

C O N T E N T S.

- Apprentices Act, XIX of 1850.
- Extract from Indian Merchant Shipping Act, XXI of 1923.  
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- Employers and Workmen Disputes Act, IX of 1860.  
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- Assam Labour and Emigration Act, VI of 1901.  
" " " " (Amendment) Act, VIII of 1913.  
" " " " " " XXXI of 1927.  
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- Indian Factories Act, XII of 1911. ✓  
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- Indian Ports (Amendment) Act, XV of 1922 (Child Labour)  
-----
- Indian Mines Act, IV of 1923.  
" " (Amendment) Act, XIII of 1928. ✓  
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- Indian Boilers Act, V of 1923.  
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- Workmen's Compensation Act, VIII of 1923.  
" " (Amendment) Act, XXIX of 1926.  
" " " " V of 1929.  
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- Workmen's Breach of Contract (Repealing) Act, III of  
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- Indian Trade Unions Act, XVI of 1926.  
" " " (Amendment) Act, XV of 1928.  
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- Trade Disputes Act, VII of 1929.  
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- Bombay Maternity Benefit Act, VII of 1929.  
Draft Rules published in the Bombay Government Gazette,  
20th June, 1929.  
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(1)

# ACT No. XIX OF 1850.<sup>1</sup>

[As modified up to 1st May, 1905.]

[11th April, 1850.]

## Concerning the binding of Apprentices.

For better enabling children, and especially orphans and poor children brought up by public charity.

Preamble.

<sup>1</sup> Short title, the Apprentices Act, 1850, *see* the Indian Short Titles Act, 1897 (XIV of 1897), General Acts, Vol. VI.

The Act has been declared in force in the whole of British India, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 3, *see* General Acts, Vol. II.

It has been declared in force in—

Upper Burma generally (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), s. 4 (1), *see* Burma Code, p. 260;

the Arakan Hill District by the Arakan Hill District Laws Regulation, 1874 (IX of 1874), s. 3, *see* Burma Code, p. 307.

It has been declared, by notification under section 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), General Acts, Vol. II, to be in force in the following Scheduled Districts, namely:—

Sindh	<i>See</i> Gazette of India, 1880, Pt. I, p. 672.
West Jalpaiguri, the Western Duars, the Western Hills of Darjiling, the Darjiling Tarai, and the Damsor sub-division of the Darjiling District.	Ditto, 1881, Pt. I, p. 74.
The Districts of Hazaribagh, Ranchi (Lohardaga) and Manbhum and Pargana Dhálbhum and the Kolhan in the District of Singhbhum.	Ditto, 1881, Pt. I, p. 504.
The Scheduled portion of the Mirzapur District.	Ditto, 1879, Pt. I, p. 383.
Jaunsar Bawar	Ditto, 1879, Pt. I, p. 382.
The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan.	Ditto, 1886, Pt. I, p. 48.
The Scheduled Districts of the Central Provinces.	Ditto, 1879, Pt. I, p. 771.

[Price Three Annas Six Pies.]

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(Secs. 1-4.)

charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood; It is enacted as follows:

Apprenticing of child between ten and eighteen years old.

1. Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or, in the case of a female, beyond the time of her marriage.

Evidence of age in questions as to right to service.

2. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

Powers of Magistrate or Justice acting for orphans, etc.

3. Any Magistrate or Justice of the Peace may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence.

Apprenticing of child brought up by public charity.

4. An orphan or poor child, brought up by any public charity, may be bound apprentice by the  
governors,

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The Scheduled Districts...*See* Gazette of India, 1898, Pt. I, p. 870.  
in Ganjam and Vizagapatam.

The District of Sylhet. Ditto, 1879, Pt. I, p. 631.

The rest of Assam (except the North Lushai Hills). Ditto, 1897, Pt. I, p. 299.

It has been extended, by notification under section 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumaon and Garhwal...*See* Gazette of India, 1876, Pt. I, p. 606.

The Tarai parganas of the Province of Agra. Ditto, 1876, Pt. I, p. 505.

It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled District of Lahaul, *see* Gazette of India, 1886, Pt. I, p. 301.

Instruments of apprenticeship executed by a Magistrate under this Act, or by which a person is apprenticed by or at the charge of a public charity, are exempted from stamp-duty by the Stamp Act, 1899 (II of 1899), Sch. I, Art. No. 9, *see* General Acts, Vol. VII.

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(Secs. 5-9.)

governors, directors or managers thereof, as his or her guardians for this purpose.

5. Any such boy may be bound as an apprentice in the sea service<sup>1</sup> to any of Her Majesty's subjects, being the owner of any registered ship belonging to and trading from any port in the territories under the Government of \* \* \* India\*<sup>2</sup> which has been declared to be a registering port under<sup>3</sup> Act X, 1841, to be employed in any such ship the property of such person, commanded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.

Apprenticing of such boy in sea service.

6. [*Apprenticing of such boy in ship of the East India Company.*] *Rep. by the Repealing and Amending Act, 1870 (XIV of 1870).*

7. The master or commander of any ship in which an apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.

Who to be agent of master of apprentice serving in ship.

8. Every contract of apprenticeship shall be in writing, according to the form given in the schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

Form and contents of contract of apprenticeship.

9. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but, when the apprentice is bound by the governors, directors or managers of a public charity, the signature of two of them, or of their secretary or officer, shall be sufficient on behalf of the persons binding the apprentice.

Signatures to contract.

10. No

<sup>1</sup> As to duty of shipping masters in this connection, see the Indian Merchant Shipping Act, 1859 (I of 1859), s. 4, General Acts, Vol. I.

<sup>2</sup> The words "the East" and "Company" were repealed by the Repealing Act, 1874 (XVI of 1874).

<sup>3</sup> The Indian Registration of Ships Act, 1841, see the revised edition as modified up to 1st December, 1893, with notes brought down to December, 1901.



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Contract not valid unless executed as prescribed and deposited.

10. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed, or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841,<sup>1</sup> to make registry of ships at the port where the apprentice is to begin his service; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the hand-writing of the Magistrate or registering officer.

Copies to be given to parties.

Alteration of terms of service and termination of contract.

11. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years; provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to section [9]<sup>2</sup> of this Act; and the Magistrate or registering officer shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

Assignment of apprentice to new master.

12. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof; provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such

<sup>1</sup> See the revised edition as modified up to the 1st December, 1893, with notes brought down to December, 1901.

<sup>2</sup> The figure "9" was substituted for the figure "8" by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. VI.

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such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate or registering officer according to the form given in schedule (B) annexed to this Act.

13. Upon complaint made to any Magistrate in the said territories,<sup>1</sup> by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint; and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than fifty rupees, was paid, not exceeding two hundred rupees; and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

Powers of Magistrate in case of complaint by apprentice against master.

14. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any

Power of master or his agent to

<sup>1</sup> See section 5.

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(Secs. 15;16.)

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chastise  
apprentices.  
Liability of  
master or  
agent for  
assault, etc.

any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child; whether or not any proceedings be taken for cancelling the contract of apprenticeship.

Power of  
Magistrate  
in case of  
complaint by  
master  
against  
apprentice.

15. Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs; upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

Cancelment  
of contract  
for miscon-  
duct of  
apprentice.

16. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent  
of

f the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit in consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate or behoof of the apprentice.

17. The Magistrate may order any sum recovered or behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

Appropriation of sum recovered for apprentice on cancellation of contract.

18. No Magistrate shall entertain a complaint on the part of a master against an apprentice under his Act, unless it be brought within one month after the cause of complaint arose; or, if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories: and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act, unless it be brought within three months after the cause of complaint arose; or, if the cause of complaint arose on board ship during a voyage, within three months after the arrival thereof at a port or place in the said territories.

Limitation of complaint on master against apprentice;

of apprentice against master.

19. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the

Effect of death of master during apprenticeship.

Offer by representatives

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(Secs. 20-23.)

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master to  
continue  
apprentice-  
ship.

business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

Offer to be  
certified on  
original  
contract and  
copies.

20. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors [or]<sup>1</sup> administrators on the original contract of apprenticeship; and also on the office-copies thereof, by the Magistrate or registering officer; and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.

Maintenance  
of apprentice  
whose master  
dies.

Apprentice  
to continue  
to serve.

21. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him; provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.

Effect of  
insolvency of  
master  
during  
apprentice-  
ship.

22. The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he or the person by whom he was bound shall be entitled to claim the amount thereof, as a debt against the estate of the bankrupt or insolvent.<sup>2</sup>

Persons  
amenable to

23. For the purposes of this Act, all British subjects, wherever or of whatever parents born, as well

as

<sup>1</sup> The word "or" was substituted for "and" by the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. VI.

<sup>2</sup> Cf. the Bankrupt Law Consolidation Act, 1849 (12 & 13 Vict., c. 106), s. 170.

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(Secs. 24-25. Schedule A.)

as other persons in the territories under the Government of \* \* \*<sup>1</sup> India \*<sup>1</sup> without the towns of Calcutta and Madras and the town and island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of India.

jurisdiction of Magistrates' Courts.

24. An appeal shall lie from any order passed by any Magistrate without the said towns and island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

Appeal from orders of Mofussil Magistrates.

25. In this Act the words "master," "owner," "person," and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

Interpretation of terms.

SCHEDULE A.

FORM OF AGREEMENT.

This Agreement made the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ between *A. B.*, of \_\_\_\_\_, and *C. D.*, of \_\_\_\_\_, witnesseth that the said *A. B.* doth this day bind *E. F.*, a boy (or girl) of the age of \_\_\_\_\_ years completed son (or daughter) of the said *A. B.*, (or otherwise describing the relation in which *A. B.* and *E. F.* stand) to dwell with and serve the said *C. D.*, as an apprentice, from this day forth for \_\_\_\_\_ years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said *C. D.*, according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently, in all things toward the said *C. D.* and his (or her) family. And the said *C. D.* for himself (or herself) and his (or her) executors and administrators, in consideration (of the premium or sum of \_\_\_\_\_ paid by the said *A. B.* to the said *C. D.* the receipt whereof of the said *C. D.* hereby acknowledges, and) of the faithful service of

*If there is no premium, the words between brackets may be omitted.*

the

<sup>1</sup> The words "the East" before "India" and the word "Company" after "India" were repealed by the Repealing Act, 1874 (XIV of 1874).

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(Schedule B.)

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the said *E. F.*, doth covenant and agree with the said *A. B.*, his (*or her*) executors and administrators, that he (*or she*) will teach or cause to be taught to the said *E. F.*, in the best way and manner that he (*or she*) can, the trade (craft or employment) of a \_\_\_\_\_ during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary, fit and reasonable for an apprentice: (and further, *here insert any special covenants*).

In witness whereof the parties have hereunto set their hands and seals, the day and year above written.

*A. B.*

L.S.

*C. D.*

L.S.

SCHEDULE B.

FORM OF ORDER OF ASSIGNMENT.

(To be endorsed on the Agreement.)

Be it known to all men that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ personally appeared before *G. H.*, Magistrate of \_\_\_\_\_, *C. D.*, of \_\_\_\_\_, with *E. F.*, his (*or her*) apprentice, and *J. K.*, of \_\_\_\_\_ and desired that the agreement of apprenticeship, whereby the said *E. F.* was bound to the said *C. D.*, might be assigned and made over to the said *J. K.*, and the said *G. H.* having satisfied himself, by personal examination of the said *E. F.*, and by other lawful

ways and means, that such assignment is for the benefit of the said *E. F.* and is made with the consent of (the said *E. F.*, and of) all persons whose consent thereunto by law is required, doth allow such assignment: and the contract of apprenticeship whereby the \_\_\_\_\_

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(*Schedule B.*)

the said *E. F.* was on the      day of      in the year      bound  
to the said *C. D.*, as an apprentice to learn the trade (craft or  
employment) of a      shall henceforth endure, unto the  
end of the said term as if the said *J. K.* had been originally  
party to the said deed, and had executed the same, in the place  
and stead of the said *C. D.*, and shall be bound, for himself (*or*  
herself) his (*or* her) executors or administrators, to fulfil the  
covenants by the said *C. D.* to be performed and the said *E. F.*  
shall henceforth be bound unto the said *J. K.*, in like manner  
as he (*or* she) was by the said agreement bound unto the said  
*C. D.*

*C. D.*

*E. F.*

*J. K.*

In witness whereof the said *C. D.*, *E. F.* and *J. K.* have  
hereunto set their hands before me the day and year above  
written.

*G. H.*, Magistrate.



(2)

Extract from  
Indian Merchant Shipping Act  
Act XXI of 1923.

Apprenticeships to the Sea Service.

XIX of  
1850.

23. (1) Subject to the provisions of the Apprentices Act, 1850, any boy may be bound as an apprentice in the sea service to the owner of any ship registered in British India to be employed in any such ship, being the property of such person, the master of which is a British subject, and while so employed to be taught the craft and duty of a seaman, and the provisions of the said Act shall, save as hereinafter provided in this section, apply accordingly.

Applica-  
tion of  
Act XIX  
of 1850.

(2) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the agent of such party for the purposes of the said Act.

(3)

(3) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice shall be performed by the shipping-master of the port where the apprentice is to begin his service.

Extract from  
Indian Merchant Shipping Act  
Act XXI of 1923.

Leaving Seamen or Apprentices in  
British India.

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119. (1) No seaman or apprentice who was not shipped in British India shall be discharged at any port in British India without the previous sanction in writing of such officer as the Local Government appoints in this behalf.

Discharge  
or leav-  
ing  
behind in  
British  
India of  
seamen or  
apprentices  
not  
shipped  
in British  
India.

Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

(2) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1), he shall be liable to imprisonment for a term which may extend to

three

three months, or to a fine which  
may extend to one thousand  
rupees, or to both.

(3)

## ACT No. IX OF 1860.<sup>1</sup>

[12th March, 1860.]

An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers.

(As modified up to 1st December, 1904.)

**WHEREAS** it is expedient to make provision for the speedy determination of certain disputes between workmen engaged in railway and other public works and their employers; It is enacted as follows:—

1. It shall be lawful for the executive Government of any presidency or place within the British territories in India to invest any Magistrate<sup>2</sup> or other officer exercising the powers of a Magistrate with power to enquire into and decide disputes on account of wages, hire of carriage, or the price of work, between any workmen employed in the construction of any railway, canal, or other public work, the construction of which is, or shall be, sanctioned by Parliament or by any such executive Government, and the person or persons by whom such workmen are employed.

Preamble.

Government may empower any Magistrate to decide disputes as to wages or price of work.

### 2. Magistrates

<sup>1</sup> Short title, "The Employers and Workmen (Disputes) Act, 1860." See the Indian Short Titles Act, 1897 (XIV of 1897), General Acts, Vol. VI.

This Act has been declared in force in—

the Santhal Parganas, by the Santhal Parganas Settlement Regulation (III of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899);

Upper Burma generally (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), s. 4 (1), and Sch. 1, Burma Code, Ed. 1899, p. 260.

British Baluchistan and the Agency Territories, by the British Baluchistan Laws Regulation, 1890 (I of 1890), s. 3, and by the Baluchistan Laws Law, 1890, respectively, Baluchistan Code, Ed. 1900, pp. 60 and 228, respectively.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act (XIV of 1874), General Acts, Vol. II, to be in force in the following Scheduled Districts, namely:—

the Districts of Hazaribagh, Lohardaga (now called the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44), Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbhum, see Gazette of India, 1881, Pt. II, p. 504.

<sup>2</sup> For instance of the exercise of this power, see North-Western Provinces Gazette, 1865, p. 511, and *ibid*, 1866, p. 9.

[Price one anna and six pies.]

*Employers and Workmen (Disputes).* [ACT IX

Magistrates to have jurisdiction in what cases.

2. Magistrates empowered to decide disputes under the preceding section shall have jurisdiction only in case the amount in dispute shall not exceed the sum of two hundred rupees \* \* \* \* \*

Government to fix and alter local limits of jurisdiction.

3. The executive Government shall fix, and may, from time to time, alter the local limits of the jurisdiction of any Magistrate invested with jurisdiction under section 1 of this Act. A Magistrate so invested may hold a court for the investigation of disputes of the nature described in the said section, at any place within the local limits of his jurisdiction.

Procedure in the investigation of disputes.

4. The rules for the institution of suits as provided in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*)<sup>1</sup> shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding sections, and the procedure adopted shall be that provided for cases in which the suit may be disposed of at the first hearing.

No appeal.

5. There shall be no appeal against any decision passed under this Act.

Order for payment.

6. The Magistrate, having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be justly due; and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter.

Distress.

Property distrained.

7. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter, or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII of 1859<sup>2</sup> for the  
the

<sup>1</sup> The words "and the claim is preferred within six months from the date on which the cause of action arose" were repealed by the Indian Limitation Act, 1871 (IX of 1871). For limitation, see now the Indian Limitation Act, 1877 (XV of 1877), Sch. II, No. 4, in the revised edition, as modified up to 31st December, 1900.

<sup>2</sup> See now the Code of Civil Procedure (Act XIV of 1882), as modified up to 1st December, 1899.

1860.] *Employers and Workmen (Disputes).*

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8. Any person who shall voluntarily engage for a stipulated period to work on any railway, canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in section 1 of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty rupees. The Magistrate may, at the request of the complainant or of any one authorized to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement; and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labour for any term not exceeding two months.

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Operation of Act.

<sup>1</sup> Act IX of 1860 has been extended to the following:—

- (1) the Punjab, *see* Punjab Gazette of May 9th, 1860;
- (2) Nadiya, 24-Parganas and Baraset, *see* Calcutta Gazette, 1860, p. 1339;
- (3) the Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 9;
- (4) the District of Nimar, *see* Calcutta Gazette, 1862, p. 2980;
- (5) certain lands between Satna and Jubbulpore, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 9;
- (6) the Districts of Ahmadnagar, Broach, Ahmedabad, Khandesh, Kaira, Poona, Sholapur, Surat, Tanna, by notifications dated respectively 2nd May, 1860, 13th March, 1861, and 12th November, 1861, *see* Bombay List of Local Rules and Orders, Ed. 1896, pp. 25 and 26;
- (7) Sindh, *see* notification dated December 3rd, 1873, Bombay Government Gazette, 1873, Pt. I, p. 1000;
- (8) the Districts of Allahabad, Cawnpore, Etawah, Aligarh, Fatehpur, Mainpuri, Agra and Bulandshahr, *see* Notification No. 1664-A., North Western Provinces Gazette, 1860, p. 638;
- (9) to all districts in Oudh,
- (10) Kirwi Sub-division in Banda, } *see* North Western Provinces  
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and Orders, Ed. 1894, p. 15.
- (11) the Muttra District,

(4)

THE ASSAM LABOUR AND EMIGRATION ACT,  
1901 (VI OF 1901).

(As modified up to 1st July, 1910.)

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THE FIRST SCHEDULE.—FORM OF LABOUR-CONTRACT  
BETWEEN LABOURER AND  
EMPLOYER.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

# ACT No. VI OF 1901.<sup>1</sup>

[9th March, 1901.]

An Act to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

(As modified up to 1st July, 1910.)

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901.

Short title, extent and commencement.

(2) It extends—

(a) to the Provinces of Bengal (including the Santhál Parganas), the North-Western Provinces, Oudh<sup>2</sup> and Assam, the Central Provinces

<sup>1</sup> This Act is an amalgamation of the provisions of two Bills separately introduced in Council—see Report of the Select Committee referred to below. Those Bills were the “ Assam Labour and Emigration Bill ” and “ The Assam Emigrants Health Bill.”

For Statements of Objects and Reasons, see Gazette of India, 1899, Pt. V, pp. 165 and 175, respectively; for Report of the Select Committee on both Bills which led to their amalgamation, see Gazette of India, 1901, Pt. V, p. 27; for Proceedings in Council, see *ibid.*, 1899, Pt. VI, pp. 225 and 234, relating to both Bills, and for Proceedings in Council after their amalgamation, see *ibid.*, 1901, Pt. VI, pp. 15 and 32.

It has been extended to the district of Vizagapatam by Notification No. 590, dated the 8th October, 1901, published in Fort St. George Gazette, 1901, Pt. I, p. 1861; and to the districts of Godavari, Kistna, Guntur and Nellore, see *ibid.*, 1908, Pt. I, p. 809.

The provisions of Chapter VII save sections 122, 123, 159, 118 and 162, and the provisions of ss. 187—212 inclusive have ceased to apply to the districts of Kamrup, Goalpara, Cachar and Sylhet, see Notification No. 7346-M., dated 27th October, 1908, E. B. & Assam Gazette, 1908, Pt. I, p. 1738.

For rules under the Act generally made by the Chief Commissioner, Central Provinces, see C. P. Gazette, 1901, Pt. III, p. 180.

<sup>2</sup> Now the U. P. of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, Genl. Acts, Vol. V.

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(Chapter I.—Preliminary.)

Provinces and the District of Ganjam in the Province of Madras; and

(b) to such other parts of British India as the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct.

