

# The Bombay Labour Welfare Fund Act, 1953

DELHI

India

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### Act 40 of 1953

- Published on 30 June 1993
- Commenced on 30 June 1993
- [This is the version of this document from 30 June 1993.]
- [Note: The original publication document is not available and this content could not be verified.]

The Bombay Labour Welfare Fund Act, 1953(Act 40 of 1953)This Act has been extended through out the State of Maharashtra, by Maharashtra Act 36 of 1961, Section 2, and also extended to the National Capital Territory of Delhi.An Act to provide for the constitution of a Fund for the financing of activities to promote welfare of labour in [Union Territory of [Delhi] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State of Maharashtra'.]] [for conducting such activities and for certain other purposes] [Substituted by Maharashtra Act 36 of 1961, Section 4, for 1 'and for conducting such activities'.].Whereas it is expedient to constitute a Fund for the financing of activities to promote welfare of labour in the [Union Territory of [Delhi] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State of Maharashtra'.]] [for conducting such activities and for certain other purposes] [Substituted by Maharashtra Act 36 of 1961, Section 4, for 1 'and for conducting such activities'.]; it is hereby enacted as follows:-

### 1. Short title, extent and commencement.

(1)This Act may be called the Bombay Labour Welfare Fund Act, 1953.(2)[ It extends to the whole of the [Union Territory of [Delhi] [Substituted by Maharashtra Act 36 of 1961, Section 4.]](3)It shall come into force [\*\*\*] [The words 'in such area and' omitted by G.S.R. 1286(E), dated 15.12.1986.] on such date as the State Government may, by notification in the [Delhi Gazette] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for 'Official Gazette'.], appoint in this behalf.

### 2. Definitions.

- In this Act, unless the context otherwise requires,-(1)[ "Administrator" means the Administrator of the Union Territory of [Delhi] [Inserted by G.S.R. 1286(E), dated 15.12.1986.] appointed by the President of India under Article 239 of the Constitution;](1A)[ [Clause (1) renumbered as Clause (1A) by G.S.R. 1286(E), dated 15.12.1986.] "Board" means the [Delhi Labour Welfare Board] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for the words 'Maharashtra Labour Welfare Board'.] constituted under Section 4;][(1AA)] [Clause (1A) Inserted by Maharashtra Act 16

of 1971, Section 2(1).] "contribution" means the sum of money payable to the Board in accordance with the provisions of Section 6-BB;](2)[ "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual, clerical supervisory or technical in an establishment directly by the employer or through contractor or any other agency, but does not include any person- [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), for sub-section (2) (w.e.f. 7.1.2002).](i)who is employed mainly in a managerial capacity,(ii)who, being employed in a supervisory capacity, draws wages exceeding three thousand and five hundred rupees per mensem, or exercises powers or carries out, either by the nature of the duties attached to the office, or by reason of the powers vested in him, functions mainly of a managerial nature, or(iii)who is employed as an apprentice under the Apprentices Act, 1961 (52 of 1961);](3)"employer" means any person who employs either directly or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes-(i)in a factory, any person named under Section 7(1)(f) of the Factories Act, 1948 (63 of 1948), as the manager;(ii)in any establishment, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;(4)"establishment" means-(i)a factory;(ii)a tramway or [motor omnibus service or a motor transport undertaking to which the Motor Transport Works Act, 1961 applies; and] [Substituted by Maharashtra Act 4 of 1984, Section 2(b)(i), for 'motor omnibus service; and'.](iii)[ any establishment within the meaning of [the Delhi Shops and Establishments Act, 1954 (Delhi Act 7 of 1954)] [Substituted by Maharashtra Act 16 of 1971, Section 2(3), for Clause (iii).], which employs or on any working day during the preceding twelve months, employed [five] [Substituted by Maharashtra Act 4 of 1984, Section 2(b)(ii), for the word 'ten'.] or more persons [including the establishments which have been granted exemption partly or wholly under the proviso to Section 4 of that Act:] [Added by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 2(b) (w.e.f. 7.1.2002).]Provided that, any such establishment shall continue to be an establishment for the purposes of this Act, notwithstanding a reduction in the number of persons to less than [five] [Substituted by Maharashtra Act 4 of 1984, Section 2(b)(ii), for the words 'ten'.] at any subsequent time:Provided further that, where for a continuous period of not less than three months the number of persons employed therein has been less than [five] [Substituted by Maharashtra Act 4 of 1984, Section 2(b)(ii), for the word 'ten'.] such establishment shall cease to be an establishment for the purposes of this Act with effect from the beginning of the month following the expiry of the said period of three month, but the employees shall within one month from the date of such cessation, intimate by registered post the fact thereof to such authority as the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] may specify in this behalf;][Explanation. - For the removal of doubt, it is hereby declared that where an establishment has different branches or departments, all such branches or departments, whether situated in the same premises or different premises, shall be treated as parts of the same establishment;] [Substituted by Maharashtra Act 4 of 1984, Section 2(b)(iii), for Explanation.](5)[ "factory" means a factory as defined in Section 2(m) of the Factories Act, 1948 (63 of 1948), and includes any place wherein five or more persons are employed or working and- [Substituted by Maharashtra Act 4 of 1984, Section 2(c), for Clause (5).](i)wherein any manufacturing process is being carried on with the aid of power or is ordinarily so carried on;(ii)which is deemed to be a factory under Section 85 of the said Act;](6)"Fund" means the [Labour Welfare Fund] [Substituted by Maharashtra Act 36 of 1961, Section 5(d), for 'any of the Labour Welfare Funds'.] constituted under Section 3;(7)"independent

