

**DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT,
1948**

9 of 1948

[4th March, 1948]

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OBJECTS AND REASONS "The demand for docklabour is intermittent depending on the arrival and departure of vessels, the size and nature of their cargo as well as seasonal and cyclical fluctuations. In the ports, therefore, there is usually labour in excess of minimum requirements and the general tendency on the part of employers is to ensure larger reserves than necessary in order to provide ample margin against emergencies. The main

problem connected with dock labour is to devise measures so as to reduce the hardship due to unemployment or underemployment to the utmost extent possible. The Royal Commission on Labour recommended as far back as 1931 that a policy of decasualisation should be adopted with a view 'to regulate the numbers of dock labourers in accordance with requirements and to ensure that the distribution of employment depends not on the caprice of intermediaries, but on a system which, as far as possible, gives all efficient men an equal share'. Government had accepted the recommendation and efforts were made to induce Port Trusts to formulate necessary schemes of decasualisation. The voluntary attempt was not, however, a success and a scheme for compulsory registration was formulated in 1939 but was not proceeded with due to the outbreak of war. Although the operation of certain measures introduced during the war, such as rationing and organised distribution of food supplies, facilitated the registration of labour at major ports, the problem, in the main, has remained unsolved. It is now proposed to undertake legislation giving power to the Central Government in respect of major ports and to the Provincial Governments in respect of other ports, to frame a scheme for the registration of dock workers with a view to securing greater regularity of employment and for regulating the employment of dock workers, whether registered or not, in a port. In particular, the scheme may provide inter alia for the terms and conditions of employment of workers, whether registered or not, including rates of remuneration, hours of work and conditions as to paid holidays. It may also provide for payment to registered workers of minimum pay for days on which work may not be available to them and for their training and welfare. Provision is also made in the Bill for the constitution of an Advisory Committee consisting of not more than 15 members representing the Government, the dock workers and the employers of dock workers in equal proportion. In the framing and administration of the schemes the appropriate Government will take the advice of the Committee." -Gazette of India, 1947, Part V p. 432. Act No. 49 of 1980. The Dock Workers (Regulation of Employment) Act, 1948 does not contain any express provision authorising the Dock Labour Boards established thereunder to create funds and administer them for the welfare of dock workers and other purposes. The Committee on Subordinate Legislation of the Fifth Lok Sabha in its Twelfth Report recommended that the Act may be amended so as to provide therein an express provision for the aforesaid purpose. As

the Dock Labour Boards are already maintaining such funds for the purpose of administering Dock Workers (Regulation of Employment) Schemes, it is proposed to regularise such funds and also to authorise the Dock Labour Boards to create such funds in future. 2. As recommended by the Committee on Subordinate Legislation of the Sixth Lok Sabha in its Seventh Report, it is also proposed to make a provision in the Act for laying of schemes framed thereunder before Parliament. Opportunity is being taken to bring the rule laying provision in conformity with the recommendation of the Committee on Subordinate Legislation. 3. The Bill seeks to achieve the above objects.- S.O.R. Gaz. of India, 28-7-80, Pt. II, S. 2, Ext., p. 779. Act No. 56 of 1988 In 1984, the Committee on Papers laid on the Table (Seventh Lok Sabha) recommended that the annual reports and audited accounts of all the Dock Labour Boards should be placed on the Table of the House along with a Review of Government within nine months of the close of accounting year and also recommended that, if necessary, an amendment of the Dock Workers (Regulation of Employment) Act, 1948 or the rules, if any, may also be carried out to this effect. The Bill is for amending the Dock Workers (Regulation of Employment) Act, 1948 so as to provide _ (i) that the Dock Labour Boards shall submit their annual reports to the Government (There is already provision in the Act for submitting the audited accounts to the Government); and (ii) for the laying of annual reports and the audited accounts on the Table of the Houses of Parliament or the State Legislature, as the case may be. 2. The Bill seeks to achieve the above objects, -Gaz. of Ind., 28-8-87, Pt. II, S.2, Ext., p. 55 (No. 44). ACT HOW AFFECTED BY SUBSEQUENT LEGISLATION Amended by Acts 8 of 1962; 31 of 1970; 49 of 1980; 54 of 1986; 56 of 1988. -Extended by Acts 59 of 1949; 30 of 1950; I of 1962; Regns. 7 of 1963; 8 of 1965 and Born. Act 68 of 1954.

