

**The Dock Workers (Safety, Health and Welfare) Act, 1986**

Act

**THE DOCK WORKERS (SAFETY, HEALTH AND WELFARE) ACT, 1986  
(Act No. 54 of 1986)**

An Act to provide for the safety, health and welfare of dock workers and for matters connected therewith.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows :

**1. Short title, extent, commencement and application -**

1. This Act may be called the Dock Workers (Safety Health and Welfare) Act 1986
2. It extends to the whole of India.
3. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
4. It shall not apply to any ship of war of any nationality.

**Comment**

**Intention of Legislature** - The Intention of Legislature must be gathered from the words of statute and not from what the Government professes it to be when it has translated its intention into a statute or a rule.

**2. Definitions -**

In this Act, unless the context otherwise requires, -

- (a) "appropriate Government" means, in relation to any major port, the Central Government, and, in relation to any other port, the State Government;
- (b) "cargo" includes anything carried or to be carried in the ship or other vessel;
- (c) "Chief Inspector" means the Chief Inspector of Dock Safety, appointed under sub-section (1) of Sec. 3;
- (d) "dock work" means any work in or within the vicinity of any port in connection with, or required, for, or incidental to, the loading, unloading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place, and

includes –

- i) work in connection with the preparation of ships or other vessels for receipt or discharge of cargoes or leaving port;  
**and**
  - ii) chipping, painting or cleaning of any hold., tank, structure or lifting machinery or any other storage area in board the ship or In the docks;
- (e) “dock worker” means a person employed or to be employed directly or by or through any agency (including a contractor) with or without knowledge of the principal employer, whether for remuneration or not, on dock work;
  - (f) “employer”, in relation to a dock worker, means the person by whom he is employed or is to be employed on dock work, whether for remuneration or not;
  - (g) “principal employer”, in relation to a dock worker employed or to be employed by or through any agency (including a contractor) means the person in connection with whose work he is employed or is to be employed by such agency:
  - (h) “regulation” means a regulation made under this Act.

### **Comment**

**Where no definition provided reference to dictionary not always safe.**  
For ascertaining the correct meaning of a fiscal entry the proper guide it appears. In such a case is the context and the trade meaning.

### **3. Inspectors -**

The appropriate Government, may, by notification in the Official Gazette, appoint such person as it thinks fit to be the Chief Inspector of Dock Safety and such persons as it thinks fit to be Inspectors subordinate to the Chief Inspector for the purpose of this Act at such ports as may be specified In the notification.

- (2) The Chief Inspector shall also exercise the powers of an Inspector.
- (3) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

### **4. Powers of Inspectors -**

An Inspector may, at any port for which he is appointed –

- (a) enter, with such assistance (if any), as he thinks fit, any ship,

dock, warehouse or other premises, where any dock work is being carried on, or where he has reason to believe that any dock work is being carried on;

- (b) make examination of the ship, dock, lifting machinery, cargo. gear, stagings. transport equipment, warehouses or other premises, used or to be used, for any dock work;
- (c) require the production of any register, muster roll or other document relating to the employment of dock workers and examine such document;
- (d) take on the spot or otherwise such evidence of any person which he may deem necessary;

PROVIDED THAT no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself:

- (e) take copies of registers, records or other documents or portions thereof as he may consider relevant in respect of any offence which he has reason to believe has been committed or for the purpose of any inquiry;
- (f) take photograph, sketch, sample, measure or record as he may consider necessary for the purpose of any examination or inquiry;
- (g) hold an inquiry into the causes of any accident which he has reason to believe was the result of the collapse or failure of lifting machinery, transport equipment, staging or non-compliance with any of the provisions of this Act or the regulations;
- (h) issue show-cause notice relating to the safety, health and welfare provisions arising under this Act or the regulations;
- (i) prosecute, conduct or defend before any Court any complaint or other proceedings arising under this Act or the regulations;
- (j) exercise such other powers as may be conferred upon him by the regulations.

### **Comment**

This section deals with the powers of Inspectors.

**Proviso** - In Abdul Jabar Butt v. State of Jammu and Kashmir, it was held that a proviso must be considered with relation to the principal matter to which it stands as a proviso.

