



**The West Bengal Mazdoor, Tindal, Loader, Godownman and other Workers
(Regulation of Employment and Welfare) Act, 1981**

Act 51 of 1981

Keyword(s):

Advisory Committee, Board, Contractor, Employee, Establishment, Family, Inspector, Principal Employer, Scheduled Employment, Scheme, Unprotected Worker, Wages, Worker

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West Bengal Act LI of 1981¹

THE WEST BENGAL MAZDOOR, TINDAL, LOADER, GODOWNMAN AND OTHER WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1981.

AMENDED

[West Ben. Act XXXIX of 1989.
West Ben. Act XVIII of 2001.

[29th October, 1987.]

An Act to provide for regulating the employment of unprotected worker engaged in certain employments in West Bengal and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to regulate the employment of unprotected workers, such as Mazdoor, Tindal, Loader, Godownman and similar other workers, engaged in certain employments, to make better provision for the terms and conditions of employment of such workers, to make provision for ensuring the adequate supply and full and proper utilisation of such workers in such employments, and to provide for the establishment of Boards in respect of such employments for different areas of West Bengal;

It is hereby enacted in the Thirty-second Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Mazdoor, Tindal, Loader, Godownman and Other Workers (Regulation of Employment and Welfare) Act, 1981.

Short title,
extent, com-
mencement
and
application.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may by notification appoint, and different dates may be appointed for different areas or for different provisions of this Act.

(4) It applies to the scheduled employments.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "Advisory Committee" means the Advisory Committee constituted under section 16;

(2) "Board" means a Board established under section 6;

(3) "contractor" in relation to an unprotected worker means a person who undertakes to execute any work for an establishment by engaging such worker on hire or otherwise, or who supplies such worker either in group or gang or as individual, and includes a sub-contractor, an agent, a *sardar* or a *munshi*;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV of the 1st September, 1981, page 2482; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 22nd September, 1981.

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(Section 2.)

- (4) employer means,—
- (a) in relation to an unprotected worker engaged by or through any contractor, the principal employer, and
 - (b) in relation to any other unprotected worker, the person who has ultimate control over the affairs of the establishment, and includes any other person, by whatever name called, to whom the affairs of such establishment are entrusted;
- (5) "establishment" means any place or premises, including the precincts thereof, in which or in any part of which any scheduled employment is ordinarily carried on;
- (6) "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;
- (7) "Inspector" means an Inspector appointed under section 17;
- (8) "notification" means a notification published in the *Official Gazette*;
- (9) "principal employer" means an employer who engages unprotected workers by or through a contractor in any scheduled employment;
- (10) "prescribed" means prescribed by rules made under this Act;
- (11) "scheduled employment" means any employment specified in the Schedule or any process or branch of work forming part of such employment;
- (12) "scheme" means a scheme made under this Act;
- (13) "unprotected worker" means a worker engaged in any scheduled employment;
- (14) "Wages" means all remuneration expressed in terms of money or capable of being so expressed which would, if the terms 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, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a 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;

¹Clause (14) was substituted for original clause by s. 2(a) of the West Bengal Mazdoor, Tindal, Loader, Godownman and Other Workers (Regulation of Employment and Welfare) (Amendment) Act, 1989 (West Ben. Act XXXIX of 1989).

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- (iii) any travelling allowance or the value of any travelling concession;
 - (iv) any sum paid to the worker to defray special expenses entailed on him by the nature of his employment;
 - (v) any gratuity payable on the discharge of the worker; or
 - (vi) any bonus;
- (15) "worker" means a person engaged directly or through any agency, whether for wages or not, to do any skilled or unskilled manual, supervisory or clerical work in any scheduled employment, and includes any person not employed by any employer or contractor, but working with the permission of, or under an agreement with, such employer or contractor, but does not include any member of the family of an employer ¹[or any person who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem];
- (16) "year" means a period of twelve months beginning on the 1st day of April.

3. (1) For the purpose of ensuring an adequate supply and full and proper utilisation 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 and the terms and conditions of work of registered unprotected workers, and make provision for the general welfare in such employments.