1. Short title and extent :-

(1) This Act may be called the Dock Workers (Regulation of Employment) Act, 1948.

(2) It extends to the whole of India ¹ [except the State of Jammu and Kashmir.]

1. Substituted for "except Part B States" by the Part B States (Laws) Act, 1951 (3 of 1951), and 3 and Schedule (1-4-1951).

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

¹[a] "Board" means a Dock Labour Board established under S. 5-A;] ¹ [(aa)] "cargo" includes anything carried or to be carried in a ship or other vessel;

(b) "dock worker" means a person employed or to be employed in, or in the vicinity of, any port on work in connection with the loading, unloading, movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving port;

(c) "employer", in relation to a dock worker, means the person by whom he is employed or to be employed as aforesaid;

(d) "Government" means, in relation to any major port, the Central Government and, in relation to any other port, the [State] Government;

(e) "scheme" means a scheme made under this Act.

1. New clause (a) inserted and original clause (a) renumbered as (aa) by Act 8 of 1962, Section 2 (1-6-1962).

3. Scheme for ensuring regular employment of workers :-

(1) Provision may be made by a scheme for the registration of dock workers ¹[and employers] with a view to ensuring greater regularity of employment and for regulating the employment of dock workers, whether registered or not, in a port.

(2) In particular, a scheme may provide -

(a) for the application of the scheme to such classes of dock workers and employers as may be specified therein;

(b) for defining the obligations of dock workers and employers subject to the fulfilment of which the scheme may apply to them and the circumstances in which the scheme shall cease to apply to any dock workers or employers;

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

(d) for regulating the employment of dock workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof;

(e) for securing that, in respect of periods during which employment, or full employment, is not available for dock workers to whom the scheme applies and who are available for work, such workers will, subject to the conditions of the scheme, receive a minimum pay;

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

²[ff] for creating such fund or funds as may be necessary or expedient for the purposes of the scheme and for the administration of such fund or funds;]

(g) for the training ³[x x x] of dock workers, in so far as satisfactory provision therefor does not exist apart from the scheme;

⁴[(gg) for the welfare of the officers and other staff of the Board;]

⁵[x x xx x]

(i) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed;

⁶(j) for constituting ⁷ [* * * * *] the authority to be responsible for the administration of the scheme;]

(k) for such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

(3) A scheme may further provide that a contravention of any provision thereof shall be punishable 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 a first contravention or one thousand rupees in respect of any subsequent contravention or with both imprisonment

and fine as aforesaid.

OBJECTS AND REASONS Clause (j).- "A scheme made by the appropriate Government under the Dock Workers (Regulation of Employment) Act, 1948, may, inter alia, provide "for constituting or prescribing the authority to be responsible for the administration of the scheme". The constituted authority in the discharge of its functions may have to borrow or raise money and issue debentures, etc., for the purpose of securing any debt or mortgaging or charging any of its property and it is therefore desirable that the authority should be clothed with a corporate status in certain cases. As the Act does not in express terms confer power to create a Corporation or to give corporate status to any body functioning under it, a specific amendment of the Act is being undertaken for this purpose."-S. O. R., Gazette of India, 1949, Pt. V, p. 84. "Section 3 of the Dock Workers (Regulation of Employment) Act, 1948, provides for framing a scheme for the registration of dock workers with a view to ensuring greater regularity of employment and for regulating the employment of dock workers. Clause (j) of sub-section (2) of that section provides that a scheme itself may constitute an authority which may be a body corporate for the administration of the scheme. It is proposed that the Act itself should contain provisions for setting up of autonomous Dock Labour-Boards for the administration of schemes framed under the Act for a port or a group of ports. The Bill makes such a provision. The Bill further provides for the audit of accounts of Dock Labour Boards, for the issue of directions by Government to the Boards, for inquiry into the working of the Board and for their supersession in certain contingencies. Section 3 (2) of the Act provides for registration of dock workers and for the imposition of registration fee. It is proposed to provide for the registration of employers as well and for the imposition of a registration fee in respect of them." - S. O. R., Gaz. of India, 2-12-1961, Pt. II, S. 2, Ext., p. 890.