(3) It shall come into force—

(i) in the territories mentioned in clause (a) of sub-section (2), at once; and,

(ii) in any territories to which it may be extended by a notification under clause (b) of the said sub-section, on such day as may be specified in that behalf in the notification.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “agent” means a garden-sardar or other person engaging or assisting any native of India to emigrate under Chapter V :

(b) “Assistant Inspector” means an Assistant Inspector of Labourers appointed under this Act :

(c) “contractor” means a contractor licensed under this Act :

(d) “dependant” includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-sardar, or accompanying any emigrant with the consent of an agent :

(e) “emigrate” denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the

*(Chapter I.—Preliminary.)*

territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant :

- (f) “ employer ” means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed :
- (g) “ estate ” means the land upon which any labourers or more than fifty other persons have been engaged to labour :
- (h) “ garden-sardar ” means a person employed on an estate and deputed by his employer to engage labourers :
- (i) “ Inspector ” means an Inspector of Labourers appointed under this Act :
- (j) “ labour-contract ” means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant :
- (k) “ labour-district ” means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam :
- (l) “ labourer ” means any person bound by a labour-contract, and includes any person registered as such under section 34 or section 69 :
- (m) “ local agent ” means a local agent licensed under this Act :
- (n) “ Magistrate ” means a District Magistrate, Subdivisional Magistrate or other person appointed by the Local Government to perform the functions of a Magistrate under this Act :
- (o) “ recruiter ” means a recruiter licensed under this Act :

(p) “ recruiting

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(Chapter I.—Preliminary.)

- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district :
- (q) "Registering-officer" means a Registering-officer appointed under this Act :
- (r) "sign" and "signature" include, in the case of persons unable to write, finger-impressions :
- (s) "sub-contractor" means a sub-contractor licensed under this Act : and
- (t) "Superintendent" means a Superintendent of Emigration appointed under this Act.

(2) All words defined in the Indian Contract Act, IX of 1872,<sup>1</sup> and used in this Act shall be deemed to have the meanings respectively assigned to them by that Act.

Local Govern-  
ment may  
prohibit  
recruitment,  
etc., for  
emigration  
to any  
labour-  
district or  
part thereof  
either  
absolutely  
or otherwise  
than under  
certain  
provisions  
of Act.

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette,<sup>2</sup> prohibit all persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification :

Provided that a notification under this section shall not take effect until the expiry of six months from

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> For notification prohibiting the recruitment of labourers in the Porahat estate in accordance with Chapter IV of the Act, see Cal. Gazette, 1908, Pt. I, p. 1774; (2) for notification by the Chief Commissioner, Central Provinces, under this Act, see C. P. Gazette, 1902, Pt. III, p. 119; (3) by the Government of Madras in respect of the districts of Ganjam and Vizagapatam, see Fort St. George Gazette, 1901, Pt. I, p. 1861, and in respect of other districts of Kistna, Guntur, Nellore, and parts of the Godavari district, see *ibid.*, 1908, Pt. I, p. 809; (4) by the Government of United Provinces of Agra and Oudh in respect of certain districts in the Allahabad and Fyzabad Divisions except in accordance with the provisions of Chapters III and IV, see N.-W. P. and Oudh Gazette, 1901, Pt. I, p. 735, and for rules in connection with this notification, see U. P. Gazette, 1902, Pt. I, p. 221.

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(Chapter I.—Preliminary.—Chapter II.—Labour-  
contracts generally.)

from the date of its publication in the Gazette, unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

4. (1) The Local Government may appoint so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

Appointment of officers.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

## CHAPTER II.

### LABOUR-CONTRACTS GENERALLY.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper.

Essentials of labour-contracts.

(2) Every labour-contract shall specify—

- (a) the names of the labourer and his employer;
- (b) the term for which the labourer is to labour;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
- (d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

(3) No

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(Chapter II.—Labour-contracts generally.)*

(3) No labour-contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man  
and four rupees in the case of a woman :

for the second and third years, five rupees eight  
annas in the case of a man and four  
rupees eight annas in the case of a  
woman : and

for the fourth year, six rupees in the case of a  
man and five rupees in the case of a  
woman :

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task :

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

Contracts  
not enforce-  
able as  
labour-con-  
tracts unless  
made in  
accordance  
with section  
5.

7. Unless



(Chapter II.—Labour-contracts generally.)

7. Unless his labour-contract contains a specific obligation to that effect, no labourer shall be bound by it to undertake any work involving underground labour in mines.

In absence of specific obligation, underground labour not obligatory.

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract :

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter.

IX of 1872.

9. Notwithstanding anything to the contrary in the <sup>1</sup> Indian Contract Act, 1872, any person of the age of sixteen years or upwards may enter into a labour-contract :

Persons who may enter into labour-contracts.

Provided that no woman shall be capable of binding herself by a labour-contract if her husband or lawful guardian (if any) objects.

10. (1) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour-contract of the labourer to be cancelled.

Power of Local Government to cancel contract in case of wrongful recruitment.

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour-contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming,

shall

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shall give to the labourer a certificate to the like effect.

Power to cancel contract of labourer related to labourer whose contract is cancelled.

11. Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of a labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

Repatriation of labourers whose contracts are cancelled.

12. (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with the dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely:—

- (a) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter III, from the contractor at whose depôt the labourer executed his labour-contract;
- (b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer; and,
- (c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, or, if the labourer has been recruited under Chapter III, either from such employer or from the contractor at whose depôt the labourer

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labourer executed the labour-contract, as to the Inspector or Magistrate may seem expedient.

(2) In the case of a labourer recruited under Chapter III, when the whole or any part of such expenses have been recovered from the employer, the employer shall be entitled to recover the same from the contractor at whose depôt the labourer executed the labour-contract.

(3) A certified copy of the order in writing of the Local Government under section 10 or section 11 and the receipt granted to the employer for such expenses shall be conclusive evidence of the title of the employer to recover such expenses from the contractor.

13. (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

Escort for repatriated labourer.

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

### CHAPTER III.

#### RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

##### *Contractors and Sub-contractors.*

14. Any Superintendent specially empowered in this behalf by the Local Government may grant to persons fitted by character to act as contractors licenses to be contractors within the whole or any part of the local area for which the Superintendent has been appointed,

Licensing of contractors and sub-contractors.

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appointed; and may also, on the application of any contractor, grant to persons fitted by character to act as sub-contractors licenses to be sub-contractors, on behalf of the contractor, within the whole or any part of the local area for which the contractor is licensed.

Fee for, and form of, contractors' and sub-contractors' licenses.

15. Every license granted under section 14 shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees, and, in the case of a sub-contractor, fifty rupees, as the Local Government may, by rule, prescribe.

Duration of contractors' and sub-contractors' licenses and cancellation thereof.

16. (1) No license shall be granted under section 14 for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

(2) A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license under sub-section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

Duties of contractors.

17. Every contractor shall, in addition to the special duties imposed upon him by this Act, afford such information to the Superintendent and furnish him with such returns and reports as the Superintendent may, subject to any rules made by the Local Government in this behalf, require.

Sub-contractor to act on behalf of only one contractor.

18. No sub-contractor shall be licensed to act on behalf of more than one contractor.

Contractor or sub-contractor acting as recruiter.

19. A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions of this Act relating to recruiters.

Liability of contractors for sub-contractors'

20. (1) Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of

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of any person licensed to be a sub-contractor or recruiter on his behalf, and all payments which, under this Act or any rule thereunder, any person so licensed is required to make, may, in case of default, be recovered from the contractor concerned.

and re-  
recruiters'  
acts and  
defaults.

(2) The Superintendent may cancel the license of any contractor where the license of any person so licensed on behalf of the contractor is liable to be cancelled under this Act.

(3) Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person so licensed on his behalf.

21. Every contractor shall establish and maintain, at such places and for such local areas as the Local Government may direct, suitable depôts for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for any labourers so engaged during their stay at the depôts.

Contractor to  
establish  
depôts.

22. (1) No depôt shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector.

Inspection  
and super-  
vision of  
depôts.

(2) Every depôt shall be under the supervision of the Superintendent, the Magistrate or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate or such officer as aforesaid, and the Medical Inspector.

(3) Where the Superintendent considers that any depôt is unhealthy, or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the use of the depôt for the reception and lodging of labourers.

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Establishment of hospital-depôts.

23. In addition to the depôts hereinbefore provided for, the Local Government may establish separate hospital-depôts for the reception of labourers suffering from dangerously infectious or contagious diseases.

Contractor to contribute towards establishment and maintenance of hospital-depôt.

24. (1) Where a hospital-depôt is established under section 23, the Local Government may require any contractor having a depôt in the neighbourhood of the hospital-depôt to contribute to the expense of the establishment and maintenance of the hospital-depôt such reasonable sum as it may direct, and may recover the same from the contractor.

(2) Every hospital-depôt established under section 23 shall be under the charge of a medical officer appointed by the Local Government.

(3) Any Medical Inspector may direct the transfer of any labourer from a depôt established within the local limits of his jurisdiction to a hospital-depôt established under section 23 within the said local limits.

*Recruiters.*

Licensing of recruiters.

25. Any Superintendent empowered in this behalf by the Local Government may, on the application of a contractor or of any sub-contractor acting on behalf of a contractor, grant to persons fitted by character to be employed in engaging labourers licenses to be recruiters on behalf of the contractor within the whole or any specified part of the local area for which the contractor has been licensed :

Provided that no person shall be granted a license under this section to be a recruiter on behalf of more than one contractor or to act as such within the local limits of more than one district.

Form of, and fee for, recruiter's license.

26. Every license granted under section 25 shall be in such form, and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may, by rule, prescribe.

27. No

27. No license shall be granted under section 25 for a longer period than one year from the date thereof; and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

Duration of recruiter's license.

28. Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub-contractor on whose application he was licensed.

Recruiter to hold certificate from contractor or sub-contractor.

29. (1) No recruiter shall engage or attempt to engage any person as a labourer unless his license bears the countersignature of a Magistrate having jurisdiction in the district or sub-division for which he is licensed.

Magistrate's counter-signature of recruiter's license.

(2) No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such enquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate prescribed by section 28, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a depôt.

30. (1) Every Magistrate shall have, for the supervision, inspection and regulation of any place within the local limits of his jurisdiction in which accommodation is provided under section 29, subsection (2), the same powers as are by this Act conferred on the Superintendent in respect of depôts.

Magistrate to supervise accommodation.

(2) The District or any Subdivisional Magistrate may authorise any Magistrate subordinate to him, or any officer of police above the rank of sub-inspector, to visit and inspect such places as aforesaid at any time; and all recruiters or other persons in charge of such places as aforesaid shall afford to subordinate Magistrates and officers of police so authorized

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authorized every facility for visiting and inspecting them.

Cancellation  
of Magis-  
trate's coun-  
tersignature  
in certain  
cases.

31. (1) Where any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section 29, sub-section (2), has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his countersignature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same.

(2) Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report his refusal or cancellation and the grounds thereof to the Superintendent who granted the license.

*Procedure before arrival at Depôts.*

Intending  
labourer to  
be taken for  
examination  
to medical  
officer.

32. (1) Every recruiter who desires to engage any person as a labourer shall appear with the person before such medical officer as the Local Government may appoint in this behalf within the local limits of the jurisdiction of the Magistrate by whom the recruiter's license was countersigned, or, if no medical officer has been so appointed, before such medical officer as the Registering-officer before whom the person is taken for registration as hereinafter provided may direct.

(2) The medical officer shall thereupon examine the person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, give him a certificate to that effect.

33. Every



33. Every person who obtains a certificate under section 32, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which the recruiter is licensed, or before such other Registering-officer as the Local Government may appoint for that local area. The recruiter shall, at the same time, produce and show his license to the Registering-officer.

If certified to be fit, intending labourer to be brought before Registering-officer.

34. (1) The Registering-officer shall thereupon inspect the certificate given under section 32 and the license of the recruiter, and, if he finds that the certificate has been duly given and that the recruiter is duly licensed, shall then examine the person brought before him under section 33 with reference to his intended labour-contract, and explain the same to him.

Examination and registration of intending labourer.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract, and understands the same as regards the locality, the period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

(3) Where any woman is produced before a Registering-officer for the purpose of being registered under this section, the Registering-officer shall,

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after such inquiry as may be necessary to satisfy him of the identity of her husband or lawful guardian, as the case may be, and, after such examination as may be necessary to satisfy him of the consent of such husband or lawful guardian, place on record in writing under his own signature that such husband or lawful guardian has consented to her entering into a labour-contract, and such record shall also be subscribed by the husband or lawful guardian with his signature.

(4) In the case of any such woman who is alleged to be a widow or of an unmarried woman who is stated to have no lawful guardian living, the Registering-officer shall satisfy himself by the evidence of at least one witness that her husband is dead or that she has no lawful guardian, as the case may be, and shall record such evidence in writing under his own signature.

Arrange-  
ments to be  
made for  
return to  
home of in-  
tending  
labourer  
whose  
registration  
is refused.

35. (1) Where the Registering-officer refuses to register a person as a labourer under this Act, he shall report his refusal to the District or Subdivisional Magistrate or other officer appointed by the Local Government in this behalf, and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for ensuring the return of the person and his dependants (if any) to their homes and for their proper housing and support in the interval. In the case of any male under the age of sixteen years or any female recruited in circumstances which appear to be suspicious, the arrangements may include the provision of an escort home.

(2) Any expenditure incurred under sub-section (1) may be recovered from the contractor or recruiter concerned, or both.

Copy of  
registration  
to be given  
to labourer.

36. The Registering-officer shall furnish to every person registered under section 34, sub-section (2), a certified copy written on substantial paper of the particulars referred to therein.

37. Every

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37. Every Registering-officer registering a person under section 34, sub-section (2), shall forthwith forward a certified copy of the particulars referred to therein and the original certificate of the medical officer regarding the person to the Superintendent having jurisdiction over the depôt to which the person is to proceed.

Copy of registration and medical certificate to be sent to Superintendent.

38. For every person produced before a Registering-officer for the purpose of being registered under section 34, sub-section (2), the recruiter shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may, by rule, prescribe.

Fee for registration.

39. No recruiter shall remove or attempt to remove any person to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aid or attempt to aid him in going to a depôt, or leaving any such local limits as aforesaid, unless and until he has been registered under section 34, sub-section (2).

Recruiter when to remove person to depôt.

40. (1) After a labourer has been registered under section 34, sub-section (2), the Registering-officer shall direct the recruiter to convey the labourer with all convenient despatch to a depôt established by the contractor on whose behalf the recruiter has been licensed, and shall specify the depôt to which the labourer is to be conveyed.

Conveyance of labourer to depôt.

(2) Every labourer shall, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself or by a competent person deputed by him with the approval of the Registering-officer by whom the labourer has been registered.

(3) The Registering-officer shall give to every person so deputed a certificate, under his signature, stating that he has been deputed for the journey to the depôt.

41. Every

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Recruiter to  
provide food  
and lodging  
for labourer  
on journey.

41. Every recruiter or person deputed by him under section 40, sub-section (2), shall, throughout the journey to the depôt, provide the labourer and his dependants (if any) with proper and sufficient food and lodging.

*Procedure at Contractors' Depôts.*

Contractor to  
report arrival  
of labourer.

42. Within twenty-four hours after the arrival of a labourer at a depôt, the contractor by whom the depôt is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction the depôt is situate, a notice in writing, in such form and containing such particulars as the Local Government may, by rule, prescribe, of the arrival of the labourer.

Duties of  
Medical  
Inspector.

43. (1) The Medical Inspector shall, as soon as may be after the arrival of a labourer at a depôt, examine the labourer and his dependants (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed, and, in the case of the labourer, that he is also not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts.

(2) The Medical Inspector shall give a certificate to the Superintendent stating whether he is or is not satisfied that the labourer and his dependants (if any) are in a fit state of health to undertake the journey, and, in the case of the labourer, that he is also not incapacitated as aforesaid.

On grant  
of certificate,  
labourer to  
enter into  
labour-con-  
tract.

44. Where the Medical Inspector gives a certificate under section 43, sub-section (2), with respect to any labourer, and there is, in the opinion of the Superintendent, no valid reason why the labourer should not enter into the intended labour-contract, the labourer and the employer with whom he intends to contract, or the person appearing on behalf of the employer, shall, after the lapse of three, and within thirty,

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thirty, days after the date of the arrival of the labourer at the depôt, execute the labour-contract in the presence of the Superintendent :

Provided that no labour-contract shall be executed as aforesaid except in the district in which the labourer was registered under section 34, sub-section (2), or at such other place within the Province as the Local Government may direct.

45. (1) Before any labourer executes a labour-contract, under section 44, the Superintendent shall personally explain it to him, and shall, after the same has been executed by him and by his employer or the person appearing on behalf of his employer, attest the labour-contract and certify at the foot thereof that he has personally explained the same to the labourer.

Contract to be explained to labourer by Superintendent, and abstract and copies to be made.

(2) An abstract of every labour-contract so executed shall be entered in a register to be kept by the Superintendent for the purpose; and, after the abstract has been so entered, one copy of the labour-contract shall be given to the labourer and the other to his employer or the agent of his employer.

46. Where the employer with whom any labourer intends to contract, or a person appearing on behalf of the employer, has given notice to the Superintendent that, before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a medical man selected by such employer or person appearing on behalf of the employer and shall be certified by him to be physically and constitutionally fit for labour in the labour-district in which the estate of the employer is situate, the Superintendent shall not permit the labourer to execute a labour-contract, until such medical certificate as aforesaid has been produced and shown to him.

Power for employer to require further medical certificate as to fitness to labour previous to contract.

47. Where the employer or the person appearing on his behalf has directed that the examination referred to in section 46 shall be made by a medical officer

Fee of medical officer when in Government service

officer

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for exami-  
nation under  
section 46.

officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the employer or such person such fees as may be agreed upon, or, if no agreement has been entered into, then such fee for each labourer so examined as the Local Government, by general or special order, may direct.

Power to  
cancel con-  
tract and  
order pay-  
ment of  
expenses of  
return of  
labourer in  
certain cases.

48. In any of the following cases, namely:—

- (a) where the Medical Inspector, on making the examination required by section 43, subsection (1), or at any subsequent time during the stay at the depôt of a labourer, finds that the labourer is or has become unfit to undertake the journey to the labour-district to which he intends to proceed, or that the labourer is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, and the Superintendent considers that the labourer has not dishonestly represented himself as fit to undertake the journey; or
- (b) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of a labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind a labour-contract which has been executed; or
- (c) where the contractor on whose behalf or by whom a labourer has been registered does not, after the lapse of three, and within thirty, days after the date of the arrival of the labourer at the depôt, tender to him a labour-contract for execution under section 44, or the employer or the person appearing on his behalf refuses or neglects to execute the contract as required by that section;

the

the Superintendent may cancel the labour-contract executed by the labourer, and in that event, or if no labour-contract has been executed, may order the contractor at once to pay the labourer such reasonable sum as the Superintendent may think necessary to enable the labourer to return to the place at which he was registered or to his native district, as to the Superintendent may seem fit, and such further sum by way of compensation as the Superintendent thinks reasonable; and may take such other steps as he may think necessary for the conveyance of the labourer to such place or district as aforesaid.

49. (1) Any labourer who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the return journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the depôt at the expense of the contractor by whom the depôt is maintained, until he is reported by the Medical Inspector to be fit to undertake the return journey.

Labourer when to be lodged, etc., at depôt till he can return home.

(2) Where the contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for the labourer, the Superintendent may order the contractor at once to pay such reasonable sum as the Superintendent may think necessary to provide such food, lodging, clothing or medical treatment as aforesaid.

50. Where an order is made under section 48 with reference to a labourer, any person registered as his dependant, or any other labourer, being his or her wife, husband, son or daughter, may claim—

Like provisions in case of dependants and relatives.

- (a) to be conveyed, at the expense of the contractor, with the labourer to the same place as the labourer; and,
- (b) if the labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the depôt at the expense of the contractor until the labourer is able to travel;

and

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and the Superintendent may include such expenses as aforesaid in an order made under section 48 or section 49 with respect to the labourer.

Compensation to labourer for ill-treatment on the journey.

51. Where, upon the arrival of a labourer at a depôt, it appears that during the journey to the depôt the labourer or any person registered as his dependant has suffered ill-treatment at the hands of the recruiter or person deputed by the recruiter to accompany the labourer, or that the recruiter or such person as aforesaid has failed to provide the labourer or any person registered as his dependant with proper and sufficient food and lodging, the Superintendent may order the contractor by whom the depôt is maintained to pay the labourer a reasonable sum by way of compensation.

Procedura when dependant declared unfit to proceed to labour-district.

52. Where the Medical Inspector has reason to think that any person registered as the dependant of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of the labourer was given. The provisions of sections 48 and 49 shall thereupon apply to the dependant as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

Labourer and relatives entitled to be returned with dependant.