Scheme for ensuring regular employment of unprotected workers.

(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 to 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 fulfilment 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

¹Words within the square brackets were inserted by s. 2(b) of the West Bengal Mazdoor, Tindal, Godownman and Other Workers (Regulation of Employment and Welfare) (Amendment) Act, 1989 (West Ben. XXXIX of 1989).

(Section 3.)

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 the rates of wages, hours of work, maternity benefit, overtime payment, leave with wages, gratuity, payment of bonus after taking into consideration the provisions of the Payment of Bonus Act, 1965 and conditions as to weekly and other holidays and pay in respect thereof;
- (e) for providing the time within which the registered employers shall remit to the Board the amount of wages payable to the registered workers for the work done by such workers; for requiring such employers as, in the opinion of the Board, make default in remitting the amount of such wages within the time as aforesaid to deposit with the Board an amount equal to the monthly average of such wages; for requiring the employers to make good the amount of such deposit if at any time such deposit falls short of such average; and for requiring such employers as persistently make default in making such remittances within the time as aforesaid to pay also, by way of penalty a surcharge of such amount, not exceeding ten *per cent.* of the amount to be remitted, as the Board may determine;
- (f) for securing that in respect of the period during which employment or full employment is not available to registered unprotected workers available for work, such workers receive, subject to the conditions of the scheme, a minimum wages;
- (g) for prohibiting, restricting or otherwise controlling the employment of such unprotected workers by such employers as to whom the scheme does not apply;
- (h) for the welfare of registered unprotected workers covered by the scheme, in so far as satisfactory provision therefor does not exist, apart from the scheme;
- (i) for the health and safety measures in places where the registered unprotected workers are engaged, in so far as satisfactory provision therefor is required but does not exist, apart from the scheme;
- (j) for the constitution of any fund including provident fund for the benefit of registered unprotected workers, the vesting of such fund, the payment and contribution to such fund, including, in so far as the provident fund is concerned, the

21 of 1965.

LI of 1981.]

(Section 4.)

rate of contribution to such fund after taking into consideration the provision of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the scheme framed thereunder with suitable modifications, where necessary, to suit the conditions of work of such registered unprotected workers, and all matters relating thereto;

- (k) for the manner in which, the day from which (either prospective or retrospective), and the person or persons by whom, the cost of operating the scheme shall be defrayed;
- (l) for constituting the authorities which shall be responsible for the administration of the scheme, and the fund referred to in clause (j);
- (m) for specifying the powers and duties which the authorities referred to in clause (l) shall exercise and perform; for providing appeals and revision applications against the decisions or orders of such authorities; and for deciding such appeals and revision applications and for matters incidental thereto;
- (n) for such incidental or supplementary matters as may be necessary or expedient for giving effect to 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 six months in respect of a first contravention or one year in respect of any subsequent contravention), or with fine which may extend to such amount as may be specified (but in no case exceeding one thousand rupees in respect of a first contravention or three thousand rupees in respect of any subsequent contravention), or with both imprisonment and fine as aforesaid and, if the contravention is continued after conviction, with a further fine which may extend to two hundred rupees for each day on which the contravention is so continued.

4. The State Government may, after consultation with the Advisory Committee, by notification 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 may, in like manner, add to, amend, vary or rescind any such scheme or schemes;

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

Making, variation and revocation of scheme.

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(Sections 5, 6.)

Provided further that the State Government may,—

- (a) if it considers necessary so to do, or
- (b) if a demand or request is made by a majority of employers or workers in any other scheduled employment that all or any of the provisions of any such scheme or schemes should be applied to such other scheduled employment,

after consulting the employers and workers in such other scheduled employment, by notification, apply all or any of the provisions of such scheme or schemes to such other scheduled employment with such modifications, if any, as may be specified in the notification.

Disputes regarding application of scheme.

5. If any question arises whether any scheme applied to any class of unprotected workers or employers, the matter shall be referred to the State Government and the State Government shall, after consultation with the Advisory Committee, decide the question. The decision of the State Government shall be final.

Constitution of Board.

