

Model Welfare Scheme for Building and Other Construction Workers and Action Plan for Strengthening Implementation Machinery

* * * * *

Machinery for Registration of Establishments –The Committee suggested that the States may take following measures to strengthen the machinery for registration of establishments:

- A. The authority for registration of establishments may be further delegated to authorities below Deputy Labour Commissioner/Assistant Labour Commissioner so as to decentralize the powers and enhance accessibility at the local level. The name and address of the registering authorities may be given adequate publicity. This could be done by placing it on the State website and keeping a separate desk/window in the office so that registration of all establishments is ensured.
- B. The registration of establishments should be made on-line to make the process of registration quicker and to minimize public interface.
- C. Central and State Governments should issue directions to all Ministries/Departments/State undertakings/local bodies in their jurisdiction to timely forward a copy of the allotment of work order in regard to construction activity to be carried out, to the relevant registration, cess collection and cess assessment authorities appointed under the BOCW Act by the State.

- D. The state governments should develop a mechanism for regular monitoring of construction activities going on in the state and make use of GIS technology/mapping etc. for the purpose. Specific care should be taken that the private sector is also covered.
- E. The establishment registration authorities/licensing authorities under various labour laws in the Central Sphere and the State sphere should invariably share a copy of the Registration Certificate/Licence issued by them with the State cess collection, cess assessment and workers registration authorities. Specific attention should be paid to Railways and Defence works as they are also covered under the Act.
- F. The establishment registration/licensing/inspecting authorities under various labour laws in the Central Sphere and the State sphere should guide and advise the establishments/employers at the time of registration/license/inspection in regard to their liability to pay cess and registration of BOC workers as beneficiaries.
- G. The Committee recommended that the States may be directed to submit a compliance report in this regard by **31st December 2018**.

Machinery for Registration of Workers – The Committee made following recommendations in this regard:

- A. Every state should allot a Unique Identification Number to the registered BOC workers, and upload complete details on the State

web portal and the National BOCW Portal, in “read only” mode, of the registered workers and their families, along with the status of registration and renewal, so that it can be accessed by other States. The Committee was of the view that this would help in portability of welfare benefits.

- B. The BOCW board may delegate /appoint officers at local/municipal/panchayat level, for the purpose of registration of BOC workers, in their respective jurisdiction.
- C. The BOC board may also authorize registered employers, registered trade unions and registered voluntary organizations working in BOC field, for the purpose of certification regarding the number of days of work performed by the worker, and simultaneously formulate penal provisions, like cancellation of registration, blacklisting etc. of the said entities to prevent fake/false registration.
- D. The BOC Workers’ Welfare Board may also allow self-certification regarding the number of days of work performed by the worker. However, the Committee recommended that the self-certification should contain full details of the sites, employer and number of days of work performed in the passbook/ ID card of the worker so that the information pertaining to the 90 day period should be verifiable at any given time.

- E. The State Labour Department/Welfare Board may issue directions to workers' registration authorities, to hold regular camps/ create facilitation centres at prominent labour chowks/addas for the purpose of conducting awareness campaigns and facilitating registration of workers.
- F. The registering authorities may be directed to issue ID cards in the form of the passbook/employment diary, to the BOC workers, for getting entered therein the employment details. As the BOC workers, especially the *labour chowk* workers, generally find it difficult to obtain employment certificate from the employer and are not able to get registered, this would facilitate registration of such workers and entry of employment details.
- G. The state government may consider authorizing District Collector/Magistrate to administer and facilitate implementation of the BOC Act in their area as has been the practice in some States.
- H. States should ensure that the domicile status of a worker should not prevent the worker from getting registered outside his/her state of origin.
- I. In order to facilitate registration of BOC migrant workers under the Act, the source States should try and register them in their home state, give them an ID card/passbook with a unique no. and upload these details on their website. They should also create facilitation centers/help desks in the destination districts (as has been done

by Odisha) for the registration of eligible BOC workers, and may also take up the matter with destination States to help these workers get registered in the destination States. Destination states should ensure that all benefits are also given to those workers who are registered in their home states. Verification could be done from the website of the source state, which could provide the destination state access to their data base in Read Only mode. The Destination States may be directed to conduct special drive with focus on migrant BOC workers and ensure that the migrant workers from outside `the State are not discriminated at the time of registration and delivery of benefits.

- J. The authorities responsible for registration of migrant workers, must share information with the respective State Welfare Board so that their registration/renewal/delivery of welfare benefits is monitored by the Boards of the source States.
- K. The Committee recommended that the States should submit their compliance reports for the above points by **31st December 2018**.