1. Inserted by the Dock Workers (Regulation of Employment) Amendment Act, 1962 (8 of 1962), Section 3(a) (1-6-1962).
2. Inserted, and deemed always to have been inserted, by Act 49 of 1980, S.
3. Words "and welfare" in cl. (g) omitted by the Dock Workers (Safety, Health and Welfare) Act (54 of 1986), S.23(a) (15-4-87).
4. Inserted by Act 31 of 1970, Section 2 (28-8-1970).
5. Cl. (h) omitted, *ibid*, S. 23(b).
6. Substituted for former clause (j) by Act 29 of 1949, Section 2 (22-4-1949).
7. Words "whether as a body corporate or otherwise" omitted by Act 8 of 1962, S. 3(b)(ii) (1-6-1962).

4. Making, variation and revocation of schemes :-

(1) The Government may, by notification in the Official Gazette and subject to the condition of previous publication, make one or more

schemes for a port or group of ports and may in the like manner and subject to the like condition add to, amend, vary or revoke any scheme made by it.

(2) The provisions of Section 23 of the General Clauses Act, 1897, shall apply to the exercise of a power given by sub-section (1) as they apply to the exercise of a power given by a Central Act to make rules subject to the condition of previous publication.

(3) The Government may direct the port authority of any port to prepare, in accordance with such instructions as may from time to time be given to it, one or more draft schemes for the port, and the port authority shall comply with such direction.

5. Advisory Committees :-

(1) The Government may, or if it decides to make any , scheme under section 4 , shall constitute an Advisory Committee, to advise upon such matters arising out of the administration of this Act or any scheme made thereunder as the Government may refer to it for advice.

[(2) The members of the Advisory Committee shall be appointed by the Government and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act: Provided that the Advisory Committee shall include an equal number of members representing -

(i) the Government,

(ii) the dock workers, and

(iii) the employers of dock workers, and shipping companies.]

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

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

OBJECTS AND REASONS "Section 5(2) of the Act provides for an Advisory Committee consisting of not more than 15 members. It is considered necessary that all the Dock Labour Boards should have representation on the Advisory Committee and that shipping companies should also have representation on the Advisory Committee. The number of members of the Advisory Committee has to be determined by taking into account all the relevant factors

and it is proposed that the statutory restriction with regard to the number of members should be removed. It is accordingly proposed to amend section 5 of the Act to provide for all these matters."- S. 0. R. Gazette of India, 2-11-1961, Pt. II, S.2, Ext., p.890.

5A. Dock Labour Boards :-

(1) The Government may, by notification in the Official Gazette, establish a Dock Labour Board for a port or group of ports to be known by such name as may be specified in the notification.

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

(3) Every such Board shall consist of a Chairman and such number of other members as may be appointed by the Government: Provided that every such Board shall include an equal number of members representing -

(i) the Government,

(ii) the dock workers, and

(iii) the employers of dock workers, and shipping companies.

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

5B. Functions of a Board :-

(1) A Board shall be responsible for administering the scheme for the port or group of ports for which it has been established and shall exercise such powers and perform such functions as may be conferred on it by the scheme.

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

5C. Accounts and audit :-

(1) Every Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including a balance-sheet in such form as may be prescribed by rules made under this Act.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor- General of India or by such other auditors qualified to act as auditors of companies under the law for the time being in force relating to companies, as the Government may appoint.

(3) The auditors 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 they may require or examine any member or officer of the Board.

(4) The auditors shall forward to the Government a copy of their report together with an audited copy of the accounts of the Board.