53. In any such case as is provided for by section 52, the labourer to whom the dependant is attached shall further be entitled, if he or she so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to receive from the contractor at whose depôt he or she arrived, such reasonable sum as the Superintendent may think necessary to enable him or her to return to the place where he or she was registered, or to his or her native district, as to the Superintendent may seem fit. If the labourer so returns, then any other persons registered



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as his or her dependants, and any other labourer, being his or her wife, husband, son or daughter, shall also be entitled to receive a like sum from the contractor.

54. On the failure of a contractor for the space of twenty-four hours to comply with an order of the Superintendent to pay any sum required to be paid under section 48, section 49, section 50, section 51, section 52 or section 53, the Superintendent may pay the same to or on behalf of the labourer or dependant concerned, and may recover it from the contractor.

Failure of contractor to pay sums ordered to be paid under sections 48 to 53.

55. (1) All labourers despatched from a contractor's depôt to a labour-district shall during their journey to the place where they are to labour be accompanied by a person appointed by the contractor, and no person shall be so appointed unless he holds a certificate of fitness signed by the Superintendent, who may cancel such certificate for any reason which seems to him sufficient.

Provisions as to escort on journey and way-bill.

(2) Every person appointed under sub-section (1) shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe; he shall present the way-bill at all such places and to all such officers as may be thereupon indicated; and he shall carry out all instructions therein contained for his guidance.

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## CHAPTER IV.

### RECRUITMENT BY GARDEN-SARDARS AND LOCAL AGENTS.

#### *Garden-sardars.*

56. (1) An employer may grant to any garden-sardar a certificate authorizing him, in such local area to garden-sardar.

Employer may grant certificate to garden-sardar.

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area within the limits of a single recruiting district as may be specified in the certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time.

(2) Where any labourer bound by a labour-contract is granted a certificate under sub-section (1), his employment under the certificate shall be deemed to be employment under his labour-contract.

Form and particulars to be contained in such certificate.

57. (1) Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf.

(2) Any employer granting a certificate to a garden-sardar under section 56, sub-section (1), may, before the certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom the garden-sardar is to report himself for orders, the time within which he is to return to his employer, and such other instructions for his guidance as he may think fit.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

58. Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be accepted and signed by the garden-sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides.

Inspector's or Magistrate's counter-signature of certificate.

59. The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall, unless it appears to him that the person so accepting and signing the certificate is not employed on

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\* Now the Local Government of E. B. and Assam—see the Bengal and Assam Laws Act, 1905 (7 of 1905), s. 3, and Sch. D, Pt. I, cl. II, E. B. and Assam Code.

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on an estate of which the person granting the certificate is in charge or is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date the certificate.

60. (1) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by the employer to the garden-sardar in renewal of any existing certificate.

Provision for grant of fresh certificate.

(2) Every fresh certificate granted under subsection (1) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the district in which the garden-sardar to whom it is granted is employed; and the garden-sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence.

61. No certificate granted to a garden-sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

Certificate when to come into force, and duration thereof.

62. (1) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers,

Accommodation to be provided by garden-sardar.

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labourers, as may be collected by him pending their removal to a labour-district.

(2) The District or Subdivisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(3) The District or Subdivisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place as aforesaid the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

Cancellation  
of certificate  
in certain  
cases.

**63.** (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed, may cancel the certificate.

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and, whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(3) When the certificate of a garden-sardar is cancelled under this section, any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

**64.** (1) Any

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*Local Agents.*

64. (1) <sup>1</sup> Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses to suitable persons to be local agents for the purpose of representing employers in all matters connected with the supervision of garden-sardars under this Chapter or section 90 or section 91 within such local area and for such period as the employer or employers so applying may desire :

Licensing and duties of local agents.

Provided that no contractor and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a local agent.

(2) A local agent shall furnish such information and make such returns as the Local <sup>1</sup> Government may, by rule, prescribe.

65. <sup>2</sup> Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses, for such period as the employer or employers may desire, to suitable persons to be selecting agents, for the selection, on behalf of the employer or employers, of labourers recruited by contractors, and such selecting agent shall furnish such information and make such returns as the Local Government may by rule prescribe :

Selecting agent.

Provided that no contractor or local agent and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a selecting agent :

Provided also that no such license shall be granted for more than one year from the date thereof :

**Provided**

<sup>1</sup> As to officers authorised to grant licenses in the Kistna, Guntur and Nellore districts and parts of the Godavari district, see Fort St. George Gazette, 1908, Pt. I, p. 812.

<sup>2</sup> As to officers empowered to grant licenses to the Selecting Agents in the Kistna, Guntur and Nellore districts and parts of the Godavari district, see Fort St. George Gazette, 1908, Pt. I, p. 812.

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Provided also that a license granted under this section may be cancelled by the Superintendent for any reason which seems to him sufficient.

Prosecution  
of garden-  
sardars by  
local agents.

66. Where any garden-sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of the employer may prosecute the garden-sardar for that offence.

Cancellation  
of licenses of  
local agents.

67. (1) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if the employer so requires, or if it is shown to the satisfaction of the District Magistrate that the local agent has—

- (a) employed any contractor's recruiter to recruit or engage on his behalf persons to be labourers; or
- (b) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardar under the local agent's control; or
- (c) allowed any garden-sardar under his control to transfer persons engaged as labourers by the garden-sardar to contractors or to their recruiters or to any employer other than the employer by whom the garden-sardar's certificate was granted; or
- (d) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom the garden-sardar's certificate was granted.

(2) A local agent may, within three months next after the date of any order of a District Magistrate cancelling his license under sub-section (1), appeal against

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against the order to the Local Government, and the decision of the Local Government thereon shall be final.

*Procedure to be followed by garden-sardars.*

68. Every garden-sardar who desires to engage any person as a labourer shall appear with the person, together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint for that local area.

Garden-sardar and labourer to appear before Registering-officer for registration.

69. (1) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and, if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour-contract to him.

Examination and registration of persons engaged by garden-sardar.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

70. (1) Where it appears to the Registering-officer that any person brought before him under

Medical examination.

section

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section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination.

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

Fee to be paid for every labourer produced for registration.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

Labour-contract to be executed.

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof



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thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

73. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him.

Procedure when employer requires medical examination previous to registration.

74. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered

Fee of medical officer when in Government service for examination under section 73.

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entered into, such fee as the Local Government, by general or special order, may direct.

Garden-sardar when to remove labourer to labour-district.

**75.** Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72, no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area, or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar to accompany labourers or send competent person with them.

**76.** (1) A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into, to the labour-district where-in they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

No restriction on number of persons engaged by garden-sardar.

**77.** A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

**78.** A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76

as

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as a competent person to accompany labourers other than those engaged by him.

79. (1) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

Provision for way-bill.

(2) Every such garden-sardar or other person as aforesaid shall also present the way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

80. Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide the labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

Garden-sardar to provide food and lodging for labourers and dependants on journey.

81. Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by the garden-sardar accompanying the labourer, or that the garden-sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned the labourer or any of his dependants, the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by the labourer and order the garden-sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any) to return

Power for Magistrate in certain cases to award compensation or cancel contract.

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return to the place at which he was registered, or to his native district, as to the Magistrate may seem fit.

Procedure on failure of garden-sardar to comply with order.

**82.** On the failure for the space of twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Medical inspection of labourers *en route*.

**83.** Any Magistrate or Embarkation Agent may, if himself a medical man, medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent, as the case may be, not to be in a fit state of health to proceed thereto.

Detention and return of labourer declared when *en route* to be unfit to travel.

**84.** (1) Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order the labourer or dependant to be detained at such place as he may think proper until in a fit state of health to undertake the journey.

(2) In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey, shall, if the garden-sardar or person appointed by the garden-sardar accompanying him, or the employer by whom the certificate of the garden-sardar was granted, or his local agent, so wishes, be forwarded to the labour-district, or, if otherwise, to his native district or the place where he was registered as to the Magistrate or Embarkation Agent may seem fit.

(3) While any labourer or dependant is detained under sub-section (1), he shall be entitled to be fed, lodged,

lodged, clothed and (if necessary) medically treated at the expense of the employer with whom the labourer, or the labourer to whom the dependant is attached, has contracted to labour.

85. (1) Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any other labourer being his or her wife or husband, shall be entitled,—

Dependants  
of labourer  
when to be  
fed, etc.

(a) until the labourer is in a fit state of health to undertake the journey, to be fed, lodged, clothed and (if necessary) medically treated at the place where the labourer is detained, and at the cost of the employer with whom the labourer has contracted to labour, and

(b) to be sent back to the same place (if any) as the labourer.

(2) Where an order has been made under subsection (1) with reference to any dependant, the labourer to whom the dependant is attached shall thereupon, until the dependant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and at the cost of the employer with whom the labourer has contracted to labour; and the labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any) as the dependant.

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependant, and any other labourer,

being

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being the wife or husband of the labourer, shall be entitled, as the case may be,—

- (a) to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained, and at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or
- (b) to be sent back to the same place as the labourer.

Payment of expenses of detention and return-journey of labourer.

86. Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Representative of employer may procure order from Superintendent cancelling the labour-contract on payment of expense of return.

87. (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent for the cancellation of his labour-contract.

(2) If, when the labourer appears under subsection (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his

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his dependants (if any) to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any) by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the labour-contract cancelled, and, in that event, shall make an endorsement to the like effect on the labourer's copy of the labour-contract, and attest the endorsement with his signature.

**88.** (1) Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

Cancellation  
of contracts  
of relatives.

(2) Where a claim is made under sub-section (1), the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer.

(3) On the failure for the space of twenty-four hours of the local agent or representative to comply with an order made under sub-section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned, and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent or representative who appears on behalf of the employer.

**89.** When an order is made under section 81, 86 or 88 for payment of the costs of the return-journey of any labourer or other person, the Magistrate may

Cost of escort  
for repatriated  
labourer.

order

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order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return-journey as the Magistrate may think necessary.

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN  
UNDER CHAPTERS III AND IV.

Special provisions as to engagement of emigrants through garden-sardars.

90. When a notification has been published under section 3, prohibiting the recruiting, engaging, inducing or assisting, natives of India, or any specified class of natives of India, to emigrate from the whole or any specified part of a Province to any labour-district or any specified portion of a labour-district otherwise than in accordance with the provisions of this Act therein specified, the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, <sup>1</sup> declare that specially employed garden-sardars, not being garden-sardars holding certificates granted under Chapter IV, may, in the part of the province specified in the notification under section 3, engage persons on behalf of their employers and assist persons so engaged to emigrate to such labour-district or specified portion of a labour-district subject to the following provisions, namely:—

- (a) The employer shall grant each garden-sardar specially employed by him under this section a permit in writing, in such form as the <sup>2</sup> Chief Commissioner of Assam

<sup>1</sup> For (1) Notification under this power in respect of the Sambalpur District, see C. P. Gazette, 1902, Pt. III, p. 120; and (2) by the Government of the United Provinces, see U. P. Gazette, 1905, Pt. I, p. 293.

<sup>2</sup> Now the Local Government of Eastern Bengal and Assam—see the Bengal and Assam Laws Act, 1905 (7 of 1905), E. B. and Assam Code, Vol. I.



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Assam may by rule prescribe, signed and dated, specifying the name of the garden-sardar and the recruiting district in which alone the garden-sardar may engage persons on behalf of his employer and assist them to emigrate: Provided that no such permit shall be granted to a garden-sardar who has not resided at least six months on the estate of the employer.

- (b) The employer shall in the permit certify that the garden-sardar named therein is a person employed on his estate, and shall specify the nature of his employment and the period of his residence on the estate.
- (c) Every permit shall be presented by the garden-sardar named therein in person for countersignature to the Inspector or to the Magistrate having jurisdiction in the place where the garden-sardar resides, and shall not be valid or have effect unless and until it is so countersigned.
- (d) The Inspector or Magistrate may refuse to countersign any permit, for any reason, to be recorded in writing, which he may think sufficient, and shall refuse to countersign a permit unless he is satisfied that the garden-sardar named therein is employed on the estate of his employer and has resided at least six months on the estate and is a fit person to engage persons and assist them to emigrate.
- (e) When a permit is duly countersigned the garden-sardar named therein may proceed to the recruiting district and there himself engage persons on behalf of his employer and assist them to emigrate, subject to the provisions of this Chapter.

(f) Every

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- (f) Every garden-sardar so authorized shall, on his arrival in the recruiting district and before he engages any person to emigrate, in person or in writing, report his arrival, and the place at which he intends principally to reside, to the District or Sub-divisional Magistrate, and shall, at least three days before his departure from the recruiting district, similarly report his intended departure and furnish a list, in such form as the Local Government may prescribe, containing the names and descriptions of the persons whom he has engaged and is assisting to emigrate.
- (g) Every garden-sardar shall either himself accompany all persons so engaged by him to the labour-district in which the estate of his employer is situate, or send them there in charge of another garden-sardar holding a permit under this section from the same employer to engage persons in the same recruiting district.
- (h) No permit shall have effect for more than six months from the date of counter-signature by the Inspector or Magistrate as aforesaid.
- (i) Any permit granted under this section may be cancelled in the recruiting district by the District Magistrate for any reason, to be recorded in writing, which he may think sufficient. The fact of cancellation shall be endorsed by such Magistrate as aforesaid on the permit, and the permit shall thereupon become invalid and cease to have effect. A District Magistrate who cancels a permit under this clause shall give notice of such cancellation to the employer by whom it was signed and  
to

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to the Inspector or Magistrate by whom it was countersigned.

<sup>1</sup> 91. Notwithstanding anything contained in section 90, the Local Government may, by notification in the local official Gazette,<sup>2</sup> declare that—

Power to Local Government to relax certain provisions of Act.

(a) in the case of contractors, sub-contractors and recruiters holding licenses granted under Chapter III, any of the requirements of that Chapter, or,

(b) in the case of garden-sardars holding certificates granted under Chapter IV or holding permits granted and countersigned under section 90, any of the requirements of that Chapter or of that section, as the case may be,

may

<sup>1</sup> S. 91 was substituted by s. 2 of the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908). The original section was as follows :—

The Local Government may, by notification in the local official Gazette, declare, in the case of any specified agency or any association of employers for purposes of engaging persons to emigrate formed and conducted in accordance with rules approved by the Local Government,—

(a) that garden-sardars working in the Province under the control of such agency or association as aforesaid and holding permits granted and countersigned under section 90 may, subject to such conditions as may be prescribed in the notification, engage persons and assist them to emigrate; and

(b) that, in the case of garden-sardars holding certificates under Chapter IV and working in the Province under such control as aforesaid, any of the requirements of that Chapter may be dispensed with or relaxed in such manner as may be prescribed in the notification.

<sup>2</sup> For declaration issued by the Government of Bengal dispensing with the requirements of ss. 44 to 47 so far as regards persons recruited for labour districts in Sylhet, Cachar, Kamrup and Goalpara, see Cal. Gazette, 1908, Pt. I, p. 1772, and for notification dispensing with those of ss. 72 and 75 in the case of certain garden-sardars as regards persons recruited in Bengal for the same districts, see *ibid*;

For Notification relaxing the requirements of ss. 60 (1) and 61 of the Act in the case of garden-sardars licensed under Chapter IV and working in Bengal under the control of certain Associations, see Cal. Gazette, 1909, Pt. I, p. 728;

For similar notifications by the Central Provinces, see C. P. Gazette, 1907, Pt. I, p. 764; *ibid*, 1909, Pt. I, p. 694; C. P. Gazette, 1908, Pt. I, p. 810; and C. P. Gazette, 1910, Pt. I, p. 124; and (2) by the Government of Madras, see Fort St. George Gazette, 1908, Pt. I, p. 4; *ibid*, 1908, Pt. I, p. 812; Fort St. George Gazette, 1909, Pt. I, p. 1107.

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may be dispensed with or relaxed on such conditions as may be prescribed in the notification.

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.

92. Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapters III and IV and of sections 90 and 91.

Application of Act to persons engaged under this Chapter.

93. (1) The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely:—

(a) in CHAPTER VI (TRANSPORT):—

- (i) sections 94 and 95 (routes and transport by sea);
- (ii) sections 96 to 99 (passenger licenses);
- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master);
- (iv) section 103 (medical officer);
- (v) section 104 (delay in departure);
- (vi) sections 107 to 110 (Magistrates' powers);
- (vii) section 112 (disinfection);
- (viii) section 113 (excess passengers);
- (ix) section 114 (breaches of Act and rules); and
- (x) section 116 (delegation of magisterial powers);

(b) in CHAPTER VII (LABOUR-DISTRICTS):—

- (i) section 122 (registers and returns);
- (ii) section 123 (inspection); and
- (iii) sections 159, 161 and 162 (repatriation);

(c) in CHAPTER VIII (RULES):—

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants;

(d) in

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(d) in CHAPTER IX (PENALTIES AND PROCEDURE):—

(i) sections 176, 177, 181, 182 and 183 (offences connected with transport by river); and

(ii) sections 185 and 186 (offences by employers); and

(e) in CHAPTER X (MISCELLANEOUS):—

(i) section 215 (recovery of sums due); and

(ii) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications, and repeal).

(2) Except as indicated in sub-section (1), nothing in Chapters II to IV inclusive or in Chapters VI to X inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

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CHAPTER VI.

TRANSPORT.

*Routes, etc.*

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take them by the prescribed route, or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge.

Routes to be followed and rules observed.

*Transport by River.*

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

Transport by sea to labour-districts.

96. (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for

Vessels to carry more than twenty

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passengers  
to be  
ordinarily  
licensed.

for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

Application  
for license.

97. (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

Grant of  
license.

98. Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

Fee for  
license.

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule, direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage :

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, prescribe.

Embarkation  
Agent may  
limit number  
to be received

100. (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may

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may make in this behalf, direct, by order in writing, that, on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master.

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

101. Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

102. Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

103. No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition.

*Departure of Passenger-vessels and Procedure during Voyage.*

104. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified

on board on any particular voyage.

Master to make returns.

Provisions, clothing, medical and other officers, cooks, etc.

Medical officer to be licensed.

Embarkation Agent may order departure of vessel if delay occurs.

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notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Master to receive way-bills from Embarkation Agent.

105. (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way-bill.

(3) The Embarkation Agent shall send a copy of every way-bill granted under sub-section (1) to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers not finally to leave vessel at any place other than that mentioned in way-bill.

106. No master licensed under this Chapter shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of the labourer :

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity :

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the District within which the accident has occurred or the necessity has arisen.

Master to stop his vessel at

107. (1) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives



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natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

certain places where there is a Magistrate.

(2) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

108. (1) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board.

Power for Magistrates to inspect vessels.

(2) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts affecting the health of the passengers.

109. Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board.

Power for Magistrates to regulate communication between vessels and land.

110. (1) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer

Power for Magistrates to detain vessels for inspection and to detain sick native passengers.

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officer to inspect such passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease.

(2) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any dangerously infectious or contagious disease to be disembarked and detained for medical treatment.

Detention of  
sick labourers  
by Magis-  
trate.

**111.** (1) Where, on receiving the report of a medical officer deputed under section 110, sub-section (1), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a dangerously infectious or contagious disease, is not in a fit state of health to proceed to the labour-district in which the labourer has contracted to labour, he may order the labourer or dependant to be detained, and shall cause all necessary arrangements to be made for his accommodation, support and medical treatment.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer of the labourer concerned.

Power for  
Magistrate  
to detain  
vessel to be  
cleansed and  
disinfected.

**112.** (1) Where, in the opinion of a medical officer deputed under section 110, sub-section (1), it is dangerous to the health of the general body of the passengers to allow the vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out those measures.

(2) Any expenditure incurred under sub-section (1) may be recovered from the master or owner of the vessel.

Measures to  
be taken if  
excess  
number of  
native pas-

**113.** (1) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted under this Chapter, that the number of passengers on board, being natives of India,

India, is larger than the number specified in the license or than the number specified in an order of an Embarkation Agent made under section 100, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

passengers is found on board.

(2) Any expenditure incurred in maintaining passengers detained under sub-section (1) and in forwarding them to their destination may be recovered from the master or owner of the vessel.

114. Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted under this Chapter, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of the vessel, he shall report the fact to the Embarkation Agent by whom the license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions as aforesaid have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

Infraction of the Act and rules to be reported.

115. (1) The Local Government may make rules to regulate—

Power to make rules regulating disembarkation and other matters.

- (a) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations;
- (b) the detention of labourers and their dependants at debarkation-depôts;
- (c) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(2) Any expenditure incurred in pursuance of any rules made under sub-section (1) may be recovered from the employers of the labourers concerned.

116. The

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Deputation of other officer to discharge the functions of a Magistrate under sections 107 to 114.

**116.** The District or Subdivisional Magistrate may authorize any subordinate Magistrate, medical officer or officer of police above the rank of sub-inspector to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 107 to 114.

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CHAPTER VII.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

*Annual Rate payable by Employers.*

Annual rate payable by employer.