member" means a member of the Board who is not connected with management of any establishment or who is not an employee, and includes an officer of Government nominated as a member;(8)"Inspector" means an Inspector appointed under Section 12;[\*\*\*] [Clauses (8a) and (8b) omitted by Maharashtra Act 36 of 1961, Section 5(e).](9)"prescribed" means prescribed by rules made under this Act;(10)"unpaid accumulation" means all payments due to the employee but not made to them within a period of three years from the date on which they became due whether before or after the commencement of this Act including the wages and gratuity legally payable [but not including the amount of contribution, if any, paid by an employer to a provident fund established under the Employees' Provident Funds Act, 1952] [Inserted by Maharashtra Act 36 of 1961, Section 5(f).];(11)[ "wages" means as defined in Section 2(vi) of Payment of Wages Act, 1936 (4 of 1936), and includes bonus payable under the Payment of Bonus Act, 1965 (21 of 1965);] [Substituted by Maharashtra Act 36 of 1971, Section 2(4), for Clause (11).](12)"Welfare Commissioner" means the Welfare Commissioner appointed under Section 11.

## 2A. Construction of certain references in the Act.

- [Repealed by Maharashtra Act 36 of 1961, Section 6.]

## 3. Welfare Fund.

- [(1) The [Administrator] [Substituted by Maharashtra Act 22 of 1966, Section 2(a), for sub-section (1).] shall constitute a fund called the [Labour Welfare Fund,] [In exercise of the powers conferred by sub-section (1) of Section 3 of the Bombay Labour Welfare Fund Act, 1953 as extended to the National Capital Territory of Delhi the Lieutenant Governor of National Capital Territory of Delhi has constituted the Labour Welfare Fund for the National Capital Territory of Delhi with effect from 13th July, 2004, Notification No. F. 9(1)/89/DLC(W)/100, dated 13.12.2004.] and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid [at such intervals as may be prescribed] [Inserted by Maharashtra Act 22 of 1966, Section 2(a).] to the Board, which shall keep a separate account therefor until claims thereto have been decided in the manner provided in Section 6-A, and the other sums specified in sub-section (2) shall be paid into the Fund.(2)The fund shall consist of-(a)all fines realised from the employees;(b)[unpaid accumulations transferred to the Fund under Section 6-A] [Substituted by Maharashtra Act 36 of 1961, Section the words (b), for 'all unpaid accumulations'.];(bb)[ any penal interest paid under Section 6-B;] [Inserted by Maharashtra Act 22 of 1966, Section 2(b).](bbb)[ any contribution paid under Section 6-BB;] [Inserted by Maharashtra Act 16 of 1971, Section 3(a).](c)any voluntary donations;(d)any fund transferred under sub-section (5) of Section 7; [\*\*\*] [The word 'and' omitted by Maharashtra Act 16 of 1971, Section 3(b).](e)any sum borrowed under Section 8;(f)[ any loan, grant-in-aid or subsidy paid by the [Government] [Added by Maharashtra Act 16 of 1971, Section 3(c).].](3)The sums specified in sub-section (2) [shall be paid, or collected by such agencies, at such intervals] [Substituted by Maharashtra Act 22 of 1966, Section 2(c), for the words 'shall be collected by such agencies'.] and in such manner and the accounts of the Fund shall be maintained and audited in such manner as may be prescribed.]

