

The Tamil Nadu Building and Construction Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1984

TAMILNADU

India

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Act 29 of 1986

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The Tamil Nadu Building and Construction Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1984 Act No. 29 of 1986 Statement of Objects and Reasons. - At present there is no separate legislation to safeguard the interest of the workers engaged in building and construction works in regard to their wages, health and safety and other working conditions. The need to enact a separate legislation in this regard has been keenly felt. The Government have, therefore, decided to enact a separate legislation to regulate the working conditions of the workmen engaged in building and construction works in this State.² The Bill seeks to give effect to the above decision.³ The provisions of the Bill are explained in the Notes on Clauses appended to the Bill. Published in Part IV - Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 16th May 1986 An Act to regulate the employment and conditions of service of building and (instruction workers and to provide for their safety, health and welfare and for certain other matters connected therewith. Be it enacted by the Legislature of the State of Tamil Nadu in the Thirty-fifth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent, commencement and application.

(1) This Act may be called the Tamil Nadu Building and Construction Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1984. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall come into force on such date as the Government may, by notification, appoint; and different dates may be appointed for different areas and for different provisions of the

Act.(4)It applies to every establishment:- (i) engaged in the work of building construction or work of engineering construction which is not of a hazardous work wherein fifty or more workers are working or were working on any day of the proceeding twelve months and in any part of which any such building operation which is not of a hazardous work is being carried on or is ordinarily so carried on; (ii) engaged in the work of building construction or work of engineering construction which is a hazardous work and in any part of which any such operation of a hazardous nature is being carried on or is ordinarily so carried on, irrespective of the number of workers being employed therein or is ordinarily so employed: Provided that the Government may, after giving not less than two months' notice of their intention so to do, by notification, apply all or any of the provisions of this Act to any establishment engaged in any work of building construction or work of engineering construction employing less than fifty workers. Explanation. - For computing the number of workers for the purpose of this sub-section, all the workers working under the principal employer himself or his contractor in different relays in a day shall be taken into account whether called permanent, temporary or substitute or casual.

2. Definitions.

- In this Act, unless the context otherwise requires,- (a) "adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age; (b) "adult" means a person who has completed his eighteenth year of age; (c) "child" means a person who has not completed his fifteenth year of age; (d) "contractor" in relation to an establishment means a person who undertakes to produce a given result for the establishment other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work "of the establishment and includes a sub-contractor; (e) "contract labour" means any person engaged or employed in any work by or through a contractor with or without knowledge of the principle employer; (f) "day" means a period of twenty-four hours beginning at midnight; (g) "employer" includes the contractor and the principal employer; (h) "establishment" means- (i) any establishment engaged in the work of building construction or the work of engineering construction; or (ii) any place where any work of building construction or work of engineering construction is carried on but does not include- (1) any establishment pertaining to any industry carried on by or under the authority of the Central Government; or (2) any establishment or railway/ cantonment board, aerodromes, major ports; or (3) any establishment of a banking or insurance company; or (4) any establishment of Corporation and other agencies under the administrative control of the Central Government; or (5) any establishment or any mine or oil-field. Explanation I. - For the purposes of the clause, where an establishment consists of different departments or has branches whether situate in the same place or in different places all such departments or branches shall be treated as parts of the same establishment. Explanation II. - For the purposes of the clause, where an establishment referred to in items (i) to (v) above carries on any work of building construction or work of engineering construction not directly but through any contractor, then, such establishment shall be deemed to be an establishment and the provisions of this Act shall apply to such establishment and to such contractor and to such work of building construction or work of engineering construction carried on by such contractor on behalf of such establishment; (i) "Government" means the State Government; (j) "hazardous work" means any work which involves risk and which is specified in tire-