**117.** (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct.

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under sub-section (1), the same may be recovered from him.

*Local Labour-contracts.*

Labour-contracts executed in labour-districts between employer and native direct.

**118.** (1) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of the execution of the labour-contract, with any native of India within the labour-district in which the estate to which the labour-contract refers is situate.

(2) Where an employer has under sub-section (1) executed a labour-contract within a labour-district, he shall, within one month from the date of the execution of the labour-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract

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labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the labour-contract to the labourer and the other to his employer.

119. When, for the first time after the registration, under section 118, sub-section (2), of a labour-contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour-contract; and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour-contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Verification and cancellation of such contracts.

120. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

121. (1) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district

Labour-contracts executed within labour dis-

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districts.)

trict before  
Inspector or  
Magistrate.

for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated.

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

*Employers' Returns and Magistrates' Inspections.*

Registers to  
be kept and  
returns made  
by employers.

**122.** (1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits, and  
may

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may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

123. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability.

Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries.

*Regulation of Labour.*

124. (1) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared.

Schedule of daily tasks to be prepared.

(2) One copy of every schedule prepared under sub-section (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the <sup>1</sup> Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number

<sup>1</sup> Now the Local Government of E. B. and Assam—see the Bengal and Assam Laws Act, 1905 (7 of 1905), E. B. and Assam Code, Vol. I.

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number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

Limitations  
on tasks and  
payment of  
wages.

**125.** (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day.

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

Provisions  
for revision  
of schedule  
by Inspector  
subject to  
appeal to  
Committee.

**126.** (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks.

(2) The employer shall at once make the reduction so ordered, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.

(3) Every Committee summoned under sub-section (2) shall consist of—

(a) the Inspector,

(b) some person to be nominated by the employer whose schedule is to be inquired into, and,

(c) if practicable, a medical officer.

(4) Where the employer fails to nominate a person within seven days after being thereunto requested



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requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(5) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

127. (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit. Committee to revise schedule.

(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

128. (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna-and-a-half per diem, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna-and-a-half per diem, or diet on a scale to be approved by the Inspector. Provision for weakly labourers.

(2) Any subsistence-allowance ordered under sub-section (1) may be recovered from the employer of the labourer concerned.

#### *Incapacity for Labour.*

129. (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the opinion of the Inspector, temporarily unfitted for labour. Inspector may suspend contract of any labourer temporarily unfitted for labour.

reason

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reason of sickness or any other sufficient cause, for the performance thereof.

(2) Every release granted under sub-section (1) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve.

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence-allowance from his employer as the Inspector may think sufficient.

Labourer  
absent from  
sickness.

130. (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence-allowance at the rate of one anna-and-a-half, or, if in hospital, sick-diet on a scale to be approved by the Inspector.

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna-and-a-half for each day so in excess.

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof :

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown

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shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

**131.** (1) Where, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine.

Discharge of labourer permanently incapacitated.

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

#### *Accommodation for Labourers.*

**132.** Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

House-accommodation, water-supply and sanitary arrangements for labourers.

**133.** (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price.

Supply of food-grain for labourers.

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district or part of a district, what shall for the purposes of this section, be deemed to be a reasonable price.

**134.** (1) Subject

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Provisions  
for rationing.

134. (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing,—

- (a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order;
- (b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;
- (c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

Provision  
for hospital-  
accommoda-  
tion and  
medical  
attendance.

135. Where, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a  
medical

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medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit.

136. (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with any rules made by the Local Government under section 132 or 134 or any notification issued under section 133.

Enquiry whether employer has failed to provide accommodation, etc., as required by the rules.

(2) At the instance of any Inspector or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(3) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an enquiry by a Magistrate under the Code of Criminal Procedure, 1898.

V of 1898.

*Localities unfit for the Residence of Labourers.*

137. (1) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter.

Report by Inspector and inquiry by Committee.

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that  
an

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an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(3) Every Committee summoned under this section shall consist of—

- (a) the District Magistrate;
- (b) the Inspector;
- (c) the civil medical officer of the district; and
- (d) one or more employers of labourers :

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

Inquiry by  
Committee  
by order of  
Local  
Government.

**138.** Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

- (a) that an estate or portion of an estate is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or "
- (b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

Proceedings  
of Com-  
mittee.

**139.** Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record

record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

140. (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect.

Finding of Committee and consequences.

(2) Where a finding has been recorded under subsection (1), no labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under subsection (2) from the performance of his labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

141. The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the Committee is not unanimous, the Local Government may

Power for Local Government to pass orders on proceedings of Committees.

record

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districts.)*

record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140.

Excessive  
mortality on  
estates.

**142.** Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per cent., the Local Government, or the District Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely :—

- (a) the cause or causes of the mortality;
- (b) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality;
- (c) the fitness or otherwise of the estate or portion for the residence of labourers :

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magistrate, may direct an inquiry under this section limited to that particular class of labourers.

Medical  
officer to re-  
port.

**143.** The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred



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referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report.

144. Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

Power for Local Government to declare estate unfit for residence.

145. (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers, as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

(2) On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate

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or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

*Complaints made by Labourers.*

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate.

**146.** Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate :

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

Inspector or Magistrate how to proceed in case of complaint. |

**147.** (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of, a labourer, the Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of :

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate

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situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(2) For the purposes of every inquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness.

**148.** (1) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in that event shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

Untrue or  
frivolous  
complaints.

(2) Every endorsement made under sub-section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

**149.** (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

Award of  
compensation  
to employer.

(2) The complainant shall be bound to pay the amount awarded under sub-section (1); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off the amount at the rate of one day's labour for each four annas of the same.

**150.** (1) Where,

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Complaints disclosing grounds for further proceedings.

**150.** (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his witnesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

Recovery of arrears of wages and compensation.

**151.** (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

Power to cancel contract on conviction of employer or accumulation of arrears of wages.

**152.** (1) Where it is proved to the satisfaction of a Magistrate—

(a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the <sup>1</sup>Code of Criminal Procedure, V of 1893,

1898,

<sup>1</sup> Genl. Acts, Vol. V.

1898, triable exclusively by the Court of Session; or

- (b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid against the labourer and under the said Code triable by a Magistrate; or
- (c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months; or
- (d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person as aforesaid;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if that copy is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

**153.** (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contracts of all such labourers be cancelled.

Power to Local Government to cancel contracts of labourers whose condition is unsatisfactory owing to insufficiency of earnings.

(2) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

**154.** Where

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districts.)*

Power to  
cancel con-  
tract of  
labourer  
related to  
labourer  
whose con-  
tract is can-  
celled or  
determined.

154. Where the labour-contract of a labourer is or has been cancelled or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, may in his discretion and on the application of the labourer concerned cancel the labour-contract of any labourer employed on any estate belonging to the same employer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or has so determined.

*Determination of Labour-contracts.*

Endorsement  
of deter-  
mination on  
labour-con-  
tract.

155. (1) Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect; and, where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate as aforesaid.

(2) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof.

Power to  
redeem  
labour-con-  
tract.

156. (1) Where a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he is employed; and, on his depositing such sum as aforesaid with the Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

(2) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the  
contract

contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third and fourth years of the original term of the contract :

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

157. (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

Power to equalize terms of contract in case of husband and wife.

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if those copies are not forthcoming, by writing under the Inspector's or

Magistrate's

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Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

*Repatriation of Labourers and Others.*

Repatriation of labourer whose labour-contract has determined under section 131.

**158.** (1) Where any labourer, not being a native of the labour-districts, whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer back to his native district. The amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order, and may recover the same from the employer of the labourer concerned.

Repatriation of persons emigrating not under labour-contract who are physically incapacitated.

**159.** Where any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any), to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing



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doing to the Labour Transport Fund constituted under section 218.

160. (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

Repatriation of labourers wrongfully recruited.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

161. (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

Repatriation of persons not under labour-contract wrongfully recruited.

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to

that

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that effect and shall, if necessary, detain the person and shall send him, if he desires, together with any other persons dependent on him, back to his native district.

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be recovered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-district or estate.

Arrange-  
ments may  
be made for  
escorting  
persons  
ordered to be  
repatriated.

162. (1) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

(2) Any expenditure incurred under sub-section (1) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

## CHAPTER VIII.

### RULES.

General  
power for the  
Local Govern-  
ment to  
make rules.

163. (1) In addition to the powers hereinbefore conferred, the Local Government may make rules to carry out any of the purposes and objects of this Act in the province.

(2) In

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<sup>1</sup> For rules made by the (1) Chief Commissioner, Central Provinces, under this section, see those noted on p. 140 of Pt. I of the C. P. R. & O. and C. P. Gazette, 1904, Pt. III, p. 332, *ibid*, 1908, Pt. I, p. 257; (2) Government of Madras to regulate the engagement and transport of labourers and their dependants, see Fort St. George Gazette, 1905, Pt. I, p. 893; (3) Government of United Provinces, see U. P. Gazette, 1903, Pt. I, p. 78; *ibid*, 1904, Pt. I, p. 619.

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(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) define and regulate the powers and duties of the several officers appointed by it under this Act;
- (b) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any contractors or local agents within the Province and the form in which they shall be respectively so made;
- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province;
- (d) prescribe the <sup>1</sup>fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or their dependants in any district in the Province;
- (e) prescribe the particulars to be registered by a registering-officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant;
- (f) provide for the management and regulation of contractor's depôts and of hospital depôts situate within the Province, and for the support and medical treatment of labourers and their dependants passing through such depôts;
- (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province;
- (h) prescribe

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<sup>1</sup> As to fee payable for a recruiter's license in Madras, see Fort St. George Gazette, 1903, Pt. I, p. 312.

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- (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels;
- (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to each labourer and dependant during the journey through the same; prescribe the number of officers, cooks and other servants to be carried on board such vessels; and provide generally for the accommodation of labourers and their dependants on such vessels;
- (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels, while in transit through the Province;
- (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts;
- (l) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the Province;
- (m) require depôts and rest-houses to be provided by and at the cost of employers, contractors of agents for the accommodation of labourers, emigrants under  
Chapter

*(Chapter VIII.—Rules.)*

Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses;

- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, contractors or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, contractors or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;
- (o) regulate the food to be supplied by and at the cost of employers, contractors or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;
- (p) regulate the water-supply to be maintained by and at the cost of employers, contractors or agents for the use of labourers, emigrants under Chapter V and dependants;
- (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, contractors or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;
- (r) regulate the arrangements to be made by and at the cost of employers, contractors or agents in case of the death of any labourer, emigrant under Chapter V or  
dependant

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- dependant during the journey to a labour-district;
- (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and
- (t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, contractor, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, contractor or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

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CHAPTER IX.

PENALTIES AND PROCEDURE.

Recruitment,  
etc., in con-  
travention of  
Act or noti-  
fication.

**164.** Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall

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

165. Whoever, being a recruiter, wilfully gives false information to a Registering-officer regarding the name, caste, native district or village of any person produced before such officer for registration as a labourer or regarding any other particulars required to be entered in the register prescribed by section 34, sub-section (2), shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Wilful mis-  
description  
by recruiter.

166. Whoever, being a recruiter,—

Recruiter re-  
moving, etc.,  
unregistered  
person.

(a) removes, or attempts to remove, any person to a depôt before he has been registered under section 34, or induces or attempts to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aids or attempts to aid him in going to a depôt or in leaving any such local limits as aforesaid before he has been so registered; or

(b) induces or attempts to induce any person who has been so registered to proceed to any place other than the depôt which has been established by the contractor on whose behalf the recruiter is licensed, or conveys or attempts to convey him to such place;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees in respect of every such person.

167. (1) Whoever, being a recruiter or a person deputed by a recruiter to accompany labourers to a depôt, fails to provide any labourer or any dependant whom he accompanies on the journey to the

Recruiter not  
supplying  
proper food,  
etc.

depôt

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depôt with proper and sufficient food and lodging, or otherwise ill-treats the labourer or dependant on the journey, shall be punishable with fine which may extend to fifty rupees; and, in default of payment of the fine within twenty-four hours, with imprisonment for a term which may extend to one month.

(2) The convicting Magistrate may award the whole or any portion of any fine levied under sub-section (1) as compensation to the labourer in respect of whom, or of whose dependent, the failure or ill-treatment has occurred.

Labourer refusing without reasonable cause to execute contract at depôt.

**168.** (1) Any labourer engaged by a recruiter who, having been registered under section 34, without reasonable cause refuses or neglects when at the depôt to execute, in accordance with the provisions of section 44, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to the amount of the expense incurred in registering him and conveying him to the depôt and maintaining him therein; and, in default of payment of the fine, with imprisonment for a term which may extend to one month.

(2) Any labourer so punished may be forthwith discharged from the depôt.

(3) Every fine levied under sub-section (1) shall be paid to the contractor, sub-contractor or recruiter by whom such expense as aforesaid was incurred.

Labourer refusing to execute contract with garden-sardar.

**169.** (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(2) Every fine levied under sub-section (1) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

**170.** Whoever,



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170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

Garden-sardar failing to report himself, etc.

- (a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate; or
- (b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or
- (c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

and may, if a labourer under a labour-contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

171. Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under section 55 or section 76 to accompany labourers to a labour-district,—

Garden-sardar, etc., abandoning labourers, etc.

- (a) wilfully abandons any labourer or his dependant on the way to the labour-district; or
- (b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72; or
- (c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district

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labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Garden-sardar making over labourers to contractors, etc.

**172.** (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) makes over to any contractor, sub-contractor or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer; or
- (b) places any such person as aforesaid in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section 29, sub-section (2); or
- (c) allows any person engaged as a labourer by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section 62;

shall be punishable with imprisonment for a term which may extend to six months, or, with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

Garden-sardar failing to comply with instructions endorsed on way-bill.

**173.** Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill, shall

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shall be punishable with fine which may extend to twenty rupees.

174. Whoever,—

- (a) being a garden-sardar employed under a permit to engage persons and assist them to emigrate in accordance with the provisions of section 90, infringes any of the provisions of that section; or
- (b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section;

Unlawful  
engagement  
of emigrants  
by garden-  
sardar.

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

175. Whoever, being a local agent licensed under section 64 or a selecting agent licensed under section 65, retains or acquires any interest in the business of a contractor or works for a contractor for hire or reward shall be punishable with fine, which may extend to one thousand rupees.

Local agent  
or selecting  
agent work-  
ing with  
contractor.

176. (1) Whoever,—

- (a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India; or,
- (b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district;

Master  
receiving  
native  
passengers  
on board in  
contravention  
of Act.

shall

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shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

Fraudulent alteration of vessel after grant of license.

177. Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Master not complying with section 102.

178. Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not complying with order under section 104.

179. Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master permitting labourer to leave vessel contrary to section 106.

180. Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master wilfully omitting to stop vessel at certain places.

181. Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

182. Whoever

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182. Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

Person disobeying Magistrate's order as to communication between vessel and land.

183. Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

Master or medical officer disobeying or neglecting to enforce rules.

184. Whoever, having executed a labour-contract,—

Labourer deserting, etc., after registration.

(a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,

(b) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punishable with imprisonment for a term which may extend to one month.

185. Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing or omitting to keep registers, etc.

186. Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees.

Employer or other person obstructing inspection under section 123.

187. Whoever

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Employer or other person compelling labourer to perform labour, for which he is unfit.

187. Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees.

Persons buying labourer's rations.

188. Whoever buys any rations which have been furnished under section 134 to a labourer, and who ever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

Employer omitting to provide house-accommodation, etc.

189. (1) Whoever, being an employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues.

(3) If the employer fails to pay the fine imposed under sub-section (2), the person on whose account he has been acting shall be liable to pay the same.

Employer neglecting to provide hospital-accommodation.

190. Whoever, being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues.

Employer causing labourer to reside on es-

191. Where any estate or portion thereof has been found under section 140, or declared under section 144, unfit for the residence of labourers, or any class

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class of labourers, as the case may be, every employer who, until a certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion shall be punishable with fine which may extend to two hundred rupees.

tate declared  
unfit for  
residence.

192. (1) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer so sends any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

Unlawful  
absence from  
work.

(2) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract.

(3) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of, the labour-contract :

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence

reported

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reported in statements sent to the Inspector previous to the date of his last visit are concerned.

*Explanation.*—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

Labourer  
absent with-  
out cause.

**193.** Whoever, being a labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be punishable with imprisonment for a term which may extend to fourteen days; and, in case the absence has extended to twenty days in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month.

*Explanation.*—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

Statement of  
deserters.

**194.** Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing in such form as the Local Government may prescribe containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month.

Deserter may  
be appre-  
hended with-  
out warrant.

**195.** (1) Where any labourer deserts from his employer's service, the employer, or any person authorized by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest the labourer wherever he may be found :

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or  
in



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in the service of another employer, he shall not be arrested without warrant.

(2) Every police-officer shall assist in arresting any such labourer if so required by the employer or person authorized by him in this behalf.

(3) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punishable with fine which may extend to two hundred rupees.

196. (1) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer. Procedure at  
police-station.

(2) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(3) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been

sent

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sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

Procedure on  
complaint of  
desertion.

**197.** Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

Punishment  
for desertion.

**198.** (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender 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.

Compensa-  
tion for  
wrongful  
arrest.

**199.** (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees, on the employer

or

or person acting on his behalf by whom or at whose instance the labourer was arrested.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer so arrested.

200. Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation; or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect. Cancellation of contract by desertion.

201. Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees. Penalty for drunkenness or neglect of sanitary regulations.

202. (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour-contract. Portion of sentence may be cancelled on application of employer.

(2) On an application being made under sub-section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer; and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation.

(3) Nothing in this section shall be deemed to affect the provisions of section 200.

203. Every

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Expense of forwarding labourer to be paid by employer.

203. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense.

Conviction not to operate as a release.

204. (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall, subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction.

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

Endorsement on contract of imprisonment for offence against Act.

205. (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200,

or

or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

206. Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Endorsement on contract of period of any other imprisonment.

207. The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Periods endorsed to be added to term of contract.

208. (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Other person enticing away, harbouring or employing labourer under labour-contract.

(2) The

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(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

Failure to forward contract under section 118 or to cause labourer to appear under section 120.

**209.** Whoever, being bound under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 146.

**210.** Whoever, being bound by section 146 to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing to endorse labour-contract, etc.

**211.** Whoever, being an employer,—

- (a) refuses or wilfully neglects to endorse the labourer's copy of his labour-contract as required by section 155, or
- (b) detains a labourer after the determination of his labour-contract; or
- (c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof;

shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

**212.** Whoever, being an employer or a person acting for an employer, refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees.

**213.** Whoever

1901.] *Labour and Emigration (Assam).*

(*Chapter IX.—Penalties and Procedure.—Chapter X.—Miscellaneous.*)

**213.** Whoever abets, within the meaning of the Abetment.  
Indian Penal Code,<sup>1</sup> any offence against this Act or  
any rule hereunder, shall be punishable with the  
punishment provided for the offence.

**214.** Whoever commits any offence against this Place of trial  
for offences.  
Act or any rule hereunder shall be triable for the  
offence in any place in which he may be found, as  
well as in any other place in which he might be tried  
under any law for the time being in force.

---

CHAPTER X.

MISCELLANEOUS.

**215.** Every sum recoverable under this Act from Recovery of  
sums due  
under Act.  
any person may be recovered on application to a  
Magistrate having jurisdiction where the person is  
for the time being resident, by the distress and sale  
of any moveable property within the limits of the  
Magistrate's jurisdiction belonging to that person.

**216.** All arrears of wages due under any labour- Wages due  
under labour-  
contract a  
charge upon  
estate.  
contract shall be a charge upon the estate upon  
which the labourer to whom the labour-contract  
relates has been engaged to labour; or, if he has  
engaged to labour upon any one of several estates  
managed by the same employer, shall be a charge  
upon that estate upon which he for the time being  
actually labours.

**217.** (1) Whenever an estate on which any Owner of  
estate for  
time being  
has all  
rights and  
remedies in  
respect of  
labour-  
contracts  
charged on  
it.  
labourer has under this Act contracted to labour is  
transferred by act of parties or operation of law or  
devolves, the person to whom it is so transferred or  
on whom it devolves shall be bound by the labour-  
contract of the labourer in the same manner and to  
the same extent as the person by or from whom it is  
transferred or devolves would have been bound there-  
by, and shall have the same rights and remedies  
under

---

<sup>1</sup> Genl. Acts, Vol. I.

*Labour and Emigration (Assam).* [ACT VI  
(Chapter X. ~~Miscellaneous.~~)

under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

(2) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

Application  
of proceeds  
of fines, fees  
and rates.

<sup>1</sup> 218. The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise.

Duty of  
Assistant  
Inspector.

219. Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

220. All

---

<sup>1</sup> S. 218 was substituted by s. 3 of the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908).