## 4. Board.

(1)[The [Administrator] [Substituted by Maharashtra act 36 of 1961, Section 8(a), for certain words.] shall, by notification in the [Delhi Gazette] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Official Gazette'.] constitute the Board for the whole of the [Union Territory of [Delhi] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State of Maharashtra'.]] for the purpose of administering the Fund, and to carry on such other functions assigned to the Board by or under this Act]. The Board shall consist of the [following members, not exceeding twenty-six in number] [Substituted by Maharashtra Act 16 of 1971, Section 4 (1), for the words 'following members'.], namely-(a)such number as may be prescribed of representatives of employers and employees to be nominated by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.]:Provided that both employers and employees shall have equal representation on the Board;(b)such number of independent members as may be prescribed, nominated by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.]; [\*\*\*] [The word 'and' omitted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 3(d) (w.e.f. 7.1.2002).](c)such number of independent members as may be prescribed, nominated by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] to represent women;(d)[ the Principal Secretary or Secretary (Finance) or his nominee shall be the ex-officio member; and [Added by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 3(6) (w.e.f. 7.1.2002).](e)the Principal Secretary or Secretary (Labour) or his nominee shall be the ex-officio member.](2)The Members of the Board shall elect one of its independent members as the Chairman of the Board.(3)Save as otherwise expressly provided by this Act, the term of office of the members of the Board shall be three years commencing on the date on which the names are notified in the [Delhi Gazette] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Official Gazette'.](4)The allowances, if any, payable to the members of the Board [\*\*\*] [The words 'and the conditions of appointment of the representations of the employers and employees' omitted by Maharashtra Act 16 of 1971, Section 4(2).] shall be such as may be prescribed.(5)[The Board shall be a body corporate by the name of the [Delhi Labour Welfare Board] [Substituted by Maharashtra Act 36 of 1961, Section 8(b), for certain words.]] having perpetual succession and a common seal, with power of acquire property both movable and immovable, and shall by the said name sue and the sued.[[\*\*\*] [Substituted by Maharashtra Act 36 of 1961, Section 8(c), for sub-sections (6) and (7).]]

### 4A. Powers of the Board in respect of the Karnataka area to be exercised by the Government of Mysore for certain period.

- [Repealed by Maharashtra Act 36 of 1961, Section 9.]

## 5. Disqualifications and removal.

(1)No person shall be chosen as, or continue to be a member of the Board who-(a)is a salaried official of the Board; or(b)is or at any time has been adjudged insolvent or has suspended payment

of his debts or has compounded with his creditors; or(c)is found to be a lunatic or becomes of unsound mind; or(d)is or has been convicted of any office involving moral turpitude.(2)[Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for the words '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.

## **6. Registration of office of member and filling up of casual vacancies.**

(1)A member may resign his office by giving notice thereof in writing to the [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for the words 'State Government'.] and on such resignation being accepted shall be deemed to have vacated his office.(2)A casual vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the authority concerned and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.(3)No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in constitution of the Board.