## **5. Powers of Inspector where employment of dock workers are dangerous -**

- (1) If it appears to an Inspector that any place at which any dock work, is being carried on is in such a condition that it is dangerous to life, safety or health, of dock workers, he may, in writing, serve on the owner or on the person in charge of such place an order prohibiting any dock work in such place until measures have been taken to remove the cause of the danger to his satisfaction.
- (2) An Inspector serving an order under sub-section (1) shall endorse a copy to the Chief Inspector who may modify or cancel the order without waiting for an appeal.

**6. Facilities to be afforded to an Inspector -**

The owner or the person in charge of the place at which any dock work is being carried on, shall afford the Chief Inspector or the Inspector all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act or the regulations.

**7. Restrictions on disclosure of information -**

- (1) All copies of, and extracts, from registers or other records in relation to any dock work and all other information required by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection or investigation carried out for the purposes of this Act or the regulations shall be regarded as confidential and shall not be disclosed to any person or authority unless such disclosure is for the purpose of any action or proceeding under this Act or the regulations or under any other law or unless the Chief Inspector or the Inspector considers such disclosure necessary to ensure the health, safety or welfare of any dock worker.
- (2) The Chief Inspector or the Inspector shall not disclose the source of any complaint bringing to his notice a defect or breach of any legal provisions and if any visit or inspection is to be made In connection with such a complaint, he shall give no intimation to the employer that the visit is made in consequence of receipt of such a complaint:

PROVIDED THAT the restrictions imposed under this sub-section shall not apply to any case where the complainant himself has expressed his willingness to have the source of complaint disclosed.

- (3) If the Chief Inspector or an Inspector or any other person referred to In sub-section (1) discloses, contrary to the provisions of this section, any Information as aforesaid, he shall be punishable with Imprisonment for a term which may extend to one year, or with

fine, or with both.

### **Comments**

This section imposes restrictions on disclosure of Information collected by the Inspectors in the course of the inspection.

“Shall” cannot be interpreted as “may”. Where the situation and context warrants it, the word “shall” used in a section of a statute has to be construed as “may”.

#### **8. Appeal -**

Any person aggrieved by an order under Sec. 5 may, within fifteen days from the date on which the order is communicated to him, prefer an appeal to the Chief Inspector or where such order is by the Chief Inspector, to such authority as may be specified by the regulations and the Chief Inspector or such authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible :

PROVIDED THAT the Chief Inspector or such authority may entertain the appeal after the expiry of the said period of fifteen days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

PROVIDED FURTHER THAT an order under Sec. 5 shall be complied with, pending the decision of the Chief Inspector or such authority.

#### **9. Advisory Committee -**

- (1) The appropriate Government may constitute an Advisory Committee to advise upon such matters arising out of the administration of this Act and the regulations as that Government may refer to it for advice.
- (2) The members of the Advisory Committee shall be appointed by the appropriate Government and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act:

PROVIDED THAT the Advisory Committee shall include an equal number of members representing –

- (i) the appropriate Government
- (ii) the dock workers, and

- (iii) the employers of dock workers and shipping companies.
- (3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the appropriate Government, nominated in this behalf by that Government.
- (4) The appropriate Government shall publish in the Official Gazette the names of all members of the Advisory Committee.
- (5) The term of office of the members of the Advisory Committee and the manner of filling vacancies among, and, the procedure to be followed in the discharge of their functions by, the members shall be such as may be prescribed by rules made under this Act.

**10. Power of appropriate Government to direct inquiry into cases of accidents or diseases –**

- (1) The appropriate Government may, if it considers it expedient to do so, appoint a competent person to inquire into the causes of any accident occurring in connection with any dock work or into any cases where a disease specified by regulations as a disease connected with dock work has been or is suspected to have been contracted by dock workers and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.
- (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 (5 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 so to do within the meaning of Sec. 176 of the Indian Penal Code (45 of 1860).
- (3) The person holding the inquiry under this section shall make a report to the appropriate Government stating the causes of the accident or, as the case may be, disease and any attendant circumstances and adding any observations which he or any of the assessors may think fit to make.
- (4) The procedure to be followed at inquiries under this section shall be such as the appropriate Government may prescribe by rule under Sec. 20.

**11. Obligations of dock workers -**

- (1) No dock worker shall –
  - (a) willfully interfere with, or misuse, any appliance, convenience or other thing provided in connection with any dock work for the purpose of securing the health, safety and welfare of dock workers;
  - (b) willfully and without reasonable cause do anything likely to endanger himself or others; and
  - (c) willfully neglect to make use of any appliance, convenience or other thing provided In connection with any dock work for the purpose of securing the health, safety and welfare of dock workers.
- (2) If any dock worker contravenes any of the provisions of sub section (1), he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

### **Comments**

This section deals with the obligations of dock workers.