The original section was as follows:—

- (1) Subject to the power of a Magistrate under this Act or the Code of Criminal Procedure, 1898, to award fines in whole or in part as compensation to or for the benefit of any complainant or other person, the Local Government shall credit all fines, fees and rates levied and paid under this Act in the territories under its administration to a fund to be called the "Labour Transport Fund."
- (2) The Labour Transport Fund shall be at the disposal of the Local Government, in such manner as the Government of India may direct, for paying the salaries and allowances of all officers and establishments appointed by it under this Act and their pensionary and leave-allowances, for meeting the cost of sending labourers and other persons back to their native districts, and generally for defraying the expenses of carrying out the purposes and objects of this Act and any rules made by the Local Government hereunder.
- (3) The annual surplus accruing in the Labour Transport Fund shall be applied to reducing the annual rate or the registration-fees leviable under this Act, and not otherwise.



1901.] *Labour and Emigration (Assam).*

(Chapter X.—Miscellaneous. *The First Schedule.*  
—*Form of Labour-contract between Labourer and Employer.*)

220. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Powers of officers under this Act to be exercisable from time to time.

221. The <sup>1</sup> Chief Commissioner of Assam may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Power to exempt labour-district from Act.

222. The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Notifications not to affect prior acts, etc.

223. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeal.

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THE FIRST SCHEDULE.

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

(See section 5.)

This contract, made under the Assam Labour and Emigration Act, 1901, between *A B* (hereinafter called the labourer)

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<sup>1</sup> Now the Local Government of Eastern Bengal and Assam, see the Bengal and Assam Laws Act, 1905 (7 of 1905), E. B. and Assam Code, Vol. I.



1901.] *Labour and Emigration (Assam).*  
 (The First Schedule.—Form of Labour-contract  
 between Labourer and Employer.)

*Form of Description of Labourer.*

NAME.	Father's name.	Age.	Sex.	Caste.	RESIDING—			Descriptive marks.
					District.	Thana.	Village.	

[Endorsement to be filled up by officer before whom the contract is executed.]

I hereby certify that, before the said *A B* signed this contract, I personally explained it to him.

Dated at \_\_\_\_\_ } Signed \_\_\_\_\_  
 This day of \_\_\_\_\_ } Superintendent or Registering-officer  
 or Inspector or Magistrate.

[Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.]

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at \_\_\_\_\_ }  
 This day of \_\_\_\_\_ } Signature of Employer or Inspector.

I hereby certify that the foregoing contract has been cancelled under the provisions of section \_\_\_\_\_ of Act VI of 1901.

Dated at \_\_\_\_\_ }  
 This day of \_\_\_\_\_ } Signature of Inspector or Magistrate.

*Labour and Emigration (Assam). [ACT VI, 1901.]*  
*(The Second Schedule.—Enactments repealed.)*

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 223.)

Year.	No.	Short title.	Extent of repeal.
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*Acts of the Governor General in Council.*

1882	I	The Assam Labour and Emigration Act, 1882.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much of section 2 and the first schedule as relates to Act I of 1882.
1893	VII	The Inland Emigration Act, 1893.	The whole.
1897	V	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second schedules as relates to Act I of 1882 and Bengal Act, I of 1889.

*Act of the Lieutenant-Governor of Bengal in Council.*

1889	I	The Inland Emigrants' Health Act, 1889.	The whole.
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# ACT NO. VIII OF 1915.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 25th March, 1915.)

An Act further to amend the Assam Labour and Emigration Act, 1901.

1 of 1901. **WHEREAS** it is expedient further to amend the Assam Labour and Emigration Act, 1901; It is hereby enacted as follows:—

1. (1) This Act may be called the Assam Labour and Emigration (Amendment) Act, 1915. Short title and commencement.

(2) It shall come into force at once, with the exception of section 7, which shall come into force on such day as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

2. In section 2 (1) of the Assam Labour and Emigration Act, 1901 (hereinafter called the said Act), the following amendments shall be made, namely:— Amendment of section 2 (1), Act VI, 1901.

(a) After clause (c) the following clause shall be added, namely:—

“(cc) ‘Board’ means the Assam Labour Board constituted under Chapter VI-A.”

(b) To clause (e) the following Explanation shall be added, namely:—

“*Explanation.*—If any such native of India, having proceeded from a Native State into such territories, departs therefrom for the purpose aforesaid, he shall be deemed to emigrate within the meaning of this definition.”

(c) After

[Price annas three and three pies.]

*Assam Labour and Emigration.* [ACT VIII

(c) After clause (n) the following clause shall be added, namely :—

“(nn) ‘native district,’ in the case of a person who, having proceeded from a Native State into territories in which this Act is in force, emigrates therefrom, includes such Native State.”

(d) After clause (t) the following shall be added, namely :—

“and

(u) ‘Supervisor’ means a Supervisor appointed under this Act.”

Amendment  
of section 64,  
Act VI,  
1901.

3. For sub-section (1) of section 64 of the said Act, the following sub-sections shall be substituted, namely :—

“(1) The Local Government may authorize any Superintendent to grant licenses to suitable persons to be Local Agents, for the purpose of representing employers within a specified area and for a specified period, in all matters connected with the supervision of garden-sardars under this Act.

(2) Any employer, or, on behalf of an employer, any association or firm duly authorized by general or special order of the Governor General in Council for the purpose of this clause, may apply for a license as aforesaid, to be granted to a specified person.

(3) Every such application shall be made to the Board, and the Board shall forward it with its recommendation to the Superintendent, who may thereupon, if he thinks fit, grant a license to such person.”

and the existing sub-section (2) of the same section shall be renumbered (4).”

Amendment  
of section 67,  
Act VI, 1901.

4. In section 67 (1) of the said Act there shall be substituted for the words “the employer,” the words

OF 1915.] *Assam Labour and Emigration.*

words "his employer or the association or firm which has applied in respect of such Local Agent under section 64, sub-section (2)" and for the words from "or if" to the end of the sub-section, the following words, namely :—

"or if the District Magistrate is satisfied that the conduct of the Local Agent has been such as to render him unsuitable to hold a license."

5. After section 116 of the said Act the following provisions shall be inserted, namely :—

Insertion of  
new Chapter  
VI-A in Act  
VI, 1901.

#### "CHAPTER VI-A.

##### ASSAM LABOUR BOARD.

116-A. (1) There shall be a Board, to be called the Assam Labour Board, for the supervision of Local Agents, and of the recruitment, engagement and emigration to labour districts of natives of India under this Act.

Constitution of  
Assam  
Labour  
Board.

(2) The Assam Labour Board shall be a body corporate, and have perpetual succession and a common seal, and may by that name sue and be sued.

(3) The Assam Labour Board (hereinafter called the Board) shall consist of sixteen members, including the Chairman, who shall be an officer in the service of Government, to be appointed by the Governor General in Council by notification in the *Gazette of India*. The remaining members shall be elected by the following bodies, namely :—

- (a) eight by the Indian Tea Association, Calcutta, as representatives of that Association and of the Indian Tea Association, London;
- (b) four by the Assam Branch, Indian Tea Association; and
- (c) three by the Surma Valley Branch, Indian Tea Association.

(4) The

*Assam Labour and Emigration.* [ACT VIII

(4) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Governor General in Council, and the name of every person so elected shall be published in the *Gazette of India*.

(5) If within the period prescribed by rules made under this Chapter any of the aforesaid bodies fails to elect representatives or to elect the full number of representatives to which it is entitled, the Governor General in Council may nominate persons to be members of the Board as representatives of the said bodies.

(6) There shall be an Executive Committee of the Board, with such powers and duties as may be conferred on it by rules made under this Chapter. It shall consist of five members, of whom one shall be the Chairman of the Board, and the remaining four shall be elected in the manner prescribed by such rules, as representatives of the following bodies, namely:—

- (a) one of the Indian Tea Association, Calcutta ;
- (b) one of the Indian Tea Association, London ;
- (c) one of the Assam Branch, Indian Tea Association ; and
- (d) one of the Surma Valley Branch, Indian Tea Association.

(7) No act done by the Board or by the Executive Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board or of the Executive Committee, as the case may be.

Salary of  
Chairman.

“116-B. (1) The Governor General in Council may fix the salary of the Chairman of the Board.

(2) Such salary shall be paid in such proportions by the Governor General in Council and the Board, as the Governor General in Council may from time to time determine.

Appointment  
and functions  
of Supervi-  
sors.

“116-C. (1) The Board may appoint so many persons as it thinks necessary to be Supervisors, with such



such powers and duties in respect of the supervision of Local Agents and the other matters mentioned in section 116-A (1) as may be conferred and imposed on them by rules made under this Chapter.

(2) Subject to the control of the Governor General in Council, the Board may fix the salary to be paid to Supervisors.

(3) The Local Government may, subject to the control of the Governor General in Council, declare the local area in the Province within which Supervisors shall exercise the powers and perform the duties conferred and imposed upon them by rule under this Chapter.

(4) Every Supervisor shall be deemed to be a public servant within the meaning of the Indian

XLV of 1860.

Penal Code.  
"116-D. (1) Whenever the Board has reason to believe that the conduct of a Local Agent has been such as to detract from his suitability to hold a license it may call on him to produce his license, and after hearing any cause that he may have to show to the contrary, may make such endorsement thereon as it thinks fit. A copy of every such endorsement shall be sent to the Superintendent of Emigration in the district for which the Local Agent holds a license, and a copy shall also be sent to the employer or association or firm on whose application the Local Agent's license was granted.

Endorsement  
of Local  
Agents'  
licenses.

(2) If the Local Agent fails to produce his license when called upon under sub-section (1), he shall be punishable with fine which may extend to two hundred rupees.

"116-E. (1) Subject to the provisions of rules made under this Chapter, the Board may levy a cess on employers for the purpose of meeting expenditure incurred in carrying out its functions under this Act, and in particular for the payment of the salary of Supervisors and of such proportion of the salary of the Chairman as may be determined under section 116-B.

(2) Such

*Assam Labour and Emigration.* [ACT VIII

by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer or whom he has assisted or intends to assist to emigrate under Chapter IV as modified by any notification issued under section 91 ; or

- (b) places any such person as aforesaid in a place of accommodation used in connection with the unlawful recruitment or engagement of labourers ; or
- (c) allows any person unlawfully recruited or engaged as a labourer to share the accommodation provided by him under section 62 ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned."

OF 1915.] *Assam Labour and Emigration.*

THE SCHEDULE.

PORTIONS OF ACT VI OF 1901 REPEALED.

[ See section 7 (1): ]

1	2
Chapter or Section.	Extent of repeal.
S. 2 (1)	Clause (c). In clause (d) the words "contractor, sub-contractor, recruiter." In clause (l) the words and figures "section 34 or." Clauses (o) and (s.)
S. 12 (1)	Clause (a). In clause (c) the words from "or if the labourer" to the end of the clause.
S. 12 (2)	The whole.
S. 12 (3)	The whole.
Chapter III	The whole.
S. 65	The whole.
S. 91	Clause (a).
S. 163 (2)	In clause (b) the words "contractors or." Clause (f). In clauses (m) to (r) the word "contractors," wherever it occurs.
S. 163 (3)	The word "contractor" in both places where it occurs.
Ss. 165 to 168	The whole.
S. 171	The words and figures "section 55 or."
<del>S. 174</del>	<del>Clause (a).</del>
S. 175	The whole.

CALCUTTA  
SUPERINTENDENT GOVERNMENT PRINTING, INDIA  
8, HASTINGS STREET

# ACT No. XXXI OF 1927.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the  
23rd September, 1927.)

## An Act further to amend the Assam Labour and Emigration Act, 1901, for certain purposes.

VI of 1901. **W**HEREAS it is expedient further to amend the Assam Labour and Emigration Act, 1901, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Assam Labour and Emigration- Short title.  
tion (Amendment) Act, 1927.

VI of 1901. 2. For sub-section (2) of section 116E of the Assam Labour and Emigration Act, 1901 (hereinafter referred to as the said Act), the following sub-section shall be substituted, namely:— Amendment of section 116E, Act VI of 1901.

“(2) Such cess shall be payable on every person deputed by an employer to engage or assist persons to emigrate and on every person assisted to emigrate to a labour district:

Provided that the rates at which the cess is levied shall not exceed the following rates, namely:—

Five rupees a year on each person so deputed; and  
Five rupees on each person assisted to emigrate.”

3. Where any sum has been paid as cess under section 116E of the said Act before the commencement of this Act, notwithstanding that it was not so payable, and such sum would have been payable if this Act had been in force at the time of the payment, such sum shall be deemed to have been legally due as cess, and no claim shall lie in any Court for its refund. Validation of recoveries prior to commencement of this Act.

Price 1 anna or 1½d.]

(5)

GOVERNMENT OF INDIA  
LEGISLATIVE DEPARTMENT.

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**THE INDIAN FACTORIES  
ACT, 1911  
(ACT XII OF 1911).**

**AS MODIFIED UP TO THE 1st JUNE 1926.**

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THE INDIAN FACTORIES ACT,  
1911  
(XII OF 1911).

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THE SCHEDULE.

# ACT NO. XII OF 1911<sup>1</sup>.

[24th March, 1911.]

**An Act to consolidate and amend the law regulating labour in factories.**

[As modified up to the 1st June, 1926.]

**W**HEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Indian Factories Act, 1911. Short title, commencement and extent.

(2) It shall come into force on the first day of July 1912; and

(3) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) "child" means a person who is under the age of "Child."  
\*[fifteen] years:

(2) a person who works in a factory, whether for wages "Employed."  
or not,—

(a) in a manufacturing process or handicraft, or

(b) in cleaning any part of the factory used for any manufacturing process or handicraft, or

(c) in cleaning or oiling any part of the machinery, or

(d) in

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1909, Pt. V, p. 61; for Report of Select Committee, see *ibid.*, 1911, Pt. V, p. 63; and for Proceedings in Council, see *ibid.*, 1909, Pt. VI, p. 141, and *ibid.*, 1911, Pt. VI, pp. 13, 103, 183 and 501.

<sup>2</sup> This word was substituted for the word "fourteen" by s. 2 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

(d) in any other kind of work whatsoever, incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process of handicraft therein,

shall be deemed to be employed therein :

1\* \* \* \* \*

“ Factory.”

<sup>2</sup>[(3) “ factory ” means—

(a) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any <sup>3</sup>[manufacturing process]; or

(b) any premises wherein, or within the precincts of which, on any one day in the year not less than ten persons are simultaneously employed and any <sup>4</sup>[manufacturing process] is carried on, whether any such power is used in aid thereof or not which have been declared by the Local Government, by notification in the local official Gazette, to be a factory;

A declaration under clause (b) may be made in respect of any class of premises, or in respect of any particular premises];

“Manufacturing process.”

<sup>5</sup>[(4) ‘ manufacturing process ’ means any process for or incidental to,

(a) making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport or sale, any article, or part of an article, or

(b) refining oil or pumping or filtering water, or

(c) supplying

<sup>1</sup> The explanation to cl. (2) of s. 2 was omitted by s. 2 (a) of Act XXVI of 1926.

<sup>2</sup> This clause was substituted for the original clause (3) by s. 2 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>3</sup> These words were substituted for the words “ process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article;” by s. 2 (b) of Act XXVI of 1926.

<sup>4</sup> These words were substituted for the words “ such process ” by *ibid.*

<sup>5</sup> Original cl. (4) was repealed by s. 33 and Sch. II of Act II of 1922 and new cl. (4) was inserted by s. 2 (c) of Act XXVI of 1926.

of 1911.]

*Indian Factories.*

(c) supplying, generating or transforming pneumatic, hydraulic or electrical energy,

and includes the baling of any material for transport.]

(5) "mill-gearing" includes every shaft, whether up-<sup>"M.L.-gearing."</sup>right, oblique or horizontal, and every wheel, drum, pulley, rope, chain, wire, driving strap or band by which the motion of the first moving power is communicated to any machine appertaining to any manufacturing process:

(6) "occupier" includes a managing agent or other person<sup>"Occupier."</sup> authorised to represent the occupier:

(7) "prescribed" means prescribed by this Act or by<sup>"Prescribed."</sup> rules made thereunder:

<sup>1</sup>[(8) "week" means the period between midnight on<sup>"Week."</sup> Saturday night and midnight on the succeeding Saturday night.]

<sup>2</sup>[3. Nothing in this Act shall apply to any mine subject<sup>Application of Act.</sup> to the operation of the<sup>3</sup>Indian Mines Act, <sup>4</sup>[1923.]

---

CHAPTER II.

INSPECTORS AND CERTIFYING SURGEONS.

4. (1) The Local Government may, by notification in the<sup>Inspectors</sup> local official Gazette, appoint such persons as it thinks fit to be inspectors of factories within such local limits as it may assign to them respectively.

(2) No person shall be appointed to be an inspector under sub-section (1), or having been so appointed, shall continue to hold the office of inspector, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(3) The District Magistrate shall be an inspector under this Act.

(4) The

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<sup>1</sup> This clause was substituted for the original clauses (8) and (9) by s. 2 (c) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was substituted for the original s. 3 by s. 3 of ~~id.~~

<sup>3</sup> Genl. Acts, Vol. IX.

<sup>4</sup> These figures were substituted for the figures "1901" by s. 3 of Act XXVI of 1926.

(4) The Local Government may also, by notification as aforesaid, and subject to the control of the Governor General in Council, appoint such public officers as it thinks fit to be additional inspectors for all or any of the purposes of this Act within such local limits as it may assign to them respectively.

(5) In any area where there are more inspectors than one, the Local Government may, by notification as aforesaid, declare the powers which such inspectors shall respectively exercise, and the inspector to whom the prescribed notices are to be sent.

(6) Every inspector shall be deemed to be a public servant within the meaning of the 'Indian Penal Code and shall be officially subordinate to such authority as the Local Government may indicate in this behalf. XLV of 1880.

Powers of  
inspector.

5. Subject to any rules in this behalf, an inspector may, within the local limits for which he is appointed,—

- (a) enter, with such assistants (if any) as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory;
- (b) make such examination of the premises and machinery and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

Certifying  
surgeons.

6. The Local Government may appoint such qualified medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

Grant of  
certificates.

7. (1) A certifying surgeon shall, at the request of any person desirous of being employed in a factory situated within the local limits for which he is appointed, or of the parent or guardian of such person, or of the manager of the factory in which such person desires to be employed, examine such person

person and <sup>1</sup>[if he is fit for employment in a factory] grant him a certificate in the prescribed form, stating his age, as nearly as it can be ascertained from such examination, and <sup>2</sup>[that he is fit for such employment].

<sup>3</sup>[(2) A certifying surgeon may revoke any certificate granted to a child under sub-section (1) if, in his opinion, the child is no longer fit for employment in a factory.]

<sup>3</sup>[(3) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf, he shall, if required by such person or child, or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed, state in writing his reasons for such a refusal or revocation.]

8. A certifying surgeon may authorize <sup>4</sup>[any registered practitioner] to exercise the functions assigned to him by section 7, and may revoke such authority: Delegation of certifying surgeon's functions.

Provided that no certificate granted under this section shall, unless confirmed, on personal examination of the person named therein, by the certifying surgeon who conferred the authority, be valid <sup>5</sup>[for a period of more than three months.]

<sup>6</sup>[*Explanation.*—In this section the expression “registered practitioner” means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a registered practitioner for the purposes of this section.]

[8A. Where

<sup>1</sup> These words were inserted by s. 4 (a) of Act XXVI of 1926.

<sup>2</sup> These words were substituted for the words “whether he is fit for employment in a factory” by s. 4 (b) of *ibid.*

<sup>3</sup> These sub-sections were substituted for the original sub-section (2) by s. 4 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>4</sup> These words were substituted for the words “any person practising medicine or surgery” by s. 5 (a) of *ibid.*

<sup>5</sup> These words were substituted for the words “after the first date subsequent to the grant thereof on which such certifying surgeon visits the factory in which the person named therein is employed” by s. 5 (b) of *ibid.*

<sup>6</sup> This explanation was added by s. 5 (c) of *ibid.*

Compulsory  
medical  
examination.

<sup>1</sup>[8A. Where an inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a certifying surgeon or by a registered practitioner authorised by a certifying surgeon in this behalf.]

CHAPTER III.

HEALTH AND SAFETY.

Sanitary  
provisions.

9. The following provisions shall apply to every factory:—

- (a) it shall be kept clean, and free from effluvia arising from any drain, privy or other nuisance;
- (b) it shall not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein;
- (c) it shall be ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that may be injurious to health;

<sup>2</sup>[(d) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the persons employed therein.]

Provision as  
to ventilation by  
fans in certain  
factories.

10. If in a factory, in which any process is carried on by which dust or other impurity is generated and inhaled by the workers to an injurious extent, it appears to the inspector that such inhalation could be to a great extent prevented by the use of a fan or other mechanical means, the inspector may serve on the manager of the factory an order in writing, directing that a fan or other mechanical means of a proper construction for preventing such inhalation <sup>3</sup>[shall be provided before such date as may be specified in the order, and shall thereafter be maintained and used.]

Lighting.