## **6A. [ Unpaid accumulations and claims thereto. [Inserted by Maharashtra Act 36 of 1961, Section 10.]**

(1)All unpaid accumulations shall be deemed to be abandoned property.(2)Any unpaid accumulations paid to the Board in accordance with the provisions of Section 3 shall on such payment, discharge an employer of the liability to make payment to an employee in respect thereof, but to the extent only of the amount paid to the Board, and the liability to make payment to the employee to the extent aforesaid shall subject to the succeeding provisions of this section by deemed to be transferred to the Board.(3)As soon as possible after the payment of any unpaid accumulations is made to the Board, the Board shall by notice (containing such particulars as may be prescribed)-(a)exhibited on the notice-board of the factory or establishment in which the unpaid accumulations were earned, and[\*\*\*](c)also published in any two newspapers circulating and in the language commonly understood in the area in which the factory or establishment in which the unpaid accumulation was earned is situate, or in such other manner as may be prescribed, regard being has to the amount of the claim, invite claims by employees for any payment due to them. The notice shall be inserted in the manner aforesaid in June and December of every year, for a period of three years from the date of the payment of the unpaid accumulation to the Board.(4)If any question arises whether the notice referred to in sub-section (3) was given as required by that sub-section, a certificate of the board that it was so given shall be conclusive.(5)If a claim is received whether in answer to the notices or otherwise, within a period of four years from the date of first publication of the notice in respect of such claim, the Board shall transfer such claim to the Authority appointed under Section 15 of the Payment of Wages Act, 1936 (4 of 1936), having jurisdiction in the area in which the factory or establishment is situated, and the Authority shall proceed to adjudicate upon, and decide, such claim. In hearing such claim, the Authority shall have the powers conferred by, and follow the procedure (in so far as it is, applicable) followed in giving effect to the provisions of that Act.(6)If the Authority aforesaid is satisfied that any such claim is valid so that the right to receive payment is established, it shall decide that the unpaid accumulation in relation to which the claim is

made shall cease to be deemed to be abandoned property, and shall order the Board to pay the whole of the dues claimed, or such part thereof as the Authority decides are properly due, to the employee; and the Board shall make payment accordingly: Provided that, the Board shall not be liable to pay any sum in excess of that paid under sub-section (1) of Section 3 to the Board as unpaid accumulations, in respect of the claim. (7) If a claim for payment is refused, the employee shall have a right of appeal [\*\*\*] [The words 'in Greater Bombay to the Court of Small Causes and elsewhere' omitted by G.S.R. 1286(E), dated 15.12.1986.] to the District Court, and the Board shall comply with any order made in appeal. An appeal shall lie within sixty days of the decision of the Authority. (8) The decision of the Authority, subject to appeal aforesaid, and the decision in appeal of [\*\*\*] [The words 'the Court of Small Causes, or as the case may be,' omitted by G.S.R. 1286(E), dated 15.12.1986.] the District Court shall be final and conclusive as to the right to receive payment, the liability of the Board to pay and also as to the amount, if any. (9) If no claim is made the time specified in sub-section (5) or a claim has been duly refused as aforesaid by the Authority, or on appeal by the court, then the unpaid accumulations in respect of such claim shall accrue to, and vest in, the State as bona vacantia, and shall thereafter, without further assurance be deemed to be transferred to, from part of the Fund.]

#### **6AA. [ Power to appoint Committees. [Inserted by Maharashtra Act 22 of 1966, Section 3.]**

- For the purposes of advising the Board in the discharge of its functions and also for carrying into effect any of the matters specified in sub-section (2) of Section 7, the Board may constitute one or more Commission, or which at least one on each Committee shall be a member of the Board.]