Collection of cess:

- A. The State Governments may further delegate powers of cess collector, and assessing officer to officers at local/municipal/panchayat level, for the purpose of cess collection and assessment, in their respective jurisdiction. Accordingly, the powers of appellate authority may also be delegated as may be

suitable. This would help ensuring cess collection from private bodies too.

- B. State cess collection and cess assessment authorities should, inter alia, ensure that cess is collected from the construction projects of Railways, Defence, NHAI, Border Road organization and that from those of Central and State Governments departments/undertakings. The Committee felt that there is a general perception that cess is not being collected properly from Railways, Defence private construction bodies and it was emphasized that suitable steps and technology like GIS mapping etc. may be used to optimize cess collection.
- C. The Committee was of the view that a uniform mechanism to calculate/ estimate the cost of construction at the time of collection of cess in advance should be followed. In this regard, the Committee appreciated the method of collection of advance cess at the PWD/Municipal/local authority rates as is being followed by some States. The Committee recommended that the State Governments should notify PWD/Municipal/local authority rates so that advance cess is collected uniformly.
- D. The Committee observed that the proceeds of the cess are not being transferred to the State Building and Other Construction Workers Welfare Board within 30-days of its collection as stipulated in the BOCW Cess Act and rules made thereunder. The

Committee recommended that the States should ensure that the cess proceeds are transferred to the Welfare Fund and that penal action should be taken in case of non-compliance.

Further, the Committee recommended that the State Governments should issue instructions to cess collectors that in case of non-compliance of Section 3 of the BOCW Cess Act read with Rule 5 of the Cess Rules, 1998, suitable action will be taken against the concerned cess collector.

- E. The Committee observed that generally the amount of cess collected at the rate of 1% of the cost construction is reported as fund available with the Board, which does not reflect the whole picture. The Committee clarified that the welfare fund is the gross total of the amount of cess collected, the amount of interest accrued thereon, the amount of penalty received on account of delay or less payment of cess, contributions received from the beneficiaries etc., and the States, therefore, should maintain complete break-up of each source of the fund.

- F. The Committee recommended that the States should submit a compliance report in respect of A to E above by **30th September 2018**.

- G. The Committee observed that the States Boards are not taking legal action against the offenders as stipulated under rule 15 of the

Cess Rules and not referring such complaints to the Central Government for seeking prior sanction. The Committee recommended that the States/the Boards should take necessary legal steps in this regard.

- H. The Committee was of the opinion that a potent provision under section 54 of the BOCW (RECS) Act, empowering the registered voluntary organisations and the registered Trade Unions to file prosecution complaints before the competent Courts in regard to any punishable offence under the said Act, has remained largely unused and that may be for lack awareness amongst the stakeholders. The Committee recommended that the States and the Welfare Boards should take suitable steps to make the registered voluntary organisations and the registered Trade Unions aware of the provisions.
- I. The Committee recommended that the States may be directed to submit compliance report in regard to G & H above by **31st December, 2018.**

MODEL WELFARE SCHEME

(Modified pursuant to the Hon'ble Supreme Court's Order dated 04.10.2018)

At the outset it is made clear that the Social security benefits of the Model Welfare Scheme as mentioned below will hold precedence over all other existing benefits and that only after meeting these priority expenses, any balance of fund may be utilised for giving additional benefits under section 22 (h) of the Act.

The provisions of the Model Welfare Scheme are as listed below:

1. Life and disability cover:

1.1. The State Welfare Board should provide minimum coverage of Rs. 4 Lakh, in case of accidental death, and Rs. 2 Lakh in the event of natural death to the dependent(s) of the deceased beneficiary, besides disability benefits.

1.2. Alternately, the State Welfare Board may cover BOC workers between 18 years and 50 years under Pradhan Mantri Jeevan Jyoti Bima Yojana(PMJJB) and Pradhan Mantri Suraksha Bima Yojana(PMSBY), by making payment of 50 per cent of the total contribution of premium amounting to Rs.171 per worker per annum, as the remaining 50 per cent will be borne by the Central Government under the converged PMJJB/PMSBY Schemes. These schemes provide coverage of Rs.2 lakhs in case of natural death and Rs. 4 lakhs in case of accidental death, besides disability benefits as per this scheme.

1.3 Compensation should be disbursed in a definite time frame not exceeding 60 days from the date of death of the beneficiary.

2. Health and Maternity Cover:

2.1. State Welfare Boards should coordinate with their respective States Governments to ensure that the newly launched Scheme 'Ayushman Bharat' is able to cover maximum BOC workers.