11. (1) Every factory shall be sufficiently lighted.

(2) In

<sup>1</sup> This section was inserted by s. 6 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This clause was added by s. 7 of *ibid.*

<sup>3</sup> These words were substituted for the words " be provided maintained and used before a specified date " by s. 5 of Act XXVI of 1926.



(2) In the case of any factory which is not in the opinion of the inspector so lighted, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for the attainment of a sufficient standard of lighting, and requiring him to carry them out before a specified date.

12. (1) In any factory in which humidity of the atmosphere is produced by artificial means, the water used for the purpose of producing humidity shall be taken either from a public supply of drinking water or from some other source of water ordinarily used for drinking, or shall be effectively purified before being used for the purpose of producing humidity.

Purity of water used for humidifying.

(2) In the case of any factory in which any water required under sub-section (1) to be effectively purified is not in the opinion of the inspector so purified, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for effectively purifying the water and requiring him to carry them out before a specified date.

13. Every factory shall be provided with sufficient and suitable latrine accommodation, and if the Local Government so requires, with separate urinal accommodation for the persons employed in the factory:

Provision of latrines and urinal accommodation.

Provided that the inspector may, subject to such conditions as the Local Government may lay down in this behalf, by an order in writing exempt any factory from the provisions of this section.

14. In every factory there shall be maintained a sufficient and suitable supply of water fit for drinking for the use of the persons employed in the factory.

Water supply.

15. In every factory, the construction of which is commenced after the commencement of this Act, the doors of each room in which more than thirty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards.

Doors of factory to open outwards.

16. (1) Every factory shall be provided with such means of escape in case of fire for the persons employed therein as can reasonably be required in the circumstances of each case.

Provision of means of escape in case of fire.

(2) In the case of any factory which is not in the opinion of the inspector so provided, the inspector may serve on the manager

manager of the factory an order in writing, specifying the measures which he considers necessary for providing such means of escape, and requiring him to carry them out before a specified date.

Precautions  
against fire.

17. No person shall smoke, or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any factory.

Fencing.

18. (1) (a) Every fly-wheel directly connected with a steam-engine, water-wheel or other mechanical power or electrical power in any part of the factory and every part of any water-wheel or engine worked by any such power,

(b) every hoist or teagle and every hoist-well, trap-door or other similar opening near which any person is liable to pass or be employed, and

(c) every part of the machinery <sup>1</sup>[and electrical fittings including live wires and switches] which the Local Government may by rule require to be kept fenced, shall be securely fenced.

(2) If in any factory there is any other part of the machinery or mill-gearing which may in the opinion of the inspector be dangerous if left unfenced, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for fencing such part in order to remove the danger, and requiring him to carry them out before a specified date.

(3) All fencing must be constantly maintained in an efficient state while the parts required to be fenced are in motion or use, except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or for altering the gearing or arrangements of the parts of the machinery.

(4) Such provision as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.

Repairs to  
buildings or  
machinery.

<sup>2</sup>[18A. (1) If an inspector is of opinion—

(a) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(b) that

<sup>1</sup> These words were inserted by s. 8 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was inserted by s. 9 of *ibid.*

(b) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life, or safety,

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger, and requiring him to carry them out before such date as may be specified therein.

(2) If, in the opinion of the inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing, prohibiting the use thereof until it is duly repaired or altered.]

19. <sup>1</sup>[(1)] No woman or child shall be allowed to clean any part of the mill-gearing or machinery of a factory while the same is in motion by the action of steam, water or other mechanical power or electrical power, <sup>1</sup>\* \* \* \* or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of any power above described.

Prohibition of employment of women and children in certain dangerous work.

<sup>2</sup>[(2) The Local Government may, by notification in the local official Gazette, prohibit in any factory or class of factories specified in the notification the cleaning by any person of any part so specified of any mill-gearing or machinery while the same is in motion by the action of steam, water or other mechanical or electrical power.]

<sup>3</sup>[19A. Where, in the opinion of the inspector, the presence in any factory or any part thereof of children, who, by reason of their age, cannot, under the provisions of this Act, be lawfully employed therein, involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing, prohibiting the admission of such children to the factory or part thereof.]

Power to prohibit presence of children in factories.

<sup>3</sup>[19B. No person under the age of eighteen years and no woman shall be employed in any factory in any of the operations specified in Part I of the Schedule, or, save in accordance with the regulations contained in Part II of the Schedule, in any operation involving the use of lead compounds.]

Prohibition of employment of women and persons under eighteen years in certain processes.

## 20. No

<sup>1</sup> Section 19 was re-numbered as sub-section (1) of s. 19 and the words "as the case may be" were omitted by s. 6 (1) of Act XXVI of 1926.

<sup>2</sup> Sub-section (2) of s. 19 was added by s. 6 (2) of *ibid.*

<sup>3</sup> These sections were inserted by s. 10 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

Prohibition of employment of women and children where cotton-openers are at work.

20. No woman or child shall be employed in the part of a factory for pressing cotton in which a cotton-opener is at work :

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery-end by a partition extending from the floor to the roof, <sup>1</sup>[or to such height as the inspector may, in any particular case, specify] women and children may be employed in the room in which the feed-end is situated.

## CHAPTER IV.

### HOURS OF EMPLOYMENT AND HOLIDAYS.

Best periods in factories.

<sup>2</sup>[21. (1) In every factory there shall be fixed,

(a) for each person employed on each working day—

(i) at intervals not exceeding six hours, periods of rest of not less than one hour, or

<sup>3</sup>[(ii) at the request of the employees concerned, periods of rest, at intervals not exceeding five hours, of not less than half an hour each, the total duration of the periods of rest on that day not being less than one hour for each period of six hours' work done];

<sup>4</sup>[Provided that, in lieu of the periods provided under sub-clause (i) or sub-clause (ii) there may be fixed for each male person employed for not more than eight and a half hours on each working day, at the request of the employees concerned and with the previous sanction of the Local Government, a period of rest of not less than half an hour, so arranged that no such person shall work for more than five hours continuously, and]

(b) for each child working more than five and a half hours in any day, a period of rest of not less than half an hour.

(2) The

<sup>1</sup> The words were inserted by s. 11 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was substituted for the original s. 21 by s. 12 of *ibid.*

<sup>3</sup> This sub-clause was substituted by s. 7 of Act XXVI of 1926.

<sup>4</sup> This proviso was added by *ibid.*

(2) The period of rest under clause (b) shall be so fixed that no such child shall be required to work continuously for more than four hours.]

22. (1) No person shall be employed in any factory on a Weekly Holiday. Sunday, unless—

- (a) he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday, and
- (b) the manager of the factory has previous to the Sunday or the substituted day, whichever is earlier, given notice to the inspector of his intention so to employ the said person and of the day which is to be substituted and has at the same time affixed a notice to the same effect in the place mentioned in section 36.

<sup>1</sup>[Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day.]

<sup>2</sup>[(2) where, in accordance with the provisions of sub-section (1), any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week.]

\* \* \* \* \*

23. With respect to the employment of children in fac- Employment of children.  
tory the following provisions shall apply:—

- <sup>4</sup>(a) no child shall be employed in any factory unless he is in possession of a certificate granted under section 7 or section 8 showing that he is not less than <sup>5</sup>[twelve] years of age and is fit for employment in a factory and while at work carries either the certificate

<sup>1</sup> This proviso was added by s. 13 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> The original sub-section (2) was repealed by s. 33 and Sch. II of Act II of 1922 and new sub-section (2) was re-inserted by s. 2 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>3</sup> Sub-sections (3) and (4) of section 22 were repealed by s. 33 and Schedule II of *ibid.*

<sup>4</sup> The provisions of this clause shall not apply to any child lawfully employed in a factory on or before the first day of July, 1921, *see* s. 14 (3) of *ibid.*

<sup>5</sup> This word was substituted for the word "nine" by s. 14 (1) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

certificate itself or a token giving reference to such certificate;

(b) no child shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(c) no child shall be employed in any factory for more than <sup>1</sup>[six] hours in any one day.

Employment of women.

24. With respect to the employment of women in factories the following provisions shall apply:—

(a) no woman shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(b) no woman shall be employed in any factory for more than eleven hours in any one day.

Prohibition of employment of child or any other person in two factories on a same day.

25. No person shall employ, or permit to be employed, in any factory any \* \* \* <sup>2</sup> child <sup>3</sup>[or, save in such circumstances as may be prescribed, any other person] whom he knows, or has reason to believe, to have already been employed on the same day in any other factory.

Hours of employment of persons to be fixed.

26. The manager of a factory shall fix specified hours for the employment of each <sup>4</sup>[person] employed in such factory, and no <sup>4</sup>[person] shall be employed except during such hours.

Limitation of working hours per week.

<sup>5</sup>[27. No person shall be employed in a factory for more than sixty hours in any one week.]

Limitation of working hours per day.

<sup>5</sup>[28. No person shall be employed in any factory for more than eleven hours in any one day.]

## CHAPTER V.

### Exceptions.

Exceptions for person holding positions of supervision, etc.

29. Nothing in any of the following sections, namely, 21, 22, 24, 26, 27 and 28, shall apply to persons who may, by rules

<sup>1</sup> This word was substituted for the word "seven" by s. 14 (2) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> The words "woman or" were omitted by s. 8 of Act XXVI of 1926.

<sup>3</sup> These words were inserted by s. 15 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>4</sup> This word was substituted for the words "woman and child" and the words "woman or child" respectively by s. 16 of *ibid.*

<sup>5</sup> These sections were substituted for the original section 27 by s. 17 of *ibid.*

<sup>6</sup> This chapter was substituted for the original Chapter V by s. 18 of *ibid.*

rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity.

30. (1) Where it is proved to the satisfaction of the Local Government— Exemptions.

- (a) that any class of work in a factory is in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory; or
- (b) that the work of any class of workers is essentially intermittent; or
- (c) that there is in any class of factories any work which necessitates continuous production for technical reasons; or
- (d) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day; or
- (e) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except <sup>1</sup>[(i)] at stated seasons or <sup>1</sup>[(ii)] at times dependent on the irregular action of natural forces;

the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose [and in such area as may be specified in the notification]<sup>2</sup>—

in case (a) such class of work from all or any of the provisions of sections <sup>3</sup>[21], 27 and 28;

in case (b) work of the nature described from all or any of the provisions of sections <sup>4</sup>[21], 22, [26]<sup>4</sup>, 27 and 28;

in case (c) work of the nature described from the provisions of sections 21, [22 and 28]<sup>5</sup>

in

<sup>1</sup> These figures and brackets were inserted by s. 9 (a) of Act XXVI of 1926.

<sup>2</sup> These words were inserted by s. 9 (b) of *ibid.*

<sup>3</sup> These figures were inserted by s. 9 (c) of *ibid.*

<sup>4</sup> These figures were inserted by s. 9 (d) of *ibid.*

<sup>5</sup> These figures and word were substituted for the word and figures "and 22" by s. 9 (e) of *ibid.*

in cases (d) and (e) such class of factories from the provisions of section 22.

<sup>1</sup>[in case (e) (ii) such class of factories from the provisions of section 26.]

(2) The Local Government may, by general or special order, exempt for such period as may be specified in the order and on such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 27 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work.

(3) In such circumstances and subject to such conditions as may be prescribed, nothing in section 21, section 22, section 27 or section 28 shall apply to work on urgent repairs.

Payment for overtime.

**31.** Where, under the provisions of sub-section (1) <sup>2</sup>[or sub-section (2)] of section 30, any factory has been exempted from the provisions of section 27, every person employed in such factory for more than sixty hours in any one week shall be paid, in respect of the overtime, at a rate which shall be at least one and a quarter times the rate at which he is normally paid.

Special exemptions for indigo, tea and coffee factories.

**32.** The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any indigo factory or any factory situated on, and used solely for the purposes of, a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose.

Other special exemptions.

<sup>3</sup>[**32A.** The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

(a) any factory or class of factories from the provisions of section 22 in respect of persons employed therein in any engine-room or boiler-house,

(b) any fish-curing or fish-canning factory from the provisions of clause (a) of section 24 where the employment of women outside the limits provided by that clause is necessary to prevent any damage to or deterioration of any raw material.]

CHAPTER VI.

<sup>1</sup> This paragraph was added by s. 9 (f) of Act XXVI of 1926.

<sup>2</sup> The words and figure were inserted by s. 10 of *ibid.*

<sup>3</sup> This section was inserted by s. 11 of *ibid.*



CHAPTER VI.

NOTICES AND REGISTERS.

33. (1) Every person occupying a factory shall,—

<sup>1</sup>[on or before the date on which the factory commences working as such]

Person occupying factory to give notice.

send to the inspector a written notice containing—

- (i) the name of the factory and of the place where it is situate,
- (ii) the address to which he desires his letters to be directed,
- (iii) the nature of the work performed in such factory,
- (iv) the nature and amount of the moving power therein, and
- (v) the name of the person who shall be deemed to be the manager of the factory for the purposes of this Act:

Provided that in the case of a seasonal factory such notice shall be sent on or before the date of starting work for each season.

(2) If the manager of the factory is changed, the occupier shall send to the inspector, within seven days from the date on which the change is made, written notice of the change.

(3) During any period for which no person has been designated as manager of a factory under this section, <sup>2</sup>[or during which the person designated does not manage the factory, any person found acting as manager of the factory or, if no such person is found, the occupier himself shall] be deemed to be the manager of the factory for the purposes of this Act.

34. <sup>3</sup>[When in any factory an accident occurs which causes] death or bodily injury, whereby the person injured is prevented from returning to his work in the factory during the forty-eight hours next after the occurrence of the accident, <sup>4</sup>[or which is due to any cause which has been notified in this

Notice to be given of accident.

<sup>1</sup> These words were substituted for clauses (a) and (b) by s. 19 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These words were substituted for the words "the occupier shall himself" by s. 12 of Act XXVI of 1926.

<sup>3</sup> These words were substituted for the words "when any accident occurs in a factory causing" by s. 13 of *ibid.*

<sup>4</sup> These words were inserted by *ibid.*

this behalf by the Local Government in the local official Gazette], the manager shall send notice of the accident to such authorities in such form and within such time as may be prescribed.

Register of  
workers.

<sup>1</sup>[35. In every factory there shall be kept, in the prescribed form, a register, of all the persons employed in such factory, of their hours of work and of the nature of their respective employment.]

<sup>2</sup>[Provided that, where the Local Government is satisfied that the conditions of work in any factory or class of factories are such that no contravention of the provisions of Chapter IV is possible in the case of that factory or of factories of that class, as the case may be, the Local Government may, by notification in the local official Gazette, exempt, on such conditions, if any, as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section in respect of persons, other than children, employed therein :

Provided, further, that, where in the opinion of the inspector a muster roll or register kept in a factory gives the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall be kept in place of the register prescribed under this section, and such muster roll or register shall thereupon, for all the purposes of this Act, be deemed to be the register so prescribed.]

Affixing of  
abstract and  
notices.

36. (1) There shall be affixed in some conspicuous place near the main entrance of every factory, in English and in the language of the majority of the operatives in such factory, the prescribed abstracts of this Act and of the rules made thereunder, and also a notice containing the standing orders of the factory upon the following matters, namely:—

- (a) the time of beginning and ending work on each day;
- <sup>3</sup>[(b) the periods of rest fixed under section 21];
- (c) the hours of beginning and ending work for each shift (if any); and
- (d) the

<sup>1</sup> This section was substituted for the original section 35 by s. 20 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These provisos were added by s. 14 of Act XXVI of 1926.

<sup>3</sup> This clause was substituted for the original clause (b) by s. 21 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

- (d) the hours of employment of <sup>1</sup>[all persons employed];  
<sup>2</sup>[(e) the weekly holidays fixed under section 22.]

(2) A copy of the said notice shall be sent to the inspector  
 \* \* \* within one month of commencing work.

<sup>4</sup>[(3) The said notice shall be correctly maintained and kept up to date and any change in the standing orders of the factory shall be entered therein by the manager before such change comes into force; and, when any such change is entered in the notice, a copy of the notice or of the order in which the change is made shall be sent in duplicate by the manager to the inspector within thirty-six hours.]

\* \* \* \* \*

## CHAPTER VII.

### RULES.

37. (1) Subject to the control of the Governor General <sup>Por. or to make rules.</sup> in Council, the Local Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the inspection of factories;
- (b) the manner in which inspectors are to exercise the powers conferred on them by this Act;
- (c) the duties to be performed by certifying surgeons;
- (d) the form of the certificate prescribed by section 7, the grant of a duplicate in the event of loss of the original certificate, and the fee, if any, to be charged for such duplicate;
- (e) the

<sup>1</sup> These words were substituted for the words "women and children, respectively, if not employed in shifts" by s. 21 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This clause was inserted by s. 21 (c) of *ibid.*

<sup>3</sup> The words "within one month of the commencement of this Act, or, in the case of a factory which starts work after the commencement of this Act," were repealed by the Repealing and Amending Act, 1914 (10 of 1914), Genl. Acts, Vol. VIII.

<sup>4</sup> This sub-section was substituted for the original sub-section (3) by s. 15 of Act XXVI of 1926.

<sup>5</sup> Sub-section (4) of section 36 was repealed by s. 33 and Sch. II of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

- (e) the methods, including lime-washing, painting, varnishing and washing, to be adopted in order to secure cleanliness and freedom from effluvia;
- (f) the proportion which the number of cubic feet of space in any room shall bear to the number of persons employed at one time therein;
- (g) standards of ventilation <sup>1</sup>[and artificial humidification] and the methods to be adopted in order to secure their observance;
- (h) standards of latrine and urinal accommodation;
- (i) standards of water-supply;
- <sup>2</sup>[(j) the parts of the machinery and electrical fittings to be kept fenced in accordance with section 18, subsection (I), clause (c), and the provisions to be made for the protection from danger of persons employed in attending to the machinery, electrical fittings or boilers.]
- <sup>3</sup>[(jj) the definition of 'persons' under section 29 who shall be deemed to be persons holding positions of supervision or management or persons employed in a confidential capacity.]
- (k) the form of the notice prescribed by section 34, and the time within which and the authorities to whom it shall be sent;
- (l) the form of the register prescribed by section 35;
- (m) the abstracts of the Act and of the rules required by section 36;
- (n) the procedure to be followed in presenting and hearing appeals under this Act, including the appointment and remuneration of assessors; and
- (o) the manner of service of notices and orders upon occupiers or managers of factories.

Returns.

38. The Governor General in Council may <sup>4</sup>\* \* \* make rules requiring occupiers or managers of factories to furnish

<sup>1</sup> These words were inserted by s. 22 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This clause was substituted for the original clause (j) by s. 3 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>3</sup> This clause was inserted by s. 22 (c) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>4</sup> The words "from time to time" were repealed by s. 33 and Sch. II of *ibid.*

furnish such returns, occasional or periodical, as may in his opinion be necessary for the effectual carrying out of this Act.

<sup>1</sup>[38A. The Governor General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores.] Rules for prevention of anthrax.

39. (1) The power to make rules conferred by section 37, except clauses (k), (l) and (m) of sub-section (2) thereof, and by <sup>2</sup>[sections 38 and 38A] is subject to the condition of the rules being made after previous publication. Prior publication of rules.

of 1897.

(2) The date to be specified in accordance with clause (3) of section 23 of the <sup>3</sup>General Clauses Act, 1897, as that after which a draft of rules proposed to be made under <sup>4</sup>[sections 37, 38 and 38A] will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

40. Rules made under this Chapter shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall thereupon have effect as if enacted in this Act. Commencement of rules.

## CHAPTER VIII.

### PENALTIES AND PROCEDURE.

41. If in any factory—

Penalties.

(a) any person is employed or allowed to work contrary to any of the provisions of this Act;

(b) any of the provisions of section 9 are not complied with;

(c) latrine or urinal accommodation in accordance with the provisions of section 13 is not provided;

(d) a supply of water for the persons employed is not maintained in accordance with the provisions of section 14;

(e) any

<sup>1</sup> This section was inserted by s. 23 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These words and figures were substituted for the word and figures "section 38" by s. 24 (a) of *ibid.*

<sup>3</sup> Genl. Acts, Vol. IV.

<sup>4</sup> These words and figures were substituted for the words and figures "sections 37 and 38" by s. 24 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

- (e) any door is constructed in contravention of section 15;
- (f) any of the provisions of section 18, sub-section (1), (3) and (4), regarding fencing and the protection from danger of persons employed in attending to the <sup>1</sup>[machinery, electrical fittings or boilers] are not complied with;
- (g) any order of an inspector under section 10, section 11, section 12, section 16, <sup>2</sup>[section 18, section 18A or section <sup>3</sup>[19A]] is not complied with;
- (h) the register prescribed by section 35 is not kept up to date;
- (i) any of the provisions of section 36 are not complied with;
- (j) any notice or return required by this Act or by rules made thereunder to be furnished is not furnished;

the occupier and manager shall be jointly and severally liable to a fine which may extend to <sup>4</sup>[five hundred] rupees:

Provided that in cases where an appeal is allowed by section 50 no prosecution under clause (g) of this section shall be instituted until either the time prescribed by section 50 for the presentation of an appeal has expired or such appeal, if made, has been determined.