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

(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 members, nominated from time to time by the employers, the unprotected workers and the State Government, representing respectively the employers, the unprotected workers, and the State Government.

(4) The members representing the employers and the 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 of a Board.

(5) The Chairman of a Board shall be appointed by the State Government from amongst the members nominated to represent the State Government.

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

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(Sections 7, 8.)

(7) The term of office of the members of a Board other than the members representing the State Government shall be such as may be prescribed.

(8) The members representing the State Government on a Board shall hold office during the pleasure of the State Government.

(9) The meetings of a Board and the procedure to be followed at such meetings and all other matters supplementary or ancillary thereto shall, subject to the approval of the State Government, be regulated by the Board.

7. (1) Where by reason of the employers or the unprotected workers in any scheduled employment refusing to nominate persons to represent the employers or the unprotected workers, as the case may be, on a Board, or where for any reasons whatsoever, it appears to the State Government that it is not possible to establish a Board for such scheduled employment in accordance with the provisions of section 6, the State Government may by notification appoint a person who shall, subject to the provisions of sub-section (2), hold office until a Board is duly constituted under that section for such scheduled employment.

Power of State Government to constitute Board consisting of one person.

(2) The person so appointed shall be deemed to constitute the Board under section 6, and shall exercise all the powers and discharge all the duties conferred and imposed on the Board by or under this Act. He shall continue in office until the day immediately preceding the date of the first meeting of the Board as constituted under section 6.

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

8. (1) A Board shall be responsible for administering a scheme, and shall exercise such powers and discharge such duties as may be conferred and imposed on it by the scheme.

Power and duties of Board.

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

(3) Every Board shall submit to the State Government, as soon as may be after the 1st day of April every year and not later than the 30th day of September of that year, an annual report on the working of the scheme during the preceding year. Every such report shall, as soon as may be after it is received, be laid before the State Legislature if it is in session or during the session immediately following the date of receipt thereof.

(Sections 9-11.)

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

Travelling
and daily
allowances.

9. There shall be paid to every member of a Board (not being a member representing the State Government) from the fund of the Board travelling and daily allowances for attending the meetings of the Board at such rates as may be prescribed.

Accounts
and audit.

10. (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.

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

(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 give to it.

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

Disqualifica-
tions and
removal.

11. (1) No person shall be chosen as, or continue to be, a member of a Board if he—

- (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 of unsound mind; or
- (d) is or has been convicted of any offence involving moral turpitude; or
- (e) is an employer, or a representative of an employer, who is a defaulter in paying contribution under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, or the Employees' State Insurance Act, 1948, or the West Bengal Labour Welfare Fund Act, 1974.

19 of 1952,
34 of 1948,
West Ben.
Act
XXXVIII of
1974.

LI of 1981.]

(Sections 12-15.)

(2) The State Government may remove from office any member of a Board if he—

- (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 in more than three consecutive meetings of the Board.

(3) Where, in the opinion of the State Government, any person nominated to represent the employers or the unprotected workers on a Board has ceased to represent such employers or workers, the State Government may by notification declare that with effect from such date as may be specified therein such person shall cease to be a member of the Board.

12. Any member of a 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 the resignation, become vacant.

Resignation of office by member.

13. In the event of any vacancy occurring in the office of a member of a Board by reason of death, resignation, removal or otherwise, the Board shall forthwith report the vacancy to the State Government, and the vacancy shall be filled, not later than ninety days from the date of occurrence of the vacancy, in accordance with the provisions of this Act, and the member nominated to fill the vacancy shall hold office for the unexpired portion of the term of office of the member in whose place he is so nominated:

Filling up of vacancies.

Provided that pending the filling up of any such vacancy, the Board shall continue to exercise the powers and discharge the duties conferred and imposed on it by or under this Act or a scheme, as if no vacancy has occurred.

14. No act or proceeding shall be called in question or invalidated merely by reason of any vacancy in the Board or any defect, initial or subsequent, in the constitution of the Board.

Acts or proceedings of Board not to be invalidated.

