

From

The Chief Administrator,
Haryana State Agricultural Marketing Board,
Panchkula.

To

All the Superintending Engineer/Executive Engineer,
H.S.A.M Board in the State.

Memo No. GA-I-2010/72927-57

Dated the 9/8/2010 Panchkula

Sub: Registration of construction workers as beneficiaries under the Building & Other Construction Workers (Regulation & Employment & Conditions of Service) Act, 1996.

The Govt. of Haryana vide its circular No. 1496-1538 dated 9.4.2010 has informed that the Building & other construction workers are covered under the Building & other Construction workers (Regulation & Employment & Conditions of Service Act, 1996 which provides for safety, health & welfare of the workers. The act is applicable on every establishment which employs or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work.

There is an urgent need to extend the benefits of the Act to unorganised sections of the building workers in a meaningful manner. The implementation matter came up before the Hon'ble Supreme Court in Writ Petition (Civil) No. 318 of 2006 filed by National Campaign Committee for Central Legislation on construction labour Versus Union of India and others. The Hon'ble Supreme Court has issued directions for implementation of the provisions of the Building and other Constructions Workers (Regulation of Employment & Conditions of Service) Act, 1996.

Employer:- “Employer”, in relation to an establishment, means the owner thereof, and includes,

- (i) in relation to a building or other construction work carried work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;
- (ii) in relation to a building or other construction work carried on by or on behalf of a local authority or a other establishment, directly without any contractor, the Chief executive officer of that authority or establishment;
- (iii) in relation to a building or other construction work carried on by or though a contractor, or by the employment of building workers supplied by a contractor, the contractor;

1. The Haryana Building and other Construction Workers Welfare Board has been constituted under section 18 of the Building and other Construction Workers (Regulations of Employment & Conditions of Service) Act, 1966. The Board implements statutory as well as non-statutory Welfare schemes for the above mentioned beneficiaries, Section 12 (1) of the Building and Other Construction Workers (Regulations of Employment & Conditions of Service) Act, 1966, provides that “ A building worker who has completed 18 years of age and has not completed 60 years and is not a member of any other welfare fund and has been engaged in building and other construction work for not less than 90 days in the year immediately preceding”, is eligible for registration with the Board as beneficiary.

2. It is mandatory for every employer, before fifteenth day of every month, to send to the Secretary or any other Officer authorized by him in this behalf, a return in Form No. IX showing the details of the workers entitled to be registered as well as those who left the serviced during the preceding month under rule 30 (2) of the Haryana Building and other Construction Workers Rules, 2005. A copy of Form No. IX is enclosed for ready reference. All the Deputy Directors, Assistant Directors, Labour Department have been authorized to register the workers as beneficiaries.

3. All the Officers concerned are directed to ensure that the information of all the contracts awarded by them for execution of the construction works is furnished to the Registering officers of the area of their concerned Labour

department to enable them to register the workers engaged in construction activities as beneficiaries as per the provisions of the Act and Rules framed there under so that the benefits of the welfare schemes available to the registered workers could be extended to them. You are, therefore, again directed to ensure that consolidated returns in form No. IX of all the area before the 15th of every month, as provided in Rule 30 (2) of the Haryana Building and other Construction Workers Rules, 2005.

Some of the provisions in the Building and other Construction Workers ((Regulations of Employment & Conditions of Service) Act, 1966 for the beneficiaries of registered construction workers are given here under:-

Section. 30. Maintenance of registers and records:-

- (1) Every employer shall maintain such registers and records giving such particulars of building workers employed by him, the work performed by them, the number of hours of work which shall constitute a normal working day for them, a day of rest of every period of seven days which shall be allowed to them, the wages paid to them, the receipts given by them and such other particulars in such form as may be prescribed.
- (2) Every employer shall keep exhibited, in such manner as may be prescribed, in the place where such workers may be employed, noticed in the prescribed form containing the prescribed particulars.
- (3) The appropriate Government may, by rules, provide for the issue of wage books or wage slips to building workers employed in an establishment and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

S. 31. Prohibition of employment of certain persons in certain building or other construction work:-

Any person who is deaf or who has defective vision or who has a tendency to giddiness is not required or allowed to work in any such operation of building or other construction work which is likely to involve risk of any accidents.

S. 32. Drinking water:

- (1) The employer shall make in every place where building or other construction work is in progress, effective arrangement to provide and

maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "Drinking Water" in a language understood by a majority of the persons employed in such place and no such point shall be situated within six metres of any washing place, urinal or latrine.

S. (33) Latrines and urinals: In every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation of such types as may be prescribed and they shall be so conveniently situated as may be accessible to the building workers at all times while they are in such place;

Provided that it shall not be necessary to provide separate urinals in any place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

S. (34) Accommodation:

(1) The employer shall provide, free of charges and within the work site or as near to it as may be possible, temporary living accommodation to all building workers employed by him for such period as the building or other constructions work is in progress.