Exemption of occupier or manager from liability in certain cases.

42. (1) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that

<sup>1</sup> These words were substituted for the words "machinery or boilers" by s. 25 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These words and figures were substituted for the words and figures "or section 18" by s. 25 (b) of *ibid.*

<sup>3</sup> These figures and letter were substituted for the figures and letter "19B" by s. 4 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>4</sup> These words were substituted for the words "two hundred" by s. 25 (c) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

- (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 fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the inspector at any time prior to the institution of the proceedings—

- (a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and  
 (b) by what person the offence has been committed, and  
 (c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

**43.** Any person who—

Penalties for certain offences.

- (a) wilfully obstructs an inspector in the exercise of any power under section 5, or fails to produce on demand by an inspector any registers or other documents kept in pursuance of this Act or the rules made thereunder, or conceals or prevents or attempts to prevent any person employed in a factory from appearing before or being examined by an inspector;  
 (b) smokes, or uses a naked light, or causes or permits any such light to be used, in the immediate vicinity of any inflammable material in contravention of section 17; or  
 (c) does or omits to do any other act prohibited or prescribed by this Act or any order or rule made thereunder;

shall

shall be punishable with fine which may extend to <sup>1</sup>[five hundred] rupees.

Power of Court to pay compensation out of fine.

<sup>2</sup>[43A. Where under this Act a Criminal Court imposes a fine or confirms in appeal, revision or otherwise, a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative :

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.]

Using false certificate.

44. Any person who knowingly uses or attempts to use, as a certificate granted to himself under section 7 or section 8, a certificate granted to another person under either of those sections, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

Employment of children in two factories on the same day.

<sup>3</sup>[44A. Where a child is employed in any factory and such child has already been employed on the same day in any other factory, the parent or guardian or person having legal custody of or control over or direct benefit from the wages of the child shall be punished with fine, which may extend to twenty rupees, unless it appears to the Court that the offence was committed without the consent, connivance or wilful default of the parent, guardian, or such person as aforesaid.]

Limit to penalty in case of repetition of offence.

45. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(a) where the repetition of the offence occurs after a prosecution has been instituted in respect of the original offence, or

(b) where

<sup>1</sup> These words were substituted for the words "two hundred" by s. 26 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> This section was inserted by s. 27 of *ibid.*

<sup>3</sup> This section was added by s. 16 of Act XXVI of 1926.



- (b) where the offence is one of employing or allowing to be employed two or more persons contrary to the provisions of this Act.

46. If a child over the age of six years is found inside any room or part of a factory in which room or part children are employed and in which any manufacturing process or work incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory. Presumption as to employment.

47. (1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, it shall be on the accused to prove that such person is not under or over such age. Evidence as to age.

(2) A declaration in writing by a certifying surgeon that he has personally examined a person employed in a factory and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that person.

48. (1) No prosecution under this Act, except a prosecution under section 43, clause (b), shall be instituted except by or with the previous sanction of the inspector. Cognizance of offences.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order thereunder, other than an offence against section 43, clause (b) <sup>1</sup>[or section 44.]

49. No Court shall take cognizance of any offence against this Act or any rule or order thereunder, <sup>2</sup>[other than an offence under section 33], unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed. Limitation of prosecutions.

## CHAPTER IX.

### SUPPLEMENTAL PROVISIONS.

50. (1) Any person on whom an order under section 10, section 11, section 12, section 16 <sup>3</sup>[section 18, section 18A or section Appeals.

<sup>1</sup> These words and figures were added by s. 28 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>2</sup> These words and figures were inserted by s. 17 of Act XXVI of 1926.

<sup>3</sup> These words and figures were substituted for the words and figures "or section 18" by s. 29 (a) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

section 19A] has been served may, within fourteen days from the date of service of the order, appeal against such order to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order.

1\* \* \* \* \*

(3) In the case of any appeal under sub-section (1) the appellate authority may, and if so requested by the appellant in the petition of appeal shall, hear the appeal with the aid of two assessors, one of whom shall be appointed by the said authority and the other by such body representing the interest of the industry concerned as the Local Government may in this behalf prescribe :

Provided that if no assessor is appointed by such body within the prescribed period, or if the assessor so appointed fails to attend at the time and place fixed for the hearing of the appeal, the said authority may proceed to hear the appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor.

<sup>2</sup>[(4) Except in the case of an appeal against an order under section 19A, the appellate authority may, on the application of the appellant, suspend the operation of an order of the inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented.]

Special provision regarding computation of time.

51. (1) In respect of any area in which the hours of the day are not ordinarily reckoned according to local mean time, the times and hours referred to in section 2, sub-section (8), section 26 and section 36 shall be reckoned according to the standard of time ordinarily observed in such area.

(2) The Local Government may, by notification in the local official Gazette, direct that, for any specified area and during any specified months, for the morning and evening hours mentioned in section 23, clause (b), <sup>3</sup>[and section 24, clause (a)], such one of the following sets of morning and evening hours,

as

<sup>1</sup> Sub-section (2) was omitted by s. 5 of Act IX of 1923, Genl. Acts, Vol. IX.

<sup>2</sup> This sub-section was inserted by s. 29 (b) of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>3</sup> These words and figures were substituted for the words and figures " section 24, clause (a), and section 29 " by s. 30 of *ibid.*

as it deems suitable, reckoned according to the standard of time ordinarily observed in such area, shall be substituted, namely:

five o'clock in the morning and half past six o'clock in the evening;

six o'clock in the morning and half past seven o'clock in the evening;

half past six o'clock in the morning and eight o'clock in the evening;

seven o'clock in the morning and half past eight o'clock in the evening.

52. In computing the hours referred to in section 23, clause (c), section 24, clause (b), <sup>1</sup>[section 27, section 28 and section 31], any interval by which work is interrupted for half an hour or more shall be excluded. Computation of hours of employment.

53. The Local Government may, subject to the control of the Governor General in Council, by special order in writing, direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories. Power to declare parts of a factory to be separate factories.

54. This Act shall apply to factories belonging to the Crown. Application to Crown factories.

55. [*Special provision for Burma for employment on Sunday.*] Repealed by s. 33 and Sch. II of Act 2 of 1922.

56. In case of any public emergency, the Local Government may, by an order in writing, exempt any factory from this Act to such extent and during such period as it thinks fit. Power to exempt from Act.

57. The Governor General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon the Local Government. Exercise of power by Governor General in Council.

58. 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. Protection to persons acting under Act.

59. [*Repeal and savings.*] Repealed by s. 33 and Sch. II of Act 2 of 1922.

## <sup>1</sup>[THE SCHEDULE

<sup>1</sup> These words and figures were substituted for the words and figures "section 28 and section 32" by s. 31 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

<sup>1</sup>[THE SCHEDULE.

(See section 19B.)

PART I.

1. Work at a furnace where the reduction or treatment of zinc or lead ores is carried on:
2. The manipulation, treatment, or reduction of ashes containing lead, the desilverising of lead or the melting of scrap, lead or zinc:
3. The manufacture of solder or alloys containing more than ten per cent. of lead:
4. The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead:
5. Mixing or pasting in connection with the manufacture or repair of electric accumulators:
6. The cleaning of work-rooms where any of the processes aforesaid are carried on.

PART II.

1. Where dust or fume from a lead compound is produced in the process, provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin:
2. The persons employed must undergo the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health:
3. No food, drink, or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times:
4. Adequate protective clothing in a clean condition shall be provided by the employer and worn by the persons employed:
5. Such suitable cloak-room, mess-room and washing accommodation as may be prescribed shall be provided for the use of the persons employed:
6. The rooms in which the persons are employed, and all tools and apparatus used by them, shall be kept in a clean condition.]

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<sup>1</sup> This Schedule was substituted for the original Schedules I and II by s. 32 of the Indian Factories (Amendment) Act, 1922 (2 of 1922), Genl. Acts, Vol. IX.

Child Labour (Ports)

(6)

ACT No. XV OF 1922.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 29th  
March, 1922.)

An Act to regulate the employment of child  
labour in ports in British India.

WHEREAS it is expedient to regulate the employ-  
ment of child labour in ports in British India ;  
It is hereby enacted as follows :—

1. This Act may be called the Indian Ports Short title.  
(Amendment) Act, 1922.

XV of 1908.

2. In section 6 of the Indian Ports Act, 1908,— Amendment  
of section 6,  
Act XV of  
1908.  
(a) after sub-section (1), the following sub-  
section shall be inserted, namely :—

“(1A) In addition to any rules which it is em-  
powered to make under sub-section (1),  
the Local Government shall make rules  
prohibiting the employment at piers,  
jetties, landing-places, wharves, quays,  
docks, warehouses and sheds of children  
under the age of twelve years upon the  
handling of goods ” ; and

(b) in sub-section (2) after the word and figure  
“sub-section (1)” the words and figure  
“and sub-section (1A)” shall be inserted.

(7)

ACT No. IV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
February, 1923.)

An Act to amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Mines Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby Regulation, 1887. Saving of Reg. XII of 1887.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "agent," when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or

of

1

[Price seven annas.]

of any part thereof, and as such superior to a manager under this Act;

(b) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(c) "child" means a person under the age of thirteen years;

(d) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(e) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(f) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine:

provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals;

(g) "owner," when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a

royalty,

royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

- (h) "prescribed" means prescribed by regulations, rules or bye-laws;
- (i) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;
- (j) "regulations," "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;
- (k) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days; and
- (l) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

21 & 22 Vict.  
c. 90.



CHAPTER II.

INSPECTORS.

Chief Inspector and Inspectors.

4. (1) The Governor General in Council may, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines for the whole of British India, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Local Government :

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Functions of Inspectors.

5. (1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the

the places where copies of such regulations and rules may be obtained.

6. The Chief Inspector and any Inspector may—

Powers of  
Inspectors  
of Mines.

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

7. Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine.

Powers of  
special officer  
to enter, mea-  
sure, etc.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

Facilities to  
be afforded to  
Inspectors.

9. (1) All

Secrecy of information obtained.

9. (1) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential.

imprisonment for a  
 not more extend to  
 or with a fine, or  
 l. XV of 1889.

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or of the Local Government, he shall be guilty of a breach of official trust, and shall be punishable ~~in the manner provided by section 4 of the Indian Official Secrets Act, 1889.~~ *amendable*

(3) No Court shall proceed to the trial of any offence under this section except on complaint made by order of, or under authority from, the Governor General in Council or the Local Government, or made by a person aggrieved by the offence.

### CHAPTER III.

#### MINING BOARDS AND COMMITTEES.

Mining Boards.

10. (1) The Local Government may constitute for the province, or for any part of the province, or for any group or class of mines in the province, a Mining Board consisting of—

(a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Local Government to act as chairman;

(b) the Chief Inspector or an Inspector;

(c) two persons, neither of whom shall be the Chief Inspector or an Inspector nominated by the Local Government, of

whom

whom one shall be a person qualified to represent the interests of persons employed in mines;

(d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed.

(2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Local Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

11. (1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

Committees.

(a) a chairman nominated by the Local Government or by such officer or authority as the Local Government may authorise in this behalf;

(b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Local Government to represent the interests of the persons employed in the mine.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Local Government.

(5) On receiving such report the Local Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Local Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(6) The Local Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration.

Powers of  
Mining  
Boards.

12. (1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code. v of 1908.

XLV of 1860.

Recovery of  
expenses.

13. The Local Government may direct that the expenses of any inquiry conducted by a Mining Board

Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner <sup>agent</sup> ~~or manager~~.

\_\_\_\_\_ or (amended by Act 37 of 25)

#### CHAPTER IV.

##### MINING OPERATIONS AND MANAGEMENT OF MINES.

14. The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

15. (1) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

(2) If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

16. (1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations,

Notice to be given of mining operations.

Managers.

Duties and responsibilities of owners, agents and managers.

regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention :

Provided that the owner or agent shall not be so deemed if he proves—

- (a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and
- (b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

## CHAPTER V.

### PROVISIONS AS TO HEALTH AND SAFETY.

**Conservancy.** 17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

**Medical appliances.** 18. At every mine in respect of which the Local Government may, by notification in the local official Gazette, declare this section to apply, such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed,

prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

19. (1) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and required the same to be remedied within such time as he may specify in the notice.

Powers of  
Inspectors  
when causes  
of danger not  
expressly  
provided  
against exist  
or when em-  
ployment of  
persons is  
dangerous.

(2) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(4) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the Local Government and shall inform the

owner,



owner, agent or manager of the mine that such report has been so made.

(5) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (2), or sub-section (3), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Local Government, which shall refer the same to a Committee.

(6) Every requisition made under sub-section (1), or order made under sub-section (2), or sub-section (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the mine of the decision of the Committee :

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision on the objection.

(7) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.

V of 1898.

Notice to be given of accidents.

20. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

Power of Government to appoint court of inquiry in cases of accidents.

21. (1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the Local Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge

knowledge to act as assessor or assessors in holding the inquiry.

V of 1908.

(2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid 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.

XLV of 1860.

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Local Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

22. The Local Government may cause any report submitted by a Committee under section 11 or by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit.

Publication  
of reports.

## CHAPTER VI.

### HOURS AND LIMITATION OF EMPLOYMENT.

23. No person shall be employed in a mine—

Hours of  
employment.

- (a) on more than six days in any one week,
- (b) if he works above ground, for more than sixty hours in any one week,
- (c) if he works below ground, for more than fifty-four hours in any one week.

24. Nothing in section 23 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

Supervising  
staff.

25. In

Exemption from provisions regarding employment.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of section 23 on such work as may be necessary to protect the safety of the mine or of the persons employed therein :

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

Children.

26. No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

Disputes as to age.

27. (1) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

Register of employees.

28. For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments.

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## CHAPTER VII.

### REGULATIONS, RULES AND BYE-LAWS.

Power of Governor General in

29. The Governor General in Council may, by notification in the Gazette of India, make regulations

regulations consistent with this Act for all or any of the following purposes, namely:—

Council to  
make regula-  
tions.

- (a) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector;
- (b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;
- (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;
- (d) for prescribing the qualifications of managers of mines and of persons acting under them;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;
- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;
- (h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;
- (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives;

(j) for

- (j) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;
- (k) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
- (l) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
- (m) for providing for the ventilation of mines and the action to be taken in respect of dust and noxious gases;
- (n) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes;
- (o) for requiring and regulating the use of safety lamps in mines;
- (p) for providing against dangers arising out of the accumulation of water in mines;
- (q) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, 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;
- (r) for

- (r) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record;
- (s) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;
- (t) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14; and
- (u) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, or of any public work or classes of public works which the Local Government may, by general or special order, specify in this behalf.

IX of 1890.

30. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

Power of Local Governments to make rules.

- (a) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards;
- (b) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;
- (c) for prescribing the scale of latrine and urinal accommodation to be provided at mines,

mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, the formation and training of rescue brigades, and the training of men in ambulance work;

- (d) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;
- (e) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to be more than thirteen years of age, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;
- (f) for prescribing the form of register required by section 28;
- (g) for prescribing abstracts of this Act and the vernacular in which the abstracts and the regulations, rules and bye-laws shall be posted as required by sections 32 and 33;
- (h) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public;
- (i) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in His Majesty or any local authority or railway company as defined in the Indian Railways Act, 1890;
- (j) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing

IX of 1890.

prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted; and

- (k) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

31. (1) The power to make regulations and rules conferred by sections 29 and 30 is subject to the condition of the regulations and rules being made after previous publication. Prior publication of regulations and rules.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

x of 1897.

(3) Before the draft of any regulation or rule is published under this section it shall be referred in the case of a regulation to every Mining Board constituted in British India, and in the case of a rule to every Mining Board constituted in the province; and the regulation or rule shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(4) Regulations and rules shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

32. (1) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for

the



the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

- (a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or
- (b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

the Chief Inspector or Inspector may—

- (i) propose a draft of such bye-laws as appear to him to be sufficient, or
- (ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Local Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft  
bye-laws

bye-laws shall be sent by the Chief Inspector or Inspector to the Local Government for approval.

(b) The Local Government may make such modifications of the draft bye-laws as it thinks fit.

(c) Before the Local Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Local Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected, should be sent to the Local Government.

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objection and

(ii) the omissions, additions or modifications asked for.

(e) The Local Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Local Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Local Government may, by order in writing, rescind, in whole or in part, any bye-law so

made,

made, and thereupon such bye-law shall cease to have effect accordingly.

Posting up  
of extracts  
from Act, re-  
gulations, etc.

33. There shall be kept posted up at or near every mine in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

## CHAPTER VIII.

### PENALTIES AND PROCEDURE.

Obstruction.

34. (1) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, 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.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

Falsification  
of records,  
etc.

35. Whoever—

- (a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or
- (b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes

- (c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or
- (d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or
- (e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

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.

36. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

Omission to furnish plans, etc.

37. Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

Contravention of provisions regarding employment of labour.

38. Whoever, in contravention of the provisions of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to five hundred rupees, or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine

Notice of accidents.

which

which may extend to five hundred rupees, or with both.

Disobedience  
of orders.

39. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

Contraven-  
tion of law  
with danger-  
ous results.

40. (1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (1).

(3) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative :

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall

be

be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

41. No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector.

Prosecution  
of owner,  
agent or  
manager.

42. No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

Limitation of  
prosecutions.

43. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

Cognizance  
of offences.

44. (1) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made.

Reference  
to Mining  
Board or  
Committee,  
in lieu of  
prosecution  
in certain  
cases.

(2) On receipt of a report under sub-section (1), the Local Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

## CHAPTER IX.

### MISCELLANEOUS.

45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question,

Decision of  
question  
whether a  
mine is under  
this Act.

question, and a certificate signed by a Secretary to the Local Government shall be conclusive on the point.

Power to exempt from operation of Act.

46. (1) The Governor General in Council may, by notification in the Gazette of India, exempt any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

(2) On the occurrence of any public emergency, the Local Government may, by an order in writing, confer any exemption which might be conferred by the Governor General in Council under sub-section (1). When such an order is made, a copy thereof shall forthwith be sent to the Governor General in Council.

Power to alter or rescind orders.

47. The Governor General in Council and every Local Government may reverse or modify any order passed under this Act by any authority subject to his or its control, as the case may be.

Application of Act to Crown mines.

48. This Act shall apply to mines belonging to the Crown.

Saving.

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

Repeals.

~~50. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.~~

THE SCHEDULE.

~~THE SCHEDULE.~~~~(See section 50.)~~~~ENACTMENTS REPEALED.~~

<del>Year.</del>	<del>No.</del>	<del>Short title.</del>	<del>Extent of repeal.</del>
<del>1901</del>	<del>VIII</del>	<del>The Indian Mines Act, 1901.</del>	<del>The whole.</del>
<del>1914</del>	<del>IV</del>	<del>The Decentralisation Act, 1914.</del>	<del>So much of the Schedule as relates to the Indian Mines Act, 1901.</del>
<del>"</del>	<del>X</del>	<del>The Repealing and Amending Act, 1914.</del>	<del>So much of the Second Schedule as relates to the Indian Mines Act, 1901.</del>



**CALCUTTA**  
**SUPERINTENDENT GOVERNMENT PRINTING, INDIA**  
**8, HASTINGS STREET**

# ACT No. XIII OF 1928.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 20th  
September, 1928.)

## An Act further to amend the Indian Mines Act, 1923, for certain purposes.

7 of 1923. **W**HEREAS it is expedient further to amend the Indian  
Mines Act, 1923, for certain purposes; It is hereby  
enacted as follows:—

1. (1) This Act may be called the Indian Mines (Amend- Short title and  
commencement.  
ment) Act, 1928.

(2) This section and section 7 shall come into force at once,  
and the remaining provisions of this Act shall come into force  
on the 7th day of April, 1930.

of 1923. 2. In section 23 of the Indian Mines Act, 1923 (herein- Amendment of  
section 23,  
Act IV of 1923.  
after referred to as the said Act),—

(a) after clause (c) the following clause shall be inserted,  
namely:—

“ (d) for more than twelve hours in any consecutive  
period of twenty-four hours ”; and

(b) the section as so amended shall be numbered as sub-  
section (1), and the following sub-section shall be  
added, namely:—

“(2) No person shall employ or permit to be employed  
in a mine any person whom he knows or has  
reason to believe to have already been employed  
in any other mine during the preceding twelve  
hours.”

3. After section 23 of the said Act the following sections Insertion of  
new sections  
23A and 23B  
in Act IV of  
1923.  
shall be inserted, namely:—

“ 23A. Work shall not be carried on in any mine for a Limitation of  
working hours.  
period exceeding twelve hours in any consecutive  
period

period of twenty-four hours except by a system of shifts so arranged that not more than one shift of persons employed in work of the same kind shall be at work in the mine at the same time.