15. (1) On an application made by a Board to the Collector for the recovery of arrears of any amount payable to it under this Act or any scheme, accompanied by a statement of accounts in respect of such arrears, the collector may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount due to the Board as arrears.

Recovery of monies due to Board.

(2) A certificate by the Collector shall be final and conclusive as to the arrears due and the amount shall be recoverable as arrears of land revenue.

(Sections 16, 17.)

Advisory
Committee.

16. (1) The State Government may constitute an Advisory Committee to advise upon such matters arising out of the administration of this Act or any scheme or relating to the application of the provisions of this Act to any particular class of unprotected workers or employers or the co-ordination of the work of various Boards as the Advisory Committee may consider 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 manner as may be prescribed:

Provided that the Advisory Committee shall include an equal number of members representing the employers, the workers and the West Bengal Legislative Assembly, and shall also include such number of members representing the State Government as shall not exceed one-fourth of the total number of members of the Advisory Committee.

(3) The Chairman of the Advisory Committee shall be appointed by the State Government from amongst the members appointed to represent 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 the procedure to be followed thereat shall be regulated in such manner as may be prescribed.

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

Inspectors
and their
powers.

17. (1) A Board may appoint such persons as it thinks fit to be Inspectors, possessing such qualifications as may be prescribed, for the purposes of this Act or any scheme, and may define the limits of their jurisdiction.

(2) Subject to the rules made under this Act, an Inspector may—

- (a) enter and search at all reasonable hours, with such assistance 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 notice required to be kept or exhibited under any scheme, or require any person concerned with such register, record of wages or notice to produce the same for inspection;
- (b) examine any person whom he finds in any such premises or place and who he has reasons to believe is an unprotected worker employed, or is given out work, therein;

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(Sections 18-20.)

- (c) require any person giving out 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 out and in respect of the payments made or to be made for the said work;
- (d) seize, or take copies of, such register, record of wages or notice or portion thereof as he may consider relevant in respect of an offence under this Act or a scheme which he has reasons to believe has been committed by an employer; and
- (e) exercise such other powers as may be prescribed.

(3) Any person required to produce any register, record of wages or notice or to give any information under sub-section (2) shall be bound to do so:

Provided that no such person shall be required under this section to answer any question or to make any statement tending to incriminate himself.

(4) 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.

45 of 1860.

18. No child shall be engaged, or given out any work, in any scheduled employment.

Prohibition of employment of children.

Explanation.—"Child" shall mean a person who has not completed the age of fifteen years.

19. [No single worker shall be required by any employer to carry without any mechanical aid] a load exceeding fifty-five kilograms in weight at a time.

Bar to carry load exceeding fifty-five kilograms in weight at a time.

20. (1) No Court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a complaint in writing made by an Inspector or by a person specially authorised in this behalf by the Board or the State Government.

Cognizance of offences.

2 of 1974.

(2) Notwithstanding anything contained in the code of Criminal Procedure, 1973, an offence made punishable by a scheme or an abetment thereof shall be triable only by a Metropolitan Magistrate or a Judicial Magistrate of the first class.

¹Words within the square brackets were substituted for the words "No worker shall be required by any employer to carry" by s. 3 of the West Bengal Mazdoor, Tindal, Loader, Godownman and Other Workers (Regulation of Employment and Welfare) (Amendment) Act, 1989 (West Ben. Act XXXIX of 1989).

(Sections 21-23.)

Application
of the
Workmen's
Compensation
Act, 1923, to
unprotected
workers.

21. The provisions of the Workmen's Compensation Act, 1923 (hereinafter referred to in this section as the said Act) and the rules made thereunder shall apply, *mutatis mutandis*, to the registered unprotected workers employed in any scheduled employment to which this Act applies; and for that purpose such workers shall be deemed to be workmen within the meaning of the said Act; and in relation to such workmen, employer shall mean, where a Board makes the payment of wages to any such workman, the Board, and in any other case, the employer as defined in this Act.

3 of 1923.

Application
of the
Payment of
Wages Act,
1936, to
workers.