Word “punishable” defined - The word means ‘liable to punishment, capable of being punished by law or right, may be punished or liable to be punished’, and not ‘must be punished’

### **12. Power to exempt -**

The appropriate Government may, by notification in the Official Gazette, exempt from all or any of the provisions of this Act and of the regulations, on such conditions, if any, as it thinks fit –

- (a) any port or place, dock, wharf, quay or similar premises if that, Government is satisfied that dock work is only occasionally carried on or the traffic is small and confined to small ships and fishing vessels at such port, dock, wharf, quay or similar premises; or
- (b) any specified ship or class of ships, if that Government is satisfied, having regard to the features of such ship or ships, the nature, quantum and periodicity of dock work carried thereon and all other relevant factors, that it is necessary so to do:

PROVIDED THAT the appropriate Government shall not grant exemption under this section unless it is satisfied that such exemption will not adversely affect the health, safety and welfare of dock workers.

**13. Protection of action taken in good faith -**

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

**14. Penalties - (1) Whoever -**

- (a) willfully obstructs an Inspector in exercise of any power conferred by or under this Act or fails to produce on demand by an Inspector any register or other documents kept in pursuance of the regulations or, otherwise in connection with any dock work or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector; or
- (b) unless duly authorized or In case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by, or under the regulations; or
- (c) having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

- (2) If any person, being a person whose duty is to comply with any of the regulations, contravenes such regulations and such contravention results –

- (a) in any fatal accident to a dock worker, or
- (b) an accident which incapacitates a dock worker from earning his full wages for more than a fortnight,

such person shall be punishable with Imprisonment for a term which may extend to six months or with fine which shall not be less than two thousand rupees in a case falling under Cl. (a) and five hundred rupees in a case falling under Cl. (b) but which may extend, in either case to five thousand rupees, or with both, and the Court may order the whole or part of the fine to be paid to the dependent of the deceased dock worker or, as the case may be, to the injured dock worker.



**Explanation** - The provisions of this sub-section shall be in addition to any provisions which may be made under sub-section (4) of Sec. 21.

- (3) Subject to the provisions of Sec. 11, if any dock worker contravenes any provisions of this Act or the regulations imposing any duty or liability on dock workers, he shall be punishable with imprisonment for a term which may extend to three months. or with fine which may extend to two hundred rupees, or with both
- (4) If any person who has been convicted for an offence punishable under any of the provisions of this Act or the regulations is again convicted for an offence committed within two years of the previous conviction and involving a contravention of the same provision, he shall. be punishable for each subsequent conviction with double the imprisonment to which he would have been liable for the first contravention of such provision.

**15. Determination of the persons responsible for the offence in certain cases –**

If the person committing an offence made punishable by this Act or the regulations or any abetment thereof is a firm or other association of individuals or a company or a local authority, all or any of the partners or members or directors thereof as well as the firm association of individuals, company or local authority shall be deemed to be guilty of the offence or abetment and shall be liable to be proceeded against and punished accordingly:

PROVIDED THAT where a firm, association or company has given notices in writing to the Chief Inspector and the Inspector of the port where any dock work is being carried that it has nominated, -

- (a) In the case of a firm, any of its partners;
- (b) In the case of an association, any of its members:
- (c) in the case of a company, any of its directors,

who is resident, in each case in any place to which this Act extends and who is in each case either in fact in charge of the management of, or holds the largest number of shares in, such firm, association or company, to assume the responsibility of the person in charge of any dock work for the purposes of this Act, such partner member or director, as the case may be, shall, so long as he continues to so reside and be In charge or hold the largest number of shares as aforesaid, be deemed to be the person in charge of such dock work for the purposes of this Act unless a notice in writing canceling his nomination or stating that he has ceased to be a partner, member or director, as the case may be, is received by the Chief Inspector.

## **16. Power of court to make orders -**

- (1) Where a person is convicted of an offence punishable under this Act the Court may, in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the Court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which offence was committed.
- (2) Where an order is made under sub-section (1), the person shall not be liable under this Act in respect of the continuance of the offence during the period, or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, the person shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

### **Comment**

**Court - Definition of** - "Court is defined in the Evidence Act to include all Judges and Magistrates and all persons except arbitrators legally authorized to take evidence.