(2) The temporary accommodation provided under sub-section (1) shall have separate cooking place, bathing, washing and lavatory facilities.

(3) As soon as may be, after the building or other construction work is over the employer shall, at his own cost, cause removal or demolition of the temporary structures erected by him for the purpose of providing living accommodation cooking place or other facilities to the building workers as required under sub section (1) and restore the ground in good level and clean condition.

(4) In case an employer is given any land by a Municipal Board or any other local authority for the purposes of providing temporary accommodation for the building workers under this section, he shall, as soon as may be after the construction work is over, return the possession of such land in the same condition in which he received the same.

S. (35) Creches:

(1) In every place wherein, more than fifty female building workers are ordinarily employed, there shall be provided and maintained a suitable room

or rooms for the use of children under the age of six years of such female workers.

(2) Such rooms shall-

- (a) provide adequate accommodation;
- (b) be adequately lighted and ventilated;
- (c) be maintained in a clean and sanitary condition;
- (d) be under the charge of women trained in the care of children and infants.

S. (6) First-aid:-Every employer shall provide in all the places where building or other construction work is carried on such first-aid facilities as may be prescribed.

SAFETY AND HEALTH MEASURES

S. (38) Safety Committee and safety officers:- (1) In every establishment wherein five hundred or more building workers are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the building workers as may be prescribed by the State Government;

Provided that the number of persons representing the workers, shall, in no case, be less than the persons representing the employer.

(2) In every establishment referred to in sub-section (1), the employer shall also appoint a safety officer who shall possess such qualifications and perform such duties as may be prescribed.

S. (40) Power of appropriate Government to make rules for the safety and health of building workers;- (1) The appropriate Government may, by notification, make rules regarding the measures to be taken for the safety and health of building workers in the course of their employment and the equipment and appliances necessary to be provided to them for ensuring their safety, health and protection, during such employment.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be provided for all or any of the following matters, namely:-

(a) the safe means of access to, and safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;

(b) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of any competent person and the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;

(c) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;

(d) the erection, installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;

(e) the erection, installation, use and maintenance of hoists, 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) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;

(g) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, 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) the measures to be taken during stacking or unstowing, stowing or unstowing of materials or goods or handling in connection therewith;

(i) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of a prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working or nay of the operations and as if it were securely fenced;

(j) the safe handling and use of plant, including tools and equipment operated by compressed air;

(k) the precaution to be taken in case of fire;

(l) the limits of weight to be lifted or moved by workers;

(m) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;

(n) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;

(o) the keeping of safety, nets, safety sheets and safety belts where the special nature or the circumstance of work render them necessary for the safety of the workers;

(p) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipments and floating operational equipment;

(q) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(r) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefore and the matters connected therewith, to be framed by the employers and contractors for the operations to be carried on in a building or other construction work;

(s) the information to be furnished to the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986 (63 of 1986), regarding the use of any article or process covered under that Act in a building or other construction work;

(t) the provision and maintenance of medical facilities for building workers;

(u) any other matter concerning the safety and health of workers working in any of the operations being carried on in a building or other construction work.

S. 44. Responsibility of employers- An employer shall be responsible for providing constant and adequate supervision of any building or other construction work in his establishment as to ensure compliance with the provisions of this Act relating to safety and for taking all practical steps necessary to prevent accidents.

S. 45. Responsibility for payment of wages and compensation: (1) An employer shall be responsible for payment of wages to each building worker

employed by him and such wages shall be paid on or before such date as may be prescribed.

(2) In case the contractor fails to make payment of compensation in respect of a building worker employed by him, where he is liable to make such payment when due, or makes short payment thereof, then, in the case of death or disablement of the building worker, the employer shall be liable to make payment of that compensation in full or the unpaid balance due in accordance with the provisions of the Workmen's Compensation Act, 1923 (8 of 1923), and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

S. 47. Penalty for contravention of provisions regarding safety measures-

(1) Whoever contravenes the provisions of any rules made under section 40 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 in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again guilty of an offence involving a contravention or failure of compliance 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 five hundred rupees but which may extend to two thousand rupees or with both;

Provided that for the purposes of this sub-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 authority imposing the penalty, if it is satisfied that there are exceptional circumstances warranting such a course may, after recording its reasons in writing, a fine of less than five hundred rupees.

S. 50. Penalty for other offences:- (1) Whoever contravenes any other provision of this Act or any rules made thereunder who fails to comply with

any provision of this Act or any rules made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure.