22. (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 direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to the payment of wages 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 such workers, employer shall mean, where a Board makes the 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 provision or provisions of the said Act or the rules made thereunder, an Inspector appointed under this Act shall be deemed to be an Inspector for the purpose of enforcement of such provision or provisions of the said Act or the rules made thereunder within the local limits of this jurisdiction.

4 of 1936.

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

Application
of the
Maternity
Benefit Act,
1961, to
unprotected
workers

23. 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 direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to an establishment wherein registered unprotected women workers are employed in any scheduled employment to which this Act applies; and for that purpose the workers concerned 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 the payment of wages to any such woman, the Board, and in any other case, the employer as defined in this Act; and on such application of the provision or provisions of the said Act or the rules made thereunder, an Inspector appointed under this Act shall be deemed to be an Inspector for the purpose of enforcement of such provision or provisions of the said Act or the rules made thereunder within the local limits of his jurisdiction.

53 of 1961.

LI of 1981.]

(Sections 24-26.)

24. Nothing contained in this Act shall affect the rights or privileges of whatever kind enjoyed by any registered unprotected worker, employed in any scheduled employment, on the date of coming into force of this Act under any other law for the time being in force or under any contract, custom or usage applicable to such worker, if such rights or privileges are more favourable to him than the rights or privileges to which he would be entitled under this Act or any scheme:

Rights and privileges under other laws not affected in certain cases.

Provided that no such worker shall be entitled to any corresponding benefit under the provisions of this Act or a scheme.

25. The State Government may, after consulting the Advisory Committee, by notification exempt, subject to such conditions and for such period as may be specified in the notification, from the operation of all or any of the provisions of this Act or any scheme any class of unprotected workers employed in any scheduled employment or in any establishment, if in the opinion of the State Government such unprotected workers are in receipt of benefits not less favourable than the benefits under this Act or any scheme:

Exemptions.

Provided that before any such notification is issued, the State Government shall, by a notice, published in the *Official Gazette*, of its intention to exempt from the operation of all or any of the provisions of this Act or any scheme any class of unprotected workers as aforesaid, invite objections and suggestions in respect thereto, and no such notification shall be issued until a period of one month has expired from the date of publication of the notice in the *Official Gazette* and the objections and suggestions, if any, received by it during such period have been considered:

Provided further that the State Government may, at any time, by notification and for reasons to be specified therein, rescind any such notification as aforesaid.

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

Inquiry into working of Board.

(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 possession of the Board as he may require.

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

*(Sections 27, 28.)*Supersession
of Board.

27. (1) If, on consideration of the report under section 26 or otherwise, the State Government is of opinion—

- (a) that a Board is unable to discharge its duties, or
- (b) that a Board has persistently made default in the discharge of its duties or has exceeded or abused its powers,

the State Government may by notification supersede the Board for such period not exceeding twelve months as may be specified in the notification:

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) 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 duties which may be exercised or discharged by the Board shall, during the period of supersession, be exercised or discharged by the State Government or 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 State Government.

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

- (a) extend the period of supersession for such further period not exceeding six months as it may consider necessary so however that the aggregate period of supersession shall not exceed eighteen months; or
- (b) re-establish the Board in the manner provided in section 6.

Contracting
out.

28. Any contract or agreement, whether made before or after the commencement of this Act, whereby a registered unprotected worker relinquishes or reduces any right conferred on him, 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.

LI of 1981.]

(Sections 29-33.)

29. The State Government, after giving by notification not less than two months' notice of its intention so to do, may, by like notification, modify any employment specified in 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 thereupon the Schedule shall be deemed to be amended accordingly and the provisions of this Act shall apply to such employment as modified or added.

Power to amend Schedule.

30. Save as otherwise expressly provided in this Act, any person, who contravenes any of the provisions of this Act or the rules made thereunder, shall, on conviction, be punishable with fine which may extend to one thousand rupees, and in the case of a continuing contravention, with a further fine which may extend to two hundred rupees per day during which such contravention continues after the first conviction.

General penalty for offences.