## **17. Provisions relating to jurisdiction –**

- (1) No Court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act or the regulations.
- (2) No prosecution for any offence under this Act or the regulations shall be instituted except by or with the previous sanction of an Inspector.
- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no Court shall take cognizance of an offence under this Act or the regulations unless complaint thereof has been made -
  - (a) in the case of an offence punishable with fine -
    - (i) within six months from the date of the offence; or
    - (ii) where the commission of the offence was not known to the Inspector, within six months from the first day on which the offence comes to the knowledge of the Inspector; or
    - (iii) where it is not known by whom the offence was committed, within six months from the first day on which the identity of the offender is known to the

Inspector; or

- (b) in the case of an offence punishable with imprisonment -
  - (i) within one year from the date of the offence; or
  - (ii) where the commission of the offence was not known to the Inspector, within one year from the first day on which the offence comes to the knowledge of the Inspector; or
  - (iii) where it is not known by whom the offence was committed, within six months from the first day on which the identity of the offender is known to the Inspector.

Explanation - For the purposes of this section, in the case of a continuing offence a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

### Comment

**Jurisdiction** – It is well recognised that the Courts adhere firmly to the wide meaning of “jurisdiction’ since this is the sheet anchor of power to correct abuses.

- 18. **Provision regarding fine** - Notwithstanding anything contained in Sec. 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for a Metropolitan Magistrate or a Magistrate of the first class to pass a sentence of fine exceeding five thousand rupees authorised by this Act or the regulations on any person convicted of any offence thereunder.
- 19. **General provision for punishment for other offences** - Any person who contravenes any provision of this Act shall, if no other penalty is provided for such contravention under this Act, be punishable with fine which may extend to five hundred rupees.
- 20. **Power to make rules** - The appropriate Government may, by notification in the Official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:
  - (a) the manner in which an Inspector is to exercise the powers conferred upon him under this Act;
  - (b) the inspection of premises of ships where any dock work is carried on;
  - (c) the manner of services of orders made under this Act;
  - (d) the term of office and other conditions of service of members of Advisory Committee, the manner of filling vacancies among, and the procedure to be followed in, the discharge of their

functions under sub Sec.(5) of Sec. 9;

- (e) the procedure at Inquiries under Sec. 10; and
- (f) any other matter which is to be provided for by rules under this Act.

### **Comment**

**Rules - Whether validly framed** - The question whether rules are validly framed to carry out the purposes of the Act can be determined on the analysis of the provisions of the Act.

**21. Power to make regulations** - The appropriate Government may, by notification in the Official Gazette, make regulations consistent with this Act for providing for the safety, health and welfare of dock workers.

(2) Such regulations may provide for all or any of the following purposes, namely :

- (a) providing for the general requirement relating to the construction, equipping and maintenance for the safety of working places on shore, ship, dock, structure and other places at which any dock work is carried on;
- (b) providing for the safety of any regular approaches over a dock, wharf, quay or other places which dock workers have to use for going for work and for fencing of such places and projects;
- (c) providing for the efficient lighting of all areas of dock ship any other vessel, dock structure or working places where any dock work is carried on and of all approaches to such places to which dock workers are required to go in the course of their employment;
- (d) providing and maintaining adequate ventilation and suitable temperature in every building or an enclosure on ship where dock workers are employed;
- (e) providing for fire and explosion prevention and protection;
- (f) providing for safe means of access to ships, holds, stagings, equipment, lifting appliances and other working places;
- (g) providing for the safety of workers engaged in the opening and closing of hatches, protection of ways and other openings in the dock, which may be dangerous to them;
- (h) providing for the safety of workers on docks from the risk of falling overboard being struck by cargo during loading or unloading operations;
- (i) providing for the construction, maintenance and use of lifting

and other cargo handling appliances and services, such as, pallets containing or supporting loads and provision of safety appliances on them, if necessary;