2.2. Those BOC workers who are not covered under the Ayushman Bharat scheme will be provided following benefits:

- (i) Reimbursement of expenses up to a prescribed limit in case of diseases as admissible under Ayushman Bharat Scheme as listed by the Ministry of Health & Family Welfare at <https://www.abnhpm.gov.in>.
- (ii) Paid maternity leave to registered construction workers ranging from 90 days to 26 weeks for up to two deliveries.
- (iii) Rs.6000/-per delivery for up to two deliveries to the wife of the registered construction workers, which will be in addition to any other benefit received from any Government Scheme in this regard.

3. Education:

A minimum financial assistance for education of wards of the beneficiaries should be given at the following rates per child per annum:

- a. Class 1 to 5 at the rate of Rs. 1800
- b. Class 6 to 10 at the rate of Rs 2400,
- c. Class 11 to 12 at the rate of Rs 3,000
- d. Graduation courses at the rate of Rs 10,000,
- e. ITI/Vocational course/Professional Course at the rate equivalent to annual fee of Govt institutes/colleges

It should be ensured that the beneficiary ward maintains 50% of the annual attendance in the class.

This is besides the Special Centres that the State should open for migrant workers.

The above benefits will be in addition to any other benefit received from any Government Scheme in this regard.

4. Housing:

Direction dated 11.07.2017 issued under Section 60 of the Act by the Central Government in regard to provision of transit accommodation/hostel/labour shed/night shelter etc. are reiterated, the salient features of which are given below:

- (A) The BOC workers are predominantly migratory who move from one place to other in search of work. During the period of transit or until they find work, they face great hardship due to lack of basic facilities like transit shelters, toilets etc., in and around the area common for their gathering in a city or metro.
- (B) In order to mitigate the hardship that a BOC worker faces, the States are advised to take proactive steps to facilitate transit accommodation/labour shed cum night shelter, mobile toilets and mobile crèches to BOC workers in the areas of their concentration prior to their finding work.
- (C) While incurring expenditure on such facilities due care has to be taken so as to ensure that sufficient funds remain available for providing social security to BOC workers on a sustained basis, which is the first and foremost objective of the BOCW Act. Social security benefits will hold precedence over all other existing benefits and that only

after meeting these priority expenses, any balance of fund may be utilised for giving additional benefits under section 22 (h) of the Act.

- (D) Besides, the following conditions should be adhered to:
- (a) The land should belong to the Government/ Local Body;
 - (b) It should be at a Central location;
 - (c) Priority should be given to Tier I & II cities;
 - (d) It must be used exclusively for BOC Workers;
 - (e) A Rent/User-fee must be charged and a record/register for the same must be maintained;
 - (f) The building must be maintained properly and all amenities provided for the users;
 - (g) The cost of providing transit accommodation, mobile toilet facilities and mobile crèche facilities must not exceed 10 per cent of the total expenses incurred during that financial year; and
 - (h) It must be ensured that it is not contrary to the provisions contained in Section 33, 34, 35 and 36 of the Act and the Rules framed there under wherein it is the employer's obligation to provide temporary accommodation and other facilities to the BOC workers within the work site or nearby it. Thus it is to be ensured that the transit accommodations and other facilities are not used in lieu of accommodations and other provisions to be facilitated by the employer.

In light of the above, it is stipulated that not more than 10 per cent of the cess amount collected in the previous

year should be spent on this provision, including for giving loans/advances to the BOC workers as per Section 22 (c) of the BOCW Act.

5. Skill development:

5.1. There should be convergence of the skill development activities of the BOCW Board with those of the State Skill Development Missions/Ministry of Skill Development and Entrepreneurship and National Skill Development Corporation so as to maximize benefits to the BOC workers and their dependents and help them upgrade their skills or diversify by acquiring new set of skills.

5.2. During such training period the worker should be given financial assistance in the form of stipend & training expenses and such training may be limited to once in 3 years. Skill development may also be provided to the dependents of a BOC worker but that may be without any stipend. The expenses to be incurred under this head in a financial year should not exceed 10% of the cess collected in the previous year.

6. Awareness Programs

6.1. It is emphasized that spreading of awareness of the welfare schemes for BOC workers should be done by way of grass root level awareness programs rather than by advertisements in newspapers or TV channels. In this regard following measures should be adopted:

- (i) videos of welfare schemes should be broadcasted on the smart phones of the BOC workers.

- (ii) mobile number of the BOC workers should be captured so as to use it as effective medium to inform the workers in respect of the welfare schemes, registration/renewal process etc. on regular basis. Regular SMSs should be sent to inform and update the registered and potential BOC workers.
- (iii) The walls of the Government buildings should be used for paintings awareness messages in rural areas as they are more conspicuous and durable than printed advertisements.
- (iv) publicity and awareness initiatives may also be undertaken by the employers by their own means
- (v) The urban local bodies, Gram Panchayats and Gram Sabhas should be involved in conducting awareness programs including awareness camps, nukkad nataks and other innovative mediums.