Schedule and includes any other work Which the Government may by notification, specify in this behalf, to be included in such Schedule;(k)"owner" means the person or body having ultimate control over the establishment or the person or body to whom such powers have been delegated;(l)"power" means electrical energy or any other form of energy which is generated by using mechanical appliances or machinery and is not generated by human or animal agency.(m)"principal employer" means-(i)in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf;(ii)in relation to a factory, the owner or occupier of the factor}' and which a person has been named as the manager of the factory under the factories Act, 1948 (Central Act LXIII of 1948) the person so named.:(iii)in relation to any other establishment, any person responsible for the supervision and control of the establishment;(n)"work" means a work of building construction or a work of engineering construction;(o)"worker" means any person (including an apprentice) employed in any work to do any skilled, semi-skilled or unskilled, manual, supervisory, technical, or clerical work for hire or reward whether the terms of employment be express or implied, but does not include any such person.(i)who is employed mainly in a managerial capacity; or(ii)who being employed in a supervisor capacity draws wages exceeding one thousand and six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him functions mainly of a managerial and administrative nature, but includes a worker employed as "contract labour" in any work when he is employed by or through a contractor, with or without the knowledge of the principal employer for executing any kind of work in that work;(p)"work of building construction" means the construction, structural alteration, repair or maintenance or demolition of a building or the preparation for and the laying of the foundation of an intended building and includes the construction of furnace, chimney, well or any ancillary structure but does not include-(i)a work of engineering construction; or(ii)any work of building construction carried on otherwise than through a contractor in any mine covered by the Mines Act 1952 (Central Act 35 of 1952); or(iii)any work of building construction carried on otherwise than through a contractor in any oil-field;(q)"work of engineering construction" means the construction of any railway line or siding otherwise than upon an existing railway, the construction, structural alteration or repair, maintenance and laying of foundation or demolition of any tramway dock, harbour, canal, dams and ancillary works including river valley projects, tanks and water courses, inland navigation, dam, tunnel, bridge, viaduct water works, reservoir pipeline, aqueduct sewer, sewage works, river works, private air fields, sea defence works, gas works and any steel or reinforced concrete structure other than a building, or any other civil or constructional engineering work of a nature similar to any of the foregoing work or operation connected with the installation of machinery, but does not include-(i)any work of engineering construction carried on otherwise than through a contractor in any mine covered by the Mines Act, 1952 (Central Act 35 of 1952); or(ii)any work of engineering construction carried on otherwise than through a contractor in any oil-field; or(iii)any work connected with erection or installation of machinery in a factory as defined in the Factories Act, 1948 (Central Act LXIII of 1948).

3. Power to declare different works to be separate works or two or more works to be a single work.

- The Government may, on an application made in this behalf by the employer or otherwise, direct, by an order in writing, that for all or any of the purposes of this Act different works of an employer specified in the order shall be treated as separate works or that two or more works of the employer specified in the order shall be treated as a single work.

4. Power to exempt.

- The Government, may by notification, exempt by a general or special order notified in the Tamil Nadu Government Gazette, any work, worker or establishment or class of work or workers or establishment from all or any of the provisions of this Act [except sections 26 and 27 (2)] and the rule made thereunder for such period and subject to such conditions and restrictions if any, as the Government may think fit.

5. Power to exempt in special cases.

- The Government may, in the case of an emergency, direct by notification, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

6. Registration and licensing.

(1)The Government may make rules-(a)requiring registration of establishments and licensing of contractors and prescribing the fee payable for such registration and licensing and for the renewal of licence;(b)requiring that no licence shall be shifted or renewed unless the notice specified in section 7 has been given;(c)providing for appeal from the decision of the authority competent to grant registration or licence, refusing to grant registration or licence;(2)No contractor shall undertake or execute any work except under or in accordance with a licence issued in that behalf under the rules made under subsection (1).

7. Notice of commencement.

(1)The principal employer shall, at least thirty days before the commencement of any work, send or cause to be sent to the Inspector having jurisdiction in the area where the proposed work is to be executed a written notice containing-(a)the name and situation of the work;(b)the name and address of the principal employer;(c)the address to which communications relating to the work may be sent;(d)the nature of the work involved and the type of construction facilities including any plant and machinery provided;(e)the arrangement for storing of explosives, if any, to be used in the work;(f)the number of workers likely to be employed during the various stages of construction;(g)the name and designation of the person or authority in overall charge of the

work;(h)the approximate capital outlay involved;(i)the approximate duration of the work:Provided that the limit of thirty days for sending notice shall not apply in the case of any work undertaken in the event of war or other emergency endangering national safety, epidemics, natural calamities endangering human life, or urgent repairs to avoid danger to the safety of the people:Provided further that the principal employer shall, in the case where he decides to execute the work through any contractor, give the notice aforesaid within a week from the date of making such decision.(2)The contractor to whom the principal employer has entrusted the execution of the proposed work shall, at least fifteen days before the commencement of such work send or cause to be sent, to the Inspector having jurisdiction in the area where the proposed work is to be executed a written notice containing the particulars specified in sub- section (1):Provided that the limit of fifteen days for sending notice shall not apply in the case of any work undertaken in the event of war or other emergency endangering national safety, epidemics, natural calamities endangering human life or urgent repairs to avoid danger to the safety of the people.(3)where any change occurs in any of the particulars furnished, the principal employer or the contractor, as the case may be, shall intimate the change to the Inspector within two days of such a change.(4)A copy of the notice referred to in sub-section (1) shall be displayed at a conspicuous place at or near the site of the work, prior to commencement of any work. Any intimation of a change sent to the Inspector as required under subsection (3) shall also be displayed along with a copy of the notice aforesaid.