#### **6B. [ Interest on unpaid accumulations or fines after notice of demand. [Inserted by Maharashtra Act 22 of 1966, Section 3.]**

(1) If an employer does not pay to the Board any amount of unpaid accumulations, or fines realised from the employee [or the amount of the employer's and employees' contribution under Section 6-BB] within the time he is required by or under the provisions of this Act to pay it, the Welfare Commissioner may cause to be served a notice on such employer to pay the amount within the period specified therein, which shall not be less than thirty days from the date of service of such notice. (2) If the employer fails, without sufficient cause to pay any such amount within the period specified in the notice, he shall, in addition to that amount, pay to the Board simple interest, - (a) in the case of a failure to pay any amount of unpaid accumulations or fines realised from the employees, - (i) for the first three months, at [one and a half per cent.] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 5(a)(i), for the words 'one per cent.' (w.e.f. 7.1.2002).] of the said amount for each completed month, after the last date by which he should have paid it according to the notice; and (ii) thereafter, at [two per cent.] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003); Section 5(a)(ii), for the words 'one and half per cent.'] of that amount for each completed month, during the time he continues to make default in the payment of that amount; (b) in the case of a failure to pay any amount of the employer's and employees' contributions under Section

6-BB,-(i)for the first three months, at [one and a half per cent.] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 5(b)(i), for the words 'one per cent.' (w.e.f. 7.1.2002).] of the said amount for each completed month, after the last date by which he should have paid it in accordance with the provisions of sub-section (3) of Section 6-BB; and(ii)thereafter, at [two per cent.] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 5(b)(ii), for the words 'one and half per cent.' (w.e.f. 7.1.2002).] of that amount for each completed month, during the time he continues to make default in the payment of that amount:Provided that, the Welfare Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty in respect of any period.]

## **6BB. [ Contributions. [Inserted by Maharashtra Act 16 of 1971, Section 5.]**

(1)The contribution payable under this Act in respect of an employee in an establishment shall comprise contribution, payable by the employer (hereinafter referred to as "the employer's contribution"), contribution payable by such employee (hereinafter referred to as "the employee's contribution") and the contribution payable by the [Government] and shall be paid to the Board and from part of the Fund.(2)[ The amount of contribution payable every six months in respect of every employee and an employer for such employee shall be at the following rates, namely-(a)[ contribution in respect of employees whose names stand on the register of an establishment as on 30th June, 1993 and on every 31st December and 30th June, thereafter-(i)employees drawing wages upto and inclusive of [three thousand rupees per mensem, six rupees];(ii)employees drawing wages exceeding [three thousand rupees per mensem, twelve rupees] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 4(a)(i)(b), for the words 'one thousand rupees per mensem, two rupees' (w.e.f. 3.12.2000).]]:[Provided that the [Government] [Added by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 4(a)(ii) (w.e.f. 31.12.2000).] may, on receipt of a proposal from the Board, by notification in the [Delhi Gazette] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Official Gazette'.], increase once in every three years the rate of employee's contribution so, however that, such increase shall not exceed 30 per cent, of the rates of contribution;] [Substituted by the Maharashtra Act 10 of 1987, Section 3(a), for sub-section (2).](b)[ in respect of an employer for each employee referred to in sub-clauses (i) and (ii) of Clause (a), thrice the amount of contribution payable by an employee.] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 4(a)(iii), for Clause (b) (w.e.f. 31.12.2000).](3)[ Every employer shall pay to the Board both the employer's contribution and the employee's contribution in accordance with the provisions of sub-section (2) before the 15th day of July and 15th day of January, as the case may be.] [Substituted by Maharashtra Act 10 of 1987; Section 3(a), for sub-section (3).](4)Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and any rules, the employer shall in the case of any such employee be entitled to recover from the employee that employee's contribution by deduction from his wages, and not otherwise; and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936 (4 of 1936):Provided that, no such deduction shall be made in excess of the amount of the contribution payable by such employee, nor shall it be made from any wages other than the wages for the months of June and December :Provided further that, if through