6.2. The awareness campaigns should exclusively and strictly focus on BOC workers and should not carry therewith the name and photograph of any public or Government representative. The expenditure on public awareness should be made within the 5% limit for administrative expenses as stipulated under Section 24(3) of the Act.

7. Pension:

7.1. Considering that pension would constitute a permanent liability which the States may not be able to sustain in the long term, the State Welfare Boards may formulate pension schemes depending upon their financial capacity.

7.2. However, pension should be admissible to only those registered BOC workers who have remained registered for a minimum of 10 years. In this regard the State Welfare Board should issue a certificate to the effect that a BOC worker has remained registered for a period of 10 years.

State-wise position of Number of Workers Registered, Cess Collected and Amount Spent under the Building and Other Construction Workers Acts, 1996

As on 31.12.2018 (Provisional)

Sl. No.	Name of the States/UTs.	No. of workers registered with the Board	No. of benefits provided	Amount of cess collected (In Crore)	Amount spent (Rs. in Crore)		
					Welfare	Other than Welfare	Total spent
1	Andhra Pradesh	18,15,889	4,38,013	2374.71	479.46	39.79	519.17
2	Arunachal Pradesh	30,841	29,000	120.36	99.4	15.76	115.16
3	Assam	1,47,493	1,15,150	874.78	47.31	141.31	188.62
4	Bihar	11,45,830	2,74,405	1485.08	198.98	4.92	203.9
5	Chhattisgarh	17,71,601	29,91,213	1190.83	864.72	38.01	902.73
6	Goa	3,738	35	147.46	0	1.22	1.22
7	Gujarat	6,54,550	75,37,109	2097.62	186.81	10.38	197.19
8	Haryana	8,14,887	4,71,679	2253.98	406.14	19.1	425.24
9	Himachal Pradesh	1,47,932	1,99,865	415.13	87.58	8.74	96.33
10	J&K	3,42,295	3,40,085	711.53	291.74	10.23	301.97
11	Jharkhand	7,96,146	19,30,547	444.91	232.54	4.27	236.81
12	Karnataka	15,42,432	2,93,104	5071.04	391.38	143.85	4519.52
13	Kerala	14,91,300	42,71,656	1654.38	1784.53	102.1	1886.63
14	Madhya Pradesh	29,96,227	40,29,049	2513.31	1210.24	90.21	1300.45
15	Maharashtra	9,89,018	5,49,834	6462.23	289.94	112.63	402.57
16	Manipur	1,18,332	34,201	89.19	72.76	1.59	74.35
17	Meghalaya	28,836	21,194	131.79	2.19	1.19	3.38
18	Mizoram	21,865		40.37	21.95	0	21.95
19	Nagaland	11,912	16,072	42.8	12.18	0.99	13.17
20	Odisha	24,34,663	14,33,851	1513.73	983.14	22.21	1005.35
21	Punjab	7,46,102	4,14,939	1191.94	603.6	24.77	628.37
22	Rajasthan	20,49,258	4,60,509	2057.25	1140.64	22.24	1162.88
23	Sikkim	36,236	36,236	100.21	23.78	5.49	29.27
24	Tamil Nadu	28,53,544	14,96,813	2517.32	561.54	225.5	787.04
25	Telangana	11,75,531	1,13,415	1210.12	251.72	11.2	262.92
26	Tripura	99,762	69,315	170.72	21.6	1.018	22.618
27	Uttar Pradesh	42,08,744	14,66,392	3895.14	894.15	156.75	1050.9
28	Uttarakhand	2,32,627	1,36,922	251.11	65.84	2.55	68.39
29	West Bengal	31,01,362	21,98,349	2138.53	947.22	9.53	956.75
30	Delhi	5,40,512	2,96,912	2547.94	374.83	18.83	393.66
31	A & N Island	14,392	8,617	55.28	7.63	0.5	8.13

32	Chandigarh	19,813	37,781	113.73	4.71	1.85	6.56
33	Dadra & Nagar Haveli	2,176	346	29.61	0.0044	0	0.0044
34	Daman and Diu	5,149	954	37.17	0.53	0.04	0.57
35	Lakshadweep	14,549	14,605	66.34	10.37	0.63	11
36	Puducherry	41,224	5,64,102	100.16	52.82	11.1	63.92
	Total	3,24,46,768	3,01,57,578	46117.8	12623.9744	1260.498	17868.692