Chapter II

State Advisory Board

8. State Advisory Board.

(1)The Government shall, as soon as may be constitute a Board to be called the State Advisory Board and Construction Worker's Board (hereinafter referred to as the "State Board") to advise the Government on such matters arising out of the administration of this Act, as may be referred to it, and to carry out other functions assigned to it under this Act.(2)The State Board shall consist of such number of members as the Government may determine and they shall be chosen in such manner as maybe prescribed;Provided that the number of members representing the Government the employers and workers shall be equal.(3)The Government shall appoint one of the members of the State Board to be its Chairman. The term of office and the manner of filling casual vacancies among the members of the State Board shall be such as may be prescribed.

9. Power to constitute committees.

- The State Board may constitute such committees and for such purpose or purposes as it may think fit.

Chapter III

Health and Welfare

10. Drinking water.

- The employer shall make in every establishment effective arrangements to provide and maintain for all workers therein, a sufficient supply of wholesome drinking water.

11. First Aid.

- Every establishment shall provide such first-aid facilities as may be prescribed.

12. Creches.

- In every establishment wherein fifty or more female workers are ordinarily employed on any day in a year, there shall be provided and maintained a suitable place for the use of children under the age of six years of such female workers and the Government may make rules relating to maintenance of such creches.

13. Provision for canteen and other facilities.

- The Government may by rule, regulate the provisions for canteens and other facilities and matters connected therewith in every establishment wherein one hundred or more workers are ordinarily employed on any day in a year.

Chapter IV

Hours of Work and Limitations of Employment

14. Hours of work.

(1) No adult workers shall be required or allowed to work in any establishment for more than nine hours in any day or for more than forty-eight hours in any week. (2) No adolescent shall be employed or required to work for more than six hours a day inclusive of half an hour rest.

15. Rest interval.

- The hours of an adult worker in an establishment each day shall be so fixed that no period shall exceed five hours and that no worker shall work more than five hours before he has had an interval of rest of at least half an hour.

16. Weekly holidays.

- The Government may make rules providing for a day of rest with wages in every period of seven days which shall be allowed to all workers covered by this Act.

17. Overtime wages.

(1)Where an adult worker works for more than nine hours in any day or for more than forty-eight hours in any week or where he is required to work on any day of rest he shall be entitled to wages at twice his ordinary rate of wages in respect of the overtime work; and in the case of work done on the date of rest, he shall at his option, be entitled to twice his ordinary rate of wages or his ordinary rate of wages for such day and to avail himself of a substituted day of rest With his ordinary rate of wages on one of the three days immediately before or after the day on which he so works.(2)Where an adolescent worker is required to work on any day of rest, he shall, at his option, be entitled to, twice his ordinary rate of wages in respect of the work done on the day of rest or his ordinary rate of wages for such day and avail himself of a substituted day of rest with his ordinary rate of wages on one of the three days immediately before or after the day on which he so worksExplanation. - For the purpose of this Act "wages" shall have the same meaning as in clause (vi) of section 2 of the Payment of Wages Act, 1935 (Central Act IV of 1936).

18. Annual leave with wages.

- Every adult worker in an establishment shall be allowed leave with wages for one day for every twenty days of work performed by him during the calendar year. Every adolescent worker shall be allowed leave with wages for one day for every fifteen days of work performed by him during calendar year.

19. Special casual leave for family planning operation.

(1)Every worker who undergoes family planning operation shall be entitled to special casual leave with wages for a period not exceeding-(a)six days in the case of a male worker;(b)fourteen days in the case of a female worker with effect from the day on which he or she had undergone such operation.(2)If any worker who has undergone family planning operation is discharged by his or her employer during the period specified in sub- section (1), the employer shall pay such worker the wages in respect of the period of the special casual leave to which the worker was entitled at the time of discharge.