31. No suit, prosecution or other legal proceeding shall lie against the State Government or a Board or the Chairman or any other member of a Board or of the Advisory Committee, or an Inspector or any other person, or any officer of a Board, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder or under any scheme.

Protection of action taken in good faith.

32. (1) The State Government may, subject to the condition of previous publication, by notification make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or are required to be, prescribed.

33. Every scheme and every rule made under this Act shall be laid before 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, the State Legislature makes any modification in the scheme or the rule or directs that the scheme or any provision thereof or the rule should not be made, the scheme or such provision thereof or the rule shall, from the date of publication of a notification in this behalf, 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 or omitted to be done under that scheme or the provision thereof or under that rule, as the case may be.

Schemes and rules to be laid before the State Legislature.

(The Schedule.)

THE SCHEDULE

[See section 2(11) and 29.]

1. Employment in cereals, pulses, edible oils, sugar, salt, *gur*, tea, vegetable, fruit, fish, spices and other food-stuff wholesale markets, including *avats*, *golas* and wholesale shops, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, bagging, stitching, sorting, cleaning, blending, marking, repairing chests and crates, and work preparatory or incidental to such operations and supervision thereof.

2. Employment in cotton/cotton textile/cloth/garments wholesale markets, including godowns and wholesale shops, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, baling, pressing, stitching, sorting, cleaning and work preparatory or incidental to such operations and supervision thereof.

3. Employment in jute/jute textile/gunny wholesale markets, including godowns and wholesale shops, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, baling, pressing, stitching, sorting, cleaning, marking, and work preparatory or incidental to such operations and supervision thereof.

4. Employment in iron and steel godowns and stockyards in connection with loading, unloading, stacking, carrying, weighing, measuring, packaging, batching, sorting, and work preparatory or incidental to such operations and supervision thereof.

5. Employment in godowns, stockyards, warehouses, transshipment points or bulk delivery points in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, bagging, stitching, sorting, cleaning, blending, marking, repairing chests and crates, baling, pressing, packaging, batching and work preparatory or incidental to such operations and supervision thereof.

6. Employment in docks, jetties and wharves in connection with loading, unloading, stacking, carrying, weighing, measuring, baling, pressing, bagging, stitching, packaging, batching, and work preparatory or incidental to such operations and supervision thereof, except employment of a dock worker within the meaning of the Dock Workers

LI of 1981.]

(The Schedule.)

38 of 1963

(Regulation of Employment) Act, 1948 [or employment of a worker of any undertaking of the Central Government or the State Government in any area of a port within the meaning of the Major Port Trusts Act, 1963 or employment of a worker of the Board of Trustees of the Port of (Kolkata) constituted under the Major Port Trusts Act, 1963].

7. Employment of casual nature in factories and other establishment, in connection with loading, unloading, stacking, constructions, repairs, and work preparatory or incidental to such operations and supervision thereof.

8. Employment in building construction, road building and irrigation works in connection with loading, unloading, stacking, carrying, construction, repairs, and work preparatory or incidental to such operations and supervision thereof.

9 of 1890.

9. Employment in railway yards and goods-sheds in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, bagging, baling, pressing, packaging, batching, stitching, sorting, cleaning, blending, marking, repairing chests and crates, and work preparatory or incidental to such operations and supervision thereof [], except employment of a labourer employed by a railway administration within the meaning of the Indian Railways Act, 1890, in connection with the service of a railway].

10. Employment in connection with transportation of men and material by manual labour.

11. Employment of manual labour in connection with any work, not specified in this Schedule in any place where exclusively manual labour is used for the performance of such work and supervision thereof.

¹Words and figures within the square brackets were inserted by s. 4(a) of the West Bengal Mazdoor, Tindal, Loader, Godownman and Other Workers (Regulation of Employment and Welfare) (Amendment) Act, 1989 (West Ben. Act XXXIX of 1989).

²The word within the round brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

³Words and figures within the square brackets were inserted by s. 4(b) of the West Bengal Mazdoor, Tindal, Loader, Godownman and Other Workers (Regulation of Employment and Welfare) (Amendment) Act, 1989 (West Ben. Act XXXIX of 1989).