(5) The cost of the audit as determined by the Government shall be paid out of the funds of the Board.]

5D. Annual report :-

Every Board shall prepare, in such form and at such time in each financial year as may be specified by rules made under this Act, its annual report, giving full account of its activities during the previous financial year, and submit a copy thereof to the Government.

5E. Annual report and audited accounts to be laid before Parliament or Legislature :-

The annual report, and the audited accounts of the Board, together with auditor's report thereon and a review by the Government on the working of the Board, shall, within a period of nine months of the close of the financial year, be laid before each House of Parliament, if such report and accounts have been submitted to the Central Government, and before the Legislature of the State, if such report and accounts have been submitted to the State Government: Provided that where such report, accounts and the review are not laid before Parliament or, as the case may be, before the Legislature of the State within the said period, the same shall be so laid thereafter along with the reasons for the delay.]

6. Inspectors :-

(1) The Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to as may be specified in the notification.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

(3) 'An Inspector may, at any port for which he is appointed,-

(a) enter, with such assistance (if any) as he thinks fit, any premises or vessel where dock workers are employed;

(b) require any authority or person to produce any register, muster-roll or other document relating to the employment of dock workers, and examine such document;

(c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of any scheme made for the port are, or have been, complied with.

(4) The Government may, by notification in the Official Gazette, prescribe the manner in which and the persons by whom complaints regarding contravention of any provision of a scheme may be made to an Inspector and the duties of the Inspector in relation to such complaints.

6A. Power to order inquiry :-

(1) The Government may, at any time, appoint any person to investigate or inquire into the working of a Board and submit a report to the Government.

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

6B. Power to supersede a Board :-

(1) If, on consideration of the report under section 6A or otherwise, the Government is of opinion -

(a) that, on account of a grave emergency, a Board is unable to perform its functions, or

(b) that a Board has persistently made default in the discharge of its functions or has exceeded or abused its powers, the Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification:

(2) Upon the publication of a notification under sub-section (1),-

(a) all the members of the Board shall, as from the date of such publication, vacate their offices as such members;

(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 person as may be specified in the notification;

(c) all funds and other property vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may -

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) re-establish the Board in the manner provided in section 5A .

6C. Acts or proceeding of Board and Advisory Committee not to be invalidated :-

No act or proceeding of a Board or the Advisory Committee shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of. the Board or the Advisory Committee, or

(b) any defect in the appointment of a person acting as a member of the Board or the Advisory Committee, or

(c) any irregularity in the procedure of the Board or the Advisory Committee not affecting the merits of the case.]

7. Cognizance of offences :-

(1) No Court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a report in writing of the facts constituting such offence or abetment made by an Inspector or by a person specially authorized in this behalf by the Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence made punishable by a scheme or an abetment thereof shall be triable only by a Presidency Magistrate or a Magistrate of the first class.

7A. Offences by companies :-

(1) If the person committing an offence made punishable by a scheme or any abetment thereof is a company, every person who, at the time of the offence or abetment 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 or abetment and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence or abetment was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence or abetment.

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

8. Power to make rules :-

(1) The Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

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

(a) the composition of the Advisory Committee and Boards and the manner in which members of the Advisory Committee and the Boards shall be chosen;

(b) the term of office of, and the manner of filling casual vacancies among, the members of a Board or the Advisory Committee;

(c) the meeting of a Board and the Advisory Committee, the quorum for such meetings and the conduct of business thereat;

(d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of a Board;

(e) the allowances, if any, payable to the members of a Board or the Advisory Committee;

(f) the disqualifications for membership of a Board;

(g) the form in which a Board shall prepare its annual statement of accounts and the balance-sheet.

1 [(3)

1. Sub-section (3) omitted by Act 49 of 1980, S. 4 (1-12-80).

8A. Schemes and rules to be laid before Parliament :-

Every scheme and every rule made under this Act by the Central Government shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or rule or both Houses agree that the scheme or rule should not be made, the scheme or rule shall thereafter have effect only 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 under that scheme or rule.]