Chapter V

Inspecting Staff

20. Inspecting staff.

(1)The Government may, by notification, appoint such persons possessing such qualifications as may be prescribed to be Inspectors for the purposes of this Act, and may assign to them such local limits as they may think fit.(2)The Government may, by notification, appoint any person to be a Chief Inspector who shall in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the State.(3)No person shall be appointed under

sub-section (1), or sub-section (2), or sub-section (5), or having been so appointed, shall continue to hold office who is or becomes directly or indirectly interested in a work or any process or business carried on therein or in any plant or machinery connected therewith.(4)In any area where there are more Inspectors than one, the Government may, by notification, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.(5)Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (Central Act XLV of 1860).

21. Powers of Inspectors.

(1)Subject to any rules made in this behalf by the Government, an Inspector may, within the local limits for which he is appointed, enter an area which he has reason to believe to be a work, and make examination of the premises, plant and machinery, require the production of any prescribed registers, certificates or other documents and take on the spot or otherwise, statements of any person which he may consider necessary and exercise such other powers as may be prescribed for carrying out the purposes of this Act.(2)The employer and other person in authority of the site of the work shall offer all reasonable facilities to the Inspector for entry inspection, examination or enquiry under this Act and the rules made thereunder.(3)If it appears to the Inspector that any work or part of the machinery or plant in such a condition that it is dangerous to human life or safety, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.(4)If it appears to the Inspector that the use of any work or any part of the machinery or plant involves imminent danger to human life or safety, he may serve on the employer an order in writing prohibiting its use until it has been properly repaired or shared.

Chapter VI

Safety

22. Safety Officer and Safety Inspectors.

- The Government may make rules requiring that in any specified work wherein five hundred or more workers are ordinarily employed, a Safety Officer shall be employed by the employers and a Safety Inspector employed in works where two hundred and fifty or more workers are ordinarily employed,

23. Power of Government to make rules.

- The Government may make rules in regard to works of building construction or works of engineering construction, either separately or for both together with respect to -(a)safe means of access and safety of working place including provision of suitable and sufficient scaffolds and stages when work cannot be safely done from the ground or from part of a building or from a ladder and such other means of support;(b)precautions to be taken in connection with the demolition of the whole or any substantial part of the building or other structure under the supervision of competent

person and the avoidance of danger from collapse of the building or any other structure while removing any part of the framed building or other structure by shoring or otherwise;(c)safe handling or use of explosives under the control of competent persons so that there is no exposure to the risks of injury from explosion or from flying material;(d)safety in the erection, installation, use and maintenance of transporting equipment such as locomotives, trucks, wagons and other vehicles and trailer and appointment of competent persons to drive such equipment;(e)safety in the erection, installation, use and maintenance of hoists, and lifting appliances and lifting gear including periodical testing and examination and heat treatment where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;(f)adequate and suitable lighting of every work place and approach thereto, of every place where raising or lowering operations with the use of a hoist, lifting appliance for lifting gear are in progress and all openings dangerous to the workers employed;(g)precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any girding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;(h)measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;(i)Safeguarding of machinery including fencing of every flywheel and every moving part of a prime mover, every part of transmission machinery and every dangerous part of other machinery unless it is in such a position or of such construction as to be safe to every worker working on any of the operations as it would be if it were securely fenced;(j)safe handling and use of plant including tools and equipment operated by compressed air;(k)precautions to be taken in case of fire;(l)precautions to be taken in the works in compressed air;(m)the limits of weight to be limited or moved by workers;(n)safe transport of workers to or from any work place by water and provision of means for rescue from drowning;(o)steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;(p)the keeping of safety nets, safety sheets and safety belts where the special nature of the circumstances of work render them necessary for the safety of the workers and also other safety equipment for use of workers;(q)the arrangements for suitable first aid to injured workers and for their removal to the nearest place of treatment;(r)the maintenance of registers and other documents and for submission of such returns as may be required;(s)the pasting of abstracts of the law including rules at conspicuous places at or near the site of a work;(t)the specification of the persons and authorities who shall be responsible for compliance with rules made under this section;(u)the circumstances in which and the conditions subject to which exemptions from any of the rules made under this section maybe given, the authorities who may grant such exemptions and the procedure to be followed;(v)any other matter concerning safety of workers working on any of the operations being carried on in a work.

Chapter VII

Special Provisions

24. Notice of accidents and dangerous occurrence.

- Where in any work an accident occurs which causes death, or which causes any bodily injury by reason of which the worker injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed, by the Government in this behalf, notice of every such accident shall be sent by the employer to the Inspector and to such other authorities and in such form and within such time as may be prescribed by the Government.