inadvertence or otherwise, no deduction has been made from the wages of an employee for the months aforesaid, such deduction may be made from the wages of such employee for any subsequent months or months with the permission in writing of the Inspector appointed under this Act.(5)Notwithstanding any contract to the contrary, no employer shall deduct the employer's contribution from any wages payable to an employer or otherwise recover it from the employee.(6)Any sum duly deducted by an employer from the wages of an employee under this section shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.(7)An employer shall pay the employer's and the employees' contribution to the Board by cheque, money-order or in cash and he shall bear the expenses of remitting to the Board such contributions.(8)The Welfare Commissioner shall submit to the [Government] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] as soon as possible after the end of July and January every year in the prescribed form a statement showing the total amount of [the employer's contribution and the employee's contribution in respect of employees in each establishment] [Substituted by Maharashtra Act 2 of 1978, Section 2(3)(a), for the words 'the employers' contribution in respect of his establishment'.]. On receipt of the statement from the Welfare Commissioner, the [Government] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] shall pay to the Board a contribution of [an amount equal to half the employee's contribution for the period from the 31st December, 2000 to the 31st March 2003; and an amount equal to twice the employee's contribution with effect from the 1st April 2003, in respect of every employee referred to in sub-clauses (i) and (ii) of Clause (a) of sub-section (2)] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003), Section 4(b), for certain words (w.e.f. 31.12.2000).].

## 7. Vesting and application of Fund.

(1)The fund shall vest in and be held and applied by the Board of Trustees subject to the provisions and for the purposes of this Act. The moneys therein shall be utilized by the Board to defray the cost of carrying out measures which may be specified by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] from time to time to promote the welfare of labour and of their dependents.(2)Without prejudice to the generality of sub-section (1) the moneys in the Fund may be utilized by the Boards to defray expenditure on the following-(a)community and social education centres including reading rooms and libraries;(b)community necessities;(c)games and sports;(d)excursions, tours and holiday homes;(e)entertainment and other forms of recreations;(f)home industries and subsidiary occupations for women and unemployed persons;(g)corporate activities of a social nature;(h)cost of administering the Act [including the salaries, allowances, pension, provident fund and gratuity and other fringe benefits of the staff] [Substituted by Maharashtra Act 4 of 1984, Section 5, for the words 'including the salaries and allowances of the staff'.] appointed for the purpose of the Act; and(i)such other objects as would in the opinion of the State Government improve the standard of living and ameliorate the social conditions of labour:Provided that the Fund shall not be utilized in financing any measure which the employer is required under any law for the time being in force to carry out:Provided further that unpaid accumulations and fines shall be paid to the Board and be expended by it under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936), or any other law for the time being in force.(3)The Board may, with the approval of



the [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.], make a grant of the Fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour approved by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.].(4)If any question arises whether any particular expenditure is or is not debatable to the Fund, the matter shall be referred to the [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.] and the decision given by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.] shall be final.(5)It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment, if the said fund is duly transferred to the Board.

## **8. Power of Board to borrow.**

- The Board may from time to time with the previous sanction of the [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.] and subject to the provisions of this Act and to such conditions as may be specified in this behalf borrow any sum required for the purpose of this Act.

## **9. Investment of Fund.**

- Where the Fund or any portion thereof cannot be applied at any early date for fulfilling the objects of the Act, the Board shall invest the same in any of the securities specified in Clauses (a) to (d) and (f) of Section 20 of the Indian Trust Act; 1882 (3 of 1882).

## **10. Directions by [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.] to Board.**

- The [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.] may give the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the other purposes of the Act. It shall be the duty of the Board to comply with such directions.

## **11. Appointment and powers of Welfare Commissioner.**

(1)(i)The Welfare Commissioner shall be appointed by the Board with the previous approval of the [Administrator] [Substituted by G.S.R. 1286(E), dated 15th December, 1986, for 'State Government'.];(ii)The Welfare Commissioner shall be the principal executive officer of the Board.(iii)It shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and the rules made thereunder are duly carried out and for the purpose he shall have the power to issue such orders not inconsistent with the provisions the Act and rules made thereunder as he deems fit including any order implementing the decisions taken by the Board under the Act or rules made thereunder.[\*\*\*] [Sub-section (2) omitted by Maharashtra Act 36 of 1961, Section 11.]