(2) A penalty under sub-section (1) may be imposed-

- (a) by the Director-General where the contravention or failure relates to a matter to which the appropriate Government is the Central Government; and
- (b) by the Chief Inspector where the contravention or failure relates to a matter to which the appropriate Government is the State Government

(3) No penalty shall be imposed unless the person concerned is given a notice in writing-

- (a) informing him of the grounds on which it is proposed to impose a penalty; and
- (b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

(4) Without prejudice to any other provision contained in this Act, the Director-General and the Chief Inspector shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while exercising any powers under the section, in respect of the following matters, namely:-

- (a) Summoning and enforcement the attendance of witnesses;
- (b) requiring the discovery and production of any documents;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(5) Nothing contained in this section shall be construed in prevent the person concerned from being prosecuted under any other provision of this Act or any other law for any offence made punishable this Act or by that

other law, as the case may be, or for being liable under this Act or any such law to any other or higher penalty or punishment than is provided for such offence by this section;

Provided that no person shall be punished twice for the same offence.

**THE BUILDING AND OTHER CONSTRUCTION WORKERS'
(REGULATION OF EMPLOYMENT AND CONDITIONS OF
SERVICE) CENTRAL RULES, 1998'**

S. 34. Excessive noise, vibration, etc:- An employer shall ensure at a construction site of a building or other construction work that adequate measures are taken to protect building workers against the harmful effects of excessive noise or vibration at such construction site and noise level in no case exceeds the limits laid down in Schedule VI annexed to these rules.

35. Fire protection:- An employer shall ensure at a construction site of a building or other construction work that,-

(a) such construction site is provided with-

(i) fire extinguishing equipment sufficient to extinguish any probable fire at such construction site;-

(ii) an adequate water supply at ample pressure as per national standards;

(iii) number of trained persons required to operate the fire extinguishing equipments provided under sub-clause (i);

(b) fire extinguishing equipment provided under sub-clause (i) of clause (a) is properly maintained and inspected at regular intervals of not less than once in a year by the responsible person and a record of such inspections is maintained;

(c) in case of every launch or boat or other craft used for transport of building workers and the cabin of every lifting appliance including mobile crane adequate number of portable fire extinguishing equipment of suitable type shall be provided at each of such launch or boat or craft or lifting appliance.

S. (36) Emergency action plans: An employer shall ensure at a construction site of a building or other construction work that in case more than five hundred building workers are employed at such construction site emergency action plan to handle the emergencies like-

- (a) fire and explosion.
- (b) collapse of lifting appliances and transport equipment,
- (c) collapse of building, sheds or structures etc,
- (d) gas leakage or spillage of dangerous goods or chemicals,
- (e) drowning of building workers, sinking of vessels, and
- (f) land slides, getting building worker buried, floods, storms and other natural calamities, is prepared and submitted for the approval of the Director General.

S. 37. Fencing of motors etc:- An employer shall ensure at a construction site of a building or other construction work that:-

- (a) all motors cogwheels, and friction gearing, flywheels, shafting, dangerous and moving parts of machinery (whether or not driven by mechanical (power) and steam pipes are securely fenced or lagged;
- (b) the fencing of dangerous parts of machinery is not removed while such machinery is in motion or in use;
- (c) no part of any machinery which is in motion and which is not securely fenced is examined, lubricated, adjusted or repaired except by a person skilled for such examination, lubrication, adjustment or repairs;
- (d) machine parts are cleaned when such machine is stopped;
- (e) when a machine is stopped for servicing or repairs, adequate measures are taken to ensure that such machine does not re-start inadvertently;

S. 38. Lifting and carrying of excessive weight:- An employer shall ensure at a construction site of a building or other construction work that that.-

- (a) no building worker lifts by hand or carries overhead or over his back or shoulders any material, article, tool or appliances exceeding in weight the maximum limits set out in the following table:-

TABLE

Person	Maximum Weight Load
Adult man	55 kg
Adult woman	30 kg
Adolescent male	30 kg
Adolescent female	20 kg

Unless aided by any other building worker or a mechanical device:-

(b) no building worker aided by other building workers, lift by hand or carry overhead or over their back or shoulders, any material, article, tool or appliance exceeding in weight the sum total of maximum limits set out for each building worker separately under clause (a), unless aided by a mechanical device.

All the above officers are hereby directed to implement the provisions of said Act and Rules in letter and spirit. Any laxity in this regard will be viewed seriously. If any officer found defaulter for implementing this Act & rules then strict disciplinary action alongwith legal action prescribed in the Act will be taken against him.

Administrative Officer-II
for Chief Administrator

Endst. No. GA-I-2010/72958

Dated: 9.8.2010

A copy of the above is forwarded to the ZMEO (HQ), HSAM Board, Panchkula for information.

Administrative Officer-II
for Chief Administrator