25. Appointment of an Inquiry Officer.

(1)The Government may, if they consider it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a work and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such enquiry.(2)The person appointed to hold an inquiry under this section shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908) for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects and may also so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act, and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian penal Code (Central Act XLV of 1860).(3)the person holding an inquiry under this section shall make a report to the Government stating the cause of the accident and adding any observations which he or any of the assessors may think fit to make.

26. Prohibition of employment of children.

- No child shall be required or allowed to work in any work of building construction or work of engineering construction.

27. Restriction on employment of women.

(1)No woman worker shall be required or allowed to work in a work of building construction or engineering construction except between the hours of 6 a.m. and 7 p.m.(2)No employer shall knowingly employ a woman worker in any such work during the six weeks before her expected date of delivery and six weeks after the day of delivery or miscarriage.

28. Registers and records.

- Every employer shall maintain such registers and records giving such particulars of workers employed by him, the nature of work performed by them, the rates of wages paid to them and such other particulars and in such form as may be prescribed by rules made by the State Government.(2)No employer shall wilfully make or cause to be made any false or incorrect entry in any register or record referred to in sub-section (1).

29. Notice of discharge or dismissal.

(1) No employer shall dispense with the services of a worker employed continuously for a period of not less than six months, except for a reasonable cause and without giving such employee at least one month's notice or wages in lieu of such notice, provided however that such notice shall not be necessary where the services of such a worker are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose. (2) (a) Any worker discharged, dismissed or retrenched, may appeal to such authority and within such time and in such manner as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer or on the ground that the employer did not retrench him in good faith. (b) The appellate authority, may, after giving notice in the prescribed manner to the employer and the worker dismiss the appeal or direct the reinstatement of the employee with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case. (3) The decision of the appellate authority shall be final and binding on both parties, and shall not be liable to be questioned in any Court of Law and be given effect to within such time as may be specified in the order of the appellate authority.

Chapter VIII

Penalties and Procedure

30. General penalty for offences.

- Save as otherwise expressly provided in this Act, if in respect of any work, any person contravenes any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both; and if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each days on which the contravention is so continued; Provided that without prejudice to the liability to imprisonment for a term which may extend to three months, in any contravention resulting in a fatal accident or an accident causing serious bodily injury, the person concerned shall be punishable with fine of not less than one thousand rupees in the case of a fatal accident and five hundred rupees in the case of an accident which causes serious bodily injury. Explanation. - "Serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of any limb or the permanent loss of, or injury to sight or hearing or the fracture of any bone, but shall not include the fracture of a bone or joint of any phalanges of the hand or foot.

31. Enhanced penalty after previous conviction.

- If any person who has been convicted of any offence punishable under section 30 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months, or with fine which shall

not be less than two hundred rupees but which may extend to two thousand rupees, or with both; Provided that for the purpose of this section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted; Provided further that the court, if it is satisfied that there are exceptional circumstances warranting such a course may, after recording its reasons in writing, impose a smaller fine than is required by this section.

32. Penalty for obstructing Inspector.

- Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a work from appearing before, or being examined by an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

33. Cognizance of offences.

(1) No court shall take cognizance of any offence under this Act except on a complaint by, or with the previous sanction in writing of, an Inspector. (2) No court below that of a Metropolitan Magistrate or of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Chapter IX

Miscellaneous

34. Exemption of employer from liability in certain cases.

- Where the employer of a work is charged with an offence punishable under this Act or the rules, he shall be entitled upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charges; and if, after the commission of the offence has been proved the employer proves to the satisfaction of the Court-(a) that he has used due diligence to enforce the execution of this act; and (b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer, and the employer shall be discharged from any liability under this Act in respect of such offence: Provided that in seeking to prove as aforesaid the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor: Provided further that if the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court,

the court shall proceed to hear the charge against the employer and shall, if the offence be proved, convict the employer.

35. Limitation of prosecutions.

- No court shall take cognizance of any offence punishable under this Act unless the complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector: Provided that where the offence consists of disobeying a written order made by an Inspector complaint there of may be made within six months of the date on which the offence is alleged to have been committed. Explanation. - For the purposes of this section-(a) in the case of continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues; (b) where for the performance of any act time is granted or extended on an application made by the concerned person, the period of limitation shall be computed from the date on which the time so granted or extended expired.

36. Protection of action taken under this Act.

- No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority of the Government for anything which is in good faith done or intended to be done under this Act.