## **12. Appointment of Inspectors.**

(1)The [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] may appoint Inspectors to inspect records in connection with the sums payable into the Fund. [Inspectors appointed, [\*\*\*] [Added by Maharashtra Act 16 of 1871, Section 7.] under [the Delhi Shops and Establishments Act, 1954 (Delhi Act 7 of 1954)] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for 'the Bombay Shops and Establishment Act, 1948 (Bombay Act IXXIX of 1948)'.] in relation to any area, shall be deemed to be also Inspectors for the purpose of this Act, in respect of establishments to which this Act applies, and the local limits within which such Inspector shall exercise his functions under this Act shall be the area for which he is appointed under the said Act].(2)Any Inspector may-(a)with such assistance, if any, as he thinks fit, enter at any reasonable time any premises for carrying out the purposes of this Act;(b)exercise such other powers as may be prescribed.

## **13. Absorption of the existing staff under Labour [Commissioner] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Commissioner of Labour'.].**

- [(1)] [Section 13 renumbered as sub-section (1) thereof by Maharashtra Act 36 of 1961, Section 12.] the Board shall take over and employ such of the existing staff under the control of the [Labour Commissioner Delhi] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Commissioner of Labour, Bombay'.] as the [Administrator] [Substituted by G.S.R. 1296(E), dated 15.12.1986, for the words 'State Government'.] may direct and every person so taken over and employed shall be subject to the provisions of this Act and the rules made thereunder:Provided that-(a)during the period of such employment all matters relations to pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the said staff shall be regulated by the [the rules for the time being applicable to Persons employed in connection with the affairs of the Union Territory of [Delhi] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'the Bombay Services Rules'.] or such other rules as may be from time to time be made by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.];(b)every such member shall have a right of appeal of the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] against any order of reduction, dismissal or removal from services, fine or any other punishment:Provided further that person so taken over may elect within the prescribed period that he desires to be governed by the rules made under this Act in respect of conditions of services of the staff appointment by the Board under this act and on his electing to do so the provisions of the first proviso shall cease to apply to him.[\*\*\*] [Sub-section (2) omitted by G.S.R. 1986(E), dated 15.12.1986.]

## **14. Appointment of clerical and other staff by Board.**

- [(1)] [Section 14 renumbered as sub-section (1) thereof by Maharashtra Act 16 of 1971, Section 8.] The Board shall have power to appoint the necessary clerical and executive staff to carry out and

supervise the activities financed from the Fund: Provided that the expenses of the staff thus appointed and other administrative expenses shall not exceed a prescribed percentage of the annual income of the fund. (2) [The Board shall, with the approval of the [Administrator] [Added by Maharashtra Act 16 of 1971, Section 8.], make regulations regarding the method of recruitment, pay and allowances, and other conditions of services of the members of its staff (other than the Welfare Commissioner and the Inspectors): Provided that, until the regulations are so made, the conditions of services of such staff be governed by rules made by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] in this behalf.]

**15. Power of [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] to remove any person of staff of Board.**

- The [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] shall have the power to remove any person whom it may deem unsuitable, from the services of the Board and to make art appointment in respect of whom more than one-third of the members of the Board have not agreed.

**16. Power of [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] or authorised officer to call for records, etc.**

- The [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] or any officer authorised by the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] may call for the records of the Board, inspect the same and may supervise the working of the Board.

**17. Mode of recovery of [sums payable to Board, etc.] [Substituted by Maharashtra Act 22 of 1966, Section 6(a), for the words 'sums payable into Fund' (with retrospective effect).]**

- Any such payable [to the Board or] [Inserted by Maharashtra Act 22 of 1966, Section 6(b) (with retrospective effect).] into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as an arrear of land revenue.

**17A. [ Penalty for obstructing inspection in discharge of Inspector's duties or for failure to produce documents, etc. [Inserted by Maharashtra Act 22 of 1966, Section 7.]**

- Any person who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, records or other documents maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply him on demand true copies of any such documents, shall, on conviction, be

punished-(a)for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and(b)for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, in any case where the offender is sentenced to a fine only, the amount of fine shall not be less than fifty rupees.]

## **17B. [ Provisions relating to jurisdiction. [Inserted by Maharashtra Act 22 of 1966, Section 7.]**

(1)No court inferior to that of [Metropolitan Magistrate] shall try any offence punishable under Section 17-A.(2)No prosecution for such offence shall be instituted, except by an Inspector with the previous sanction of the Welfare Commissioner.(3)No court shall take cognizance of such offence, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.]

