking under any law for the time being in force, no workman in such undertaking shall be entitled to be represented as aforesaid in any such proceeding (not being a proceeding in which the legality or propriety of an order of dismissal, discharge, removal, retrenchment, termination of service, or suspension of an employee is under consideration) except by such recognised union."

Sch.3.. SCHEDULE. II .-

UNFAIR LABOUR PRACTICES ON THE PART OF EMPLOYERS

1. To interfere with, restrain or coerce employees in the exercise of their right to organise, form, join or assist a trade union and to engage in concerned activities for the purposes of collective bargaining or other mutual aid or protection, that is to say - (a) threatening employees with discharge or dismissal, if they join a union;

(b) threatening a lock-out or closure, if a union should be organised;

(c) granting wage increase to employees at crucial periods of union organisation, with a view to undermining the efforts of the union at organisation.

2. To dominate, interfere with, or contribute, support - financial or otherwise - to any union, that is to say - (a) an employer taking an active interest in organising a union of his employees; and

(b) an employer showing partiality or granting favour to one of several

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unions attempting to organise his employees or to its members, where such a union is not a recognised union.

3. To establish employer sponsored unions.

4. To encourage or discourage membership in any union by discriminating against any employee, that is to say - (a) discharging or punishing an employee because he urged other employees to join or organise a union;

(b) discharging or dismissing an employee for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Act);

(c) changing seniority rating of employees because of union activities;

(d) refusing to promote employees to higher posts on account of their union activities;

(e) giving unmerited promotions to certain employees, with a view to sow discord amongst the other employees, or to undermine the strength of their union;

(f) discharging office-bearers or active union members, on account of their union activities.

5. To refuse to bargain collectively, in good faith, with the recognised union. 6. Proposing or continuing a lock-out deemed to be illegal under this Act.

Sch.3... SCHEDULE. III .-

UNFAIR LABOUR PRACTICES ON THE PART OF THE TRADE UNIONS

1. To advise or actively support or instigate any strike deemed to be illegal under this Act.

2. To coerce employees in the exercise of their right to self-organisation or to join unions or refrain from joining any union, that is

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to say - (a) for a union or its members to picketing in such a manner that non-striking employees are physically debarred from entering the workplace;

(b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking employees or against managerial staff.

3. For a recognised union to refuse to bargain collectively in good faith with the employer.

4. To indulge in coercive activities against certification of a bargaining representative.

5. To stage, encourage or instigate such forms of coercive actions as willful "go-slow" squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.

6. To stage demonstrations at the residences of the employers or the managerial staff members.

Sch.4... SCHEDULE VI .-

GENERAL UNFAIR LABOUR PRACTICES ON THE PART OF EMPLOYERS

1. To discharge or dismiss employees - (a) by way of victimisation;

(b) not in good faith, but in colourable exercise of the employer's rights;

(c) by falsely implicating an employee in a criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegations of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

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(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record of service of the employee, so as to amount to a shockingly disproportionate punishment.

2. To abolish the work of a regular nature being done by employees, and to give such work to contractors as a measure of breaking a strike.

3. To transfer an employee mala fide from one place to another, under the guise of following management policy.

4. To insist upon individual employees, who were on legal strike, to sign a good conduct-bond, as a pre-condition to allowing them to resume work.

5. To show favouritism or partiality to one set of workers, regardless of merits.

6. To employ employees as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent employees.

7. To discharge or discriminate against any employee for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.

8. To recruit employees during a strike which is not an illegal strike.

9. Failure to implement award, settlement or agreement.

10. To indulge in act of force or violence.