- (j) providing for the safety of workers employed in freight container terminals or other terminals for handling unitized cargo;
- (k) providing for the fencing of machinery, live electrical conductors, steam pipes and hazardous openings;
- (l) providing for the construction, maintenance and use of staging;
- (m) providing for the rigging and use of ship's derricks;
- (n) providing for the testing, examination, inspection and certification as appropriate of loose gears including chains and ropes and of slings and other lifting devices used in dock work;
- (o) providing for the precautions to be taken to facilitate escape of workers when employed in a hold, bin, hopper or the like or between decks of a hold while handling coal or other bulk cargo;
- (p) providing for the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo or handling in connection therewith;
- (q) providing for the handling of dangerous substances and working in dangerous or harmful environments and the precautions to be taken in connection with such handling;
- (r) providing for the work in connection with cleaning, chipping, painting operations and precautions to be taken in connection with such work;
- (s) providing for the employment of persons for handling cargo, handling appliances, power operated hatch covers or other power operated ship's equipment, such as, door in the hull of a ship, ramp, retraceable car deck or similar equipment or to give signals to the drivers of such machinery;
- (t) providing for the transport of dock workers;
- (u) providing for the precautions to be taken to protect dock workers against harmful effects of excessive noise, vibrations and air pollution at the work place;
- (v) providing for protective equipment or protective clothing;
- (w) providing for the sanitary, washing and welfare facilities;
- (x) providing for

- (i) the medical supervision;
  - (ii) the ambulance rooms, first aid and rescue facilities and arrangements for the removal of dock workers to the nearest place of treatment;
  - (iii) the safety and health organization; and
  - (iv) the training of dock workers and for the obligations and rights of the dock workers for their safety and health at the work place;
  - (y) providing for the Investigation of occupational accidents, dangerous occurrences and diseases, specifying such diseases and the forms of notices, the persons and authorities to whom they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted; and
  - (z) providing for the submission of statement of accidents, man days lost, volume of cargo handled and particulars of dock workers.
- (3) The regulations made under this section may -
- (a) provide for the circumstances in which and the conditions subject, to which, exemptions from any of the regulations made under this section may be given specifying the authorities who may grant such exemptions and regulating their procedure; and
  - (b) make special provision to meet the special requirement of any particular port or ports.
- (4) In making a regulation under this section, the appropriate Government may direct that a breach thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, if the breach is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the breach is so continued.

**22. General provision relating to rules and regulations** - (1) The power to make rules and regulations conferred by Sees. 20 and 21 is subject to the condition of the rules and regulations being made after previous publications.

- (2) The date to be specified in accordance with Cl. (3) of Sec. 23 of the General Clauses Act, 1897 (10 of 1897), as that after which a draft of rules or regulations proposed to be made will be taken

under consideration, shall not be less than forty-five days from the date on which the draft of the proposed rules or regulations is published for general information.

- (3) Every rule and every regulation made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 regulation, as the case may be.
- (4) Every rule and every regulation, made under this Act by a State Government shall be laid, as soon as may be after it is made, before the State Legislature.

#### **Comment**

This section makes general provision relating to rules and regulations and lays down that every rule/regulation made by the Central Government shall be laid before the Parliament and those made by the State Government before the State Legislature.

**23. Amendment of Act 9 of 1948** - In the Dock Workers (Regulation of Employment) Act, 1948, in Sec. 3, in sub-section (2), -

- (a) in Cl. (g), the words "and welfare" shall be omitted;
- (b) Clause (l) shall be omitted.

**24. Repeal** -The Indian Dock Labourers Act, 1934 (19 of 1934), is hereby repealed.

#### **Comment**

This section repeals Act 19 of 1934.

**Doctrine of implied repeal** - The doctrine of implied repeal is based on the postulate that the Legislature which is presumed to know the existing state of the law did not intend to create any confusion by retaining conflicting provisions. Courts in applying this doctrine are supposed merely to give effect to the legislative intent by examining the object and scope of the two enactments. But in a conceivable case, the very existence of two provisions may by itself, and without more, lead to an inference of mutual irreconcilability if the later set of provisions is by itself

a complete code with respect to the same matter. In such a case the actual detailed comparison of the two sets of provisions may not be necessary. It is a matter of legislative Intent that the two sets of provisions were not expected to be applied simultaneously.

- 25. Savings** - The Indian Dock Labourers Regulations, 1948 made under Sec. 5 of the Indian Dock Labourers Act, 1934 (19 of 1934), so, repealed and the Dock Workers (Safety, Health and Welfare) Scheme, 1961 made under Sec. 4 of the Dock Workers (Regulations of Employment) Act, 1948 (9 of 1948), shall be deemed to be regulations framed under this Act and shall be in force unless they are altered or repealed under this Act.