## **18. Supersession of Board.**

- If the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] is satisfied that Board has made default in performing any duties imposed on it by or under this Act or has abused its power, the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] may by notification in the [Delhi Gazette] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Official Gazette'.] supersede and reconstitute the Board [in the manner prescribed for constitution of the Board] [Substituted by Maharashtra Act 16 of 1971, Section 9 for the words 'in the prescribed manner'.]:Provided that before issuing the notification under this sub-section, the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] will 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 or performed by the Board or by such officer or officers, as the [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] may appoint for this purpose.

## **19. Rules.**

(1)The [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] may, by notification in the [Delhi Gazette] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Official Gazette'.] and subject to the conditions of previous publication, make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely-(a)[ the intervals at which or the period within which any of the sums referred to in section 3 shall be paid to the Board or into the Fund the manner of making such payment and the agency for, and manner of, collection of any such sum;] [Substituted by Maharashtra Act 22 of 1966, Section

8(a), for Clause (a) (with retrospective effect).](b)the manner in which the accounts of the Fund shall be maintained and audited under sub-section (3) of Section 3;(c)the procedure for making grants from the Fund under Section 7;(d)the procedure for defraying the expenditure incurred in administering the Fund;(e)the number of representatives of employers and employees, independent members and representatives of women on the Board, and the allowances, if any, payable to them, under Section 4;(f)the manner in which the Board shall conduct their business;(g)the duties and powers of the Inspectors and the conditions of services of the Welfare Commissioner and Inspectors [\*\*\*] [The word 'and other staff' omitted by Maharashtra Act 16 of 1971, Section 10(1).] appointed under the Act;(ga)[ the delegation of the powers and functions of the Board to the Welfare Commissioner and the conditions and limitations subject to which the powers may be exercised or functions discharged;] [Inserted by Bombay Act 16 of 1956, Section 2.](h)the percentage of the annual income of the Fund beyond which the Board may not spend on the staff and on other administrative members;(i)[ the register and records to be maintained and returns to be sent to the Board under this Act;] [Substituted by Maharashtra Act 16 of 1971, Section 10(2), for Clause (i).](j)the publication of the report of the activities financed from the Fund together with a statement of receipts and expenditures of the Fund and statement of accounts;(k)any other matter which under this Act is or may be prescribed.[\*\*\*] [Sub-section (3) omitted by G.S.R. 1286(E), dated 15.12.1986.]

## **20. Members of Board, Welfare Commissioner, Inspectors and all officers and servants of Board to be public servants.**

(1)The members of Board, the Welfare Commissioner, Inspectors and all officers and servants of the Board shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

## **21. Protection to persons acting in good faith.**

- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

## **22. Exemptions.**

- The [Administrator] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'State Government'.] [may, after consulting the Board] [Substituted by the Bombay Labour Welfare Fund (Amendment) Act, 2003 (Maharashtra Act 24 of 2003); Section 6, for the words 'Government may' (w.e.f. 7.1.2002).] by notification in the [Delhi Gazette] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for the words 'Official Gazette'.] exempt any class of establishment from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

## **23. Amendment of Section 8 of Act 4 of 1936.**

- In Section 8 of [the Payment of Wages Act, 1936 (4 of 1936), in its application to the [Union Territory of Delhi] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for 'the Payment of wages Act, 1936 (4 of 1936)'.]] to sub-section (8) the following shall be added, before the Explanation, namely-"but in the case of any factory or establishment to which [the Bombay Labour Welfare Fund Act, 1953 (Bombay Act XL of 1953)] [Substituted by G.S.R. 1286(E), dated 15.12.1986, for 'the Bombay Labour Welfare Act, 1953 (Bombay Act 40 of 1953)'.], as extended to the [Union Territory of Delhi] [Now the National Capital Territory of Delhi.] applies all such realisations shall be paid into the Fund constituted under the said Act."