37. Effect of laws and agreements inconsistent with this Act.

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act: Provided that where under any such award, agreement, contract of service or otherwise a worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he will be entitled under this Act, the workers shall continue to be entitled to more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act. (2) Nothing contained in this Act, shall be construed as precluding any worker from entering into an agreement with any employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

38. Application of Act to Government works.

- Unless otherwise provided, this Act shall apply to works belonging to the Government or any other State Government or the Central Government.

39. Act not to apply to certain works of building construction intended for residence if the Government declares to that effect.

- Subject to such restrictions and conditions as may be prescribed, the Government may, by notification, declare that nothing contained in this Act shall apply to any work of building construction carried on by any person for the purpose of his residence or for the residence of the members of his family. Explanation. - For the purposes of this section "family" means the person and his wife or husband and the children of the person who carries on such building construction.

40. Application of certain Acts to building and construction workers.

(1) The provisions of the Workmen's Compensation Act, 1923 (Central Act VIII of 1923), as in force for the time being, shall apply to, or in relation to, building and construction workers as they apply to, or in relation to, workmen within the meaning of that Act. (2) The provisions of the Payment of Wages Act, 1936 (Central Act IV of 1936), as in force for the time being, shall apply to, or in relation to, building and construction workers as they apply to, or in relation to employed persons within the meaning of that Act. (3) The provisions of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), as in force for the time being, shall apply to, or in relation to, building and construction workers, as they apply to, or in relation to, "workmen" within the meaning of that Act and for the purposes of any proceeding under that Act in relation to an Industrial dispute, a building and construction worker shall be deemed to include a building and construction worker who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment had led to that dispute. (4) The provisions of Maternity Benefit Act, 1961 (Central Act 53 of 1961) as in force for the time being, shall apply to, or in relation to, building and construction workers being women, as they apply to, or in relation to women workers whether directly or through any agency, for wages in any establishment within the meaning of that Act. (5) The provisions of the Contract Labour (Regulation and Abolition) Act, 1970 (Central Act 37 of 1970) as in force for the time being, shall apply to, or in relation to, building and construction workers, as they apply to, or in relation to 'workmen' within the meaning of that Act. (6) The provisions of the Equal Remuneration Act, 1976 (Central Act 25 of 1976) as in force for the time being, shall apply to, or in relation to building and construction workers, as they apply to worker within the meaning of that Act. (7) The provisions of the Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (Central Act 30 of 1979) shall apply to, or in relation to, building and construction workers, as they apply to in relation to 'workmen' within the meaning of that Act. (8) The Government may, by notification, apply to building and construction workers, the Payment of Gratuity Act, 1972 (Central Act 39 of 1972), the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act XIX of 1952) and the Employees' State Insurance Act, 1948 (Central Act XXXIV of 1948), with such modifications as may be specified in such notification.

41. Insurance of workers.

- The Government, may, by notification, direct that every employer shall take out an insurance policy in respect of all or any such classes of the workers employed by him in his establishment for such amount and for such period, as may be specified by Government in such notification so as to cover the risks of accident, death or bodily injury or disablement or any other calamity which may arise in the course of the employment of such workers in such establishment.

42. Power to make rules.

(1)The Government may make rules for carrying out all or any of the purposes of this Act.(2)(a)All rules made under this Act shall be published in the Tamil Nadu Government Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(b)All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day f on which they are published.(3)Every rule made or notification issued under this Act shall as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Hoses agree that the rule or notification should not be made or issued, the rule or notification 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 rule or notification.

Schedule

[See section 2(j)](1)Construction and maintenance works in multi-storeyed structures.(2)Electrical works involving high voltage of 430 volt and above.(3)Works involved in lift walls and erection of lifts.(4)Erection of trusses purlin and AC sheet goofing in structures over 6 metres height.(5)Well sinking, well excavation works.(6)Divers in drainage works in maintenance of deep sewers and drainage works.(7)Erection of towers such as in Microwave, transmission towers, etc.(8)Works involved in the construction of overhead reservoirs of height more than 6 metres from ground level.(9)Marine works.(10)Construction works in hill slopes.(11)Dismantling of structures more than 3 metres height.(12)Blasting works including quarrying.(13)Narrow excavation of more than 2 metres depth for deep canals, cut off trenches, etc., excavation in treacherous soils and excavation involving blastering.(14)Breach closing works.(15)Tunnelling in multi-purpose project works.(16)Construction activities at height more than 3 metres in a state of suspension and also constructing face work (i.e., at edges of the blocks) in irrigation structures.(17)Erecting heavy plant equipment.