Notices  
regarding  
hours of work.

23B. (1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of shifts, the time of the commencement and of the end of work for each shift. A copy of each such notice shall be sent to the Chief Inspector, if he so requires.

(2) In the case of a mine at which mining operations commence after the 14th day of April, 1930, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any shift, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change, if he so requires or if the original notice was sent to him."

Amendment of  
sections 24 and  
25, Act IV of  
1923.

4. In sections 24 and 25 of the said Act, after the word and figures " section 23 " the words, figures and letter " or section 23A " shall be inserted.

Amendment of  
section 28,  
Act IV of 1923

5. (1) Section 28 of the said Act shall be re-numbered as sub-section (1) of section 28, and to that sub-section after the word " employments " the following shall be added, namely:—

" and, where work is carried on by a system of shifts, of the shift in which each such person works."

(2) To the same section the following sub-section shall be added, namely:—

" (2) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person,  
and

and no person shall be employed except during the hours of work specified for him in the register.”

6. In section 30 of the said Act, after clause (c) the following clause shall be inserted, namely:— Amendment of section 30, Act IV of 1923.

“ (cc) for prescribing the forms of notices required under section 23B, and for requiring such notices to be posted also in specified vernaculars.”

7. In section 31 of the said Act,—

(a) in sub-section (3), the words “ or rule ”, in both places where they occur, the words “ in the case of a regulation ”, and the words “ and in the case of a rule to every Mining Board constituted in the province ” shall be omitted; and Amendment of section 31, Act IV of 1923.

(b) after sub-section (3) the following sub-section shall be inserted, namely:—

“ (3A) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the province for which it is proposed to make the rule, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.”

(8)

ACT No. V OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd February, 1923.)

An Act to consolidate and amend the law relating to steam-boilers.

WHEREAS it is expedient to consolidate and amend the law relating to steam-boilers; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Boilers Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “ accident ” means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode;

(b) “ boiler ” means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure for use outside such vessel, and includes any mounting or other fitting attached to such vessel which is wholly or partly under pressure when steam is shut off;

(c) “ Chief Inspector ” and “ Inspector ” mean, respectively, a person appointed to

1

[Price five annas.]

to be a Chief Inspector and an Inspector under this Act;

- (d) "owner" includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof;
- (e) "prescribed" means prescribed by regulations or rules made under this Act;
- (f) "steam-pipe" means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe; and
- (g) "structural alteration, addition or renewal" shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

Limitation of application.

3. (1) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

- (a) in any steam-ship as defined in section 3 of the Indian Steam-ships Act, 1884, or in VII of 1884. any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917; I of 1917. or
- (b) belonging to or under the control of His Majesty's Navy or the Royal Indian Marine Service.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam-pipes, belonging to or under the control of any railway administered by the Government or by any railway company as defined

IX of 1890. defined in clause (5) of section 3 of the Indian Railways Act, 1890.

4. The Governor General in Council may, by notification in the Gazette of India, exclude any specified area from the operation of all or any specified provisions of this Act. Power to limit extent.

5. (1) The Local Government may appoint such persons as it thinks fit to be Inspectors for the province for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act. Appointment of Chief Inspectors and Inspectors.

(2) The Local Government shall likewise appoint a person to be Chief Inspector for the province, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(3) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

6. Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used— Prohibition of use of unregistered or uncertificated boiler.

- (a) unless it has been registered in accordance with the provisions of this Act;
- (b) in the case of any boiler which has been transferred from one province to another, until the transfer has been reported in the prescribed manner;
- (c) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;
- (d) at a pressure higher than the maximum pressure recorded in such certificate or provisional order;
- (e) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, unless the boiler is in

in charge of a person holding the certificate required by such rules :

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act :

Provided, further, that, until the expiration of twelve months from the commencement of this Act, nothing in this section shall be deemed to prohibit the use of any boiler in any local area in which the registration of, or a certificate or licence for the use of, a boiler was not previously required by law.

**Registration.**

7. (1) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(2) On receipt of an application under subsection (1), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed.

(3) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(4) The Chief Inspector, on receipt of the report, may—

(a) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(b) refuse to register the boiler :

Provided



Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(5) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act.

(6) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and, where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

8. (1) A certificate authorising the use of a boiler shall cease to be in force— Renewal of  
Certificate.

(a) on the expiry of the period for which it was granted; or

(b) when any accident occurs to the boiler; or

(c) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler; or

(d) when any structural alteration, addition or renewal is made in or to the boiler; or

(e) if the Chief Inspector in any particular case so directs, when any structural alteration, addition or renewal is made in or to any steam-pipe attached to the boiler; or

(f) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use

use on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

(2) Where an order is made under clause (f) of sub-section (1), the grounds on which the order is made shall be communicated to the owner with the order.

(3) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application.

(4) An application under sub-section (3) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed :

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of any fee.

(5) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewed certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act :

Provided that if the Inspector—

(a) proposes to issue any certificate—

(i) having validity for a less period than the period entered in the application, or

(ii) increasing

(ii) increasing or reducing the maximum pressure at which the boiler may be used, or

(b) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(c) is of opinion that the boiler is not fit for use, the Inspector shall, within forty-eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(6) The Chief Inspector, on receipt of a report under sub-section (5), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it :

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(7) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

9. Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (3) of section 7 or sub-section (5) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (f) of sub-section (1) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

(a) on the expiry of six months from the date on which it is granted, or

(b) on

(b) on receipt of the orders of the Chief Inspector, or

(c) in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector.

Use of boiler pending grant of certificate.

10. (1) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(2) Nothing in sub-section (1) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8 occurring after the expiry of the period of the certificate.

Revocation of certificate or provisional order.

11. The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

(a) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or

(b) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition; or

(c) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules; or

(d) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler,

boiler, in the opinion of the Chief Inspector competent to have charge thereof :

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (d), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

12. No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector. Alterations and renewals to boilers.

13. Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed. Alterations and renewals to steam-pipes.

14. (1) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound— Duty of owner at examination.

(a) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him;

(b) to have the boiler properly prepared and ready for examination in the prescribed manner; and

(c) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(2) If the owner fails, without reasonable cause, to comply with the provisions of sub-section (1), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require

require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

Production of certificates, etc.

15. The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the Indian Factories Act, 1911, or by any person specially authorised in writing by a District Magistrate or Commissioner of Police. XII of 1911

Transfer of certificates, etc.

16. If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order.

Powers of entry.

17. An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

Report of accidents.

18. (1) If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

(2) Every person shall be bound to answer truly to the best of his knowledge and ability every question

tion put to him in writing by the Inspector as to the cause, nature or extent of the accident.

19. Any person considering himself aggrieved by— Appeals to  
Chief  
Inspector.

- (a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or
- (b) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue,

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

20. Any person considering himself aggrieved by an original or appellate order of the Chief Inspector— Appeals to  
appellate  
authority.

- (a) refusing to register a boiler or to grant or renew a certificate in respect of a boiler; or
- (b) refusing to grant a certificate having validity for the full period applied for; or
- (c) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or
- (d) withdrawing or revoking a certificate or provisional order; or
- (e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or
- (f) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe, or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the Local Government under this Act.

21. An

*Indian Boilers.*

[ACT V

Finality of orders.

21. An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court.

Minor penalties.

22. Any owner of a boiler who refuses or without reasonable excuse neglects—

- (i) to surrender a provisional order as required by section 9, or
- (ii) to produce a certificate or provisional order when duly called upon to do so under section 15, or
- (iii) to make over to the new owner of a boiler a certificate or provisional order as required by section 16,

shall be punishable with fine which may extend to one hundred rupees.

Penalties for illegal use of boiler.

23. Any owner of a boiler who, in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence.

Other penalties.

24. Any person who—

- (a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one province to another without such transfer having been reported as required by section 6, or
- (b) being the owner of a boiler fails to cause the register number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (6) of section 7, or
- (c) makes



- (c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or
- (d) fails to report an accident to a boiler or steam-pipe when so required by section 18, or
- (e) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be punishable with fine which may extend to five hundred rupees.

25. (1) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees. .

Penalty for tampering with register mark.

(2) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

26. No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

Limitation and previous sanction for prosecutions.

27. No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Trial of offences.

28. The Governor General in Council may, by notification in the Gazette of India, make regulations consistent

Power to make regulations.

consistent with this Act for all or any of the following purposes, namely:—

- (a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act;
- (b) for prescribing the method of determining the maximum pressure at which a boiler may be used;
- (c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler;
- (d) for regulating the inspection and examination of boilers and steam-pipes, and prescribing forms of certificates therefor;
- (e) for ensuring the safety of persons working inside a boiler; and
- (f) for providing for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power to  
make rules.

29. The Local Government may, by notification in the local official Gazette, make rules consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely:—

- (a) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, for regulating their salary, allowances and conditions of service, for prescribing or constituting authorities to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities;

(b) for

- (b) for regulating the transfer of boilers;
- (c) for providing for the registration and certification of boilers in accordance with the regulations made under this Act;
- (d) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted;
- (e) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8;
- (f) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case;
- (g) for regulating inquiries into accidents;
- (h) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure;
- (i) for determining the mode of disposal of fees, costs and penalties levied under this Act; and
- (j) generally to provide for any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province :

Provided that the previous sanction of the Governor General in Council shall be required to the making of any rule under clause (j).

30. Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees. Penalty for breach of rules.

31. (1) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication. Publication of regulations and rules.

(2) Regulations and rules so made shall be published in the Gazette of India and the local official Gazette,

Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

Recovery of fees, etc.

32. All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

Applicability to the Crown.

33. Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the Crown.

Power to suspend in case of emergency.

34. In case of any emergency, the Local Government may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

Repeal of enactments.

~~35. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof :~~

Provided that any Chief Inspector or Inspector appointed under any Act so repealed shall be deemed to have been appointed under this Act.

altered by  
2. 1927

THE SCHEDULE.

(See section 35.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1903	I	<i>Acts of the Governor General in Council.</i> The Amending Act, 1903 .	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
1920	XXXVIII	The Devolution Act, 1920 .	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
1893	III	<i>Madras Acts.</i> The Madras Steam-boilers and Prime-movers Act, 1893.	The whole.

THE SCHEDULE

THE SCHEDULE—*contd.*

Year.	No.	Short title.	Extent of repeal.
1904	I	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1904.	The whole.
1909	VII	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1909.	The whole.
		<i>Bombay Acts.</i>	
1917	V	The Bombay Boiler Inspection Act, 1917.	The whole.
1920	X	The Bombay Boiler Inspection (Amendment) Act, 1920.	The whole.
		<i>Bengal Acts.</i>	
1879	III	The Bengal Steam-boilers and Prime-movers Act, 1879.	The whole.
1915	II	The Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915.	The whole.
		<i>United Provinces Act.</i>	
1915	III	The United Provinces Steam-boilers Act, 1915.	The whole.
		<i>Punjab Act.</i>	
1902	II	The Punjab Steam-boilers and Prime-movers Act, 1902.	The whole.
		<i>Central Provinces Acts.</i>	
1907	II	The Central Provinces Boilers Inspection Act, 1907.	The whole.
1919	IV	The Central Provinces Boiler Inspection (Amendment) Act, 1919.	The whole.
		<i>Burma Act.</i>	
1910	II	The Burma Steam-boilers and Prime-movers Act, 1910.	The whole.

# Workmen's Breach of Contract

(9)

## ACT No. III of 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 11th  
February,

An Act to repeal certain enactments whereby breaches of contract  
by labourers are made punishable under the criminal law.

WHEREAS it is expedient to repeal certain enactments  
whereby breaches of contract by labourers are made  
punishable under the criminal law; It is hereby enacted as  
follows:—

1. (1) This Act may be called the Workmen's Breach of <sup>Short title and</sup> Contract (Repealing) Act, 1925. <sub>commencement,</sub>

(2) It shall come into force on the first day of April, 1926.

2. The enactments mentioned in the Schedule are hereby <sup>Repeals.</sup> repealed to the extent specified in the fourth column thereof.

### THE SCHEDULE.

#### ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Short title.	Extent of repeal.
1859	XIII	The Workman's Breach of Contract Act, 1859.	The whole.
1860	XLV	The Indian Penal Code	Sections 490 and 492.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Workman's Breach of Contract Act, 1859.
1920	XII	The Workman's Breach of Contract (Amendment) Act, 1920.	The whole.
"	XXXVIII	The Devolution Act, 1920	So much of the First Schedule as relates to the Workman's Breach of Contract Act, 1859.

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(9)

# ACT No. III of 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 11th  
February,

An Act to repeal certain enactments whereby breaches of contract  
by labourers are made punishable under the criminal law.

WHEREAS it is expedient to repeal certain enactments  
whereby breaches of contract by labourers are made  
punishable under the criminal law; It is hereby enacted as  
follows:—

1. (1) This Act may be called the Workmen's Breach of <sup>Short title and</sup> Contract (Repealing) Act, 1925. <sup>commencement,</sup>

(2) It shall come into force on the first day of April, 1926.

2. The enactments mentioned in the Schedule are hereby <sup>Repeals.</sup> repealed to the extent specified in the fourth column thereof.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Short title.	Extent of repeal.
1859	XIII	The Workman's Breach of Contract Act, 1859.	The whole.
1860	XLV	The Indian Penal Code	Sections 490 and 492.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Workman's Breach of Contract Act, 1859.
1920	XII	The Workman's Breach of Contract (Amendment) Act, 1920.	The whole.
"	XXXVIII	The Devolution Act, 1920	So much of the First Schedule as relates to the Workman's Breach of Contract Act, 1859.

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# Workmen's Compensation

(10)

## ACT No. VIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 5th March, 1923.)

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; It is hereby enacted as follows:—

### CHAPTER I.

#### PRELIMINARY.

1. (1) This Act may be called the Workmen's Compensation Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

2. (1) In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years;

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

(c) "compensation" means compensation as provided for by this Act;

(d) "dependant" means any of the following relatives of a deceased workman, namely,

a

1



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a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grand-parent;

- (e) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;
- (f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;
- (g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time: provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "qualified

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21 & 22 Vict  
c. 90.

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same, or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, or, any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;

XIX of 1838.

X of 1841.

XI of 1850.

(j) "registered ship" means any sea-going ship registered under the Bombay Coasting Vessels Act, 1838, or the Indian Registration of Ships Act, 1841, or the Indian Registration of Ships Act (1841) Amendment Act, 1850, or any home-trade ship so registered of a registered tonnage of not less than three hundred tons, or any inland steam-vessel as defined in section 2 of the Inland Steam Vessels Act, 1917, of a registered tonnage of not less than one hundred tons;

I of 1917.

(k) "seaman" means any person forming part of the crew of any registered ship, but does not include the master of any such ship;

(l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries,

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injuries, amounts to one hundred per cent.;

(m) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(n) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890, IX of 1890. not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed, either by way of manual labour or on monthly wages not exceeding three hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of His Majesty's naval, military or air forces or of the Royal Indian Marine Service; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The

(2) The exercise and performance of the powers and duties of a local authority or of any department of the Government shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) The Governor General in Council after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, direct that the provisions of this Act shall apply in the case of any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is employed by way of manual labour or on monthly wages not exceeding three hundred rupees in any occupation declared by such notification to be a hazardous occupation, or that the said provisions shall apply in the case of any specified class of such persons or in the case of any such person or class to whom any specified injury is caused; and any person in whose case the said provisions are so made applicable shall be deemed to be a workman within the meaning of this Act.

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## CHAPTER II.

### WORKMEN'S COMPENSATION.

3. (1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter: Employer's liability for compensation.

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding ten days:

(b) in

*Workmen's Compensation.* [ACT VIII

- (b) in respect of any injury to a workman resulting from an accident which is directly attributable to—
- (i) the workman having been at the time thereof under the influence of drink or drugs, or
  - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
  - (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen; or
- (c) except in the case of death or permanent total disablement, in respect of any workman employed in the construction, repair or demolition of a building or bridge.

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, hides or skins contracts the disease of anthrax, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

*Explanation.*—For the purposes of this subsection a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The

(3) The Governor General in Council, after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is solely and directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—

- (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or
- (b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4. (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, Amount of compensation. namely:—

- A. Where death results from the injury—
  - (i) in the case of an adult, a sum equal to thirty months' wages or two thousand five hundred rupees, whichever is less, and

(ii) in  
7

*Workmen's Compensation.* [ACT VIII

- (ii) in the case of a minor, two hundred rupees;
- B. Where permanent total disablement results from the injury—
  - (i) in the case of an adult, a sum equal to forty-two months' wages or three thousand five hundred rupees whichever is less, and
  - (ii) in the case of a minor, a sum equal to eighty-four months' wages or three thousand five hundred rupees, whichever is less;
- C. Where permanent partial disablement results from the injury—
  - (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
  - (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

*Explanation.*—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

- D. Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting

waiting period of ten days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

- (i) in the case of an adult, of fifteen rupees or a sum equal to one-fourth of his monthly wages, whichever is less, and
- (ii) in the case of a minor, of a sum equal to one-third or, after he has attained the age of fifteen years, to one-half of his monthly wages, but not exceeding in any case fifteen rupees :

Provided that there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

5. For the purposes of section 4 the monthly wages of a workman shall be calculated as follows, namely :—

Method of calculating wages.

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly



monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(b) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period:

Provided that the sum arrived at by a calculation under clause (a) or clause (b) shall be increased or decreased, as the case may be, to the amount specified in the second column of Schedule IV against the head specified in the first column thereof within the limits of which such sum is included.

*Explanation.*—A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review.

6. (1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

7. Any

7. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be. Commutation of half-monthly payments.

8. (1) Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or, if he is a person under any legal disability, be invested, applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit. Distribution of compensation.

(2) Any other compensation payable under this Act may be deposited with the Commissioner and, when so deposited, shall be paid by the Commissioner to the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any amount deposited with him under sub-section (1) or sub-section (2).

(4) On the deposit of any money under sub-section (1), the Commissioner may deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which

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which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Where a half-monthly payment is payable under this Act to a person under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman.

(6) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case :

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

Compensation  
not to be  
assigned,  
attached or  
charged.

9. Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

10. (1) No

10. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death: <sup>Notice and claim.</sup>

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

Provided, further, that the Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one or several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The notice may be served by delivering the same at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served.

11. (1) Where

Medical  
examination.

11. (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time :

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation

compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, and compensation, if any, shall be payable accordingly.

12. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where

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(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of  
employer  
against  
stranger. \*

13. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency  
of employer.

14. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be

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be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman :

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909, or under section 61 of the Provincial Insolvency Act, 1920, or under section 230 of the Indian Companies Act, 1913, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount



amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Special provisions relating to masters and seamen.

15. This Act shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely:—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(3) Where an injured master or seaman is discharged or left behind in any part of His Majesty's dominions or in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted

transmitted by the person by whom they are taken to the Governor General in Council or any Local Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;
- (b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and
- (c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(4) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in British India relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under sub-section (1) of section 8 without making the deduction referred to in sub-section (4) of that section.

(1924) (5) No <sup>half</sup> monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in British India relating to merchant shipping.

shipping, liable to defray the expenses of maintenance of the injured master or seaman.

Returns as to compensation.

16. The Governor General in Council may, by notification in the Gazette of India, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Governor General in Council may direct.

Contracting out.

17. Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

Proof of age.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, XII of 1911, before the occurrence of the injury shall be conclusive proof of the age of such person.

### CHAPTER III.

#### COMMISSIONERS.

Reference to Commissioners.

19. (1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of

of disablement), the question shall, in default of agreement, be settled by the Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. (1) The Local Government may, by notification in the local official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

Appointment  
of Com-  
missioners.

(2) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(3) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

21. (1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the local area in which the accident took place which resulted in the injury:

Venue of  
proceedings  
and transfer.

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before the Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied by any party to any proceedings under this Act pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner

Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings :

Provided that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same province save with the previous sanction of the Local Government or to a Commissioner in another province save with the previous sanction of the Governor General in Council, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

Form of  
application.

22. (1) No application for the settlement of any matter by a Commissioner shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) Where any such question has arisen, the application may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

(a) a concise statement of the circumstances in which the application is made and the relief

relief or order which the applicant claims;

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(c) the names and addresses of the parties; and

925) (d) a concise statement of the matters on which agreement has and ~~on~~ those on which agreement has not been come to.

(g) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

V of 1908. 23. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects. Powers and procedure of Commissioners.

24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorised in writing by such person. Appearance of parties.

25. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record: Method of recording evidence.

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason

*Workmen's Compensation.* [ACT VIII

reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record :

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Costs.

26. All costs incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner.

Power to submit cases.

27. A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Registration of agreements.

28. (1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability ~~or to a dependant~~,<sup>(a)</sup> a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

(b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman has, in fact, returned to work and is earning the same wages as he did before the accident and objects to the recording of such memorandum, the memorandum shall only be recorded, if

at

of 1923.] *Workmen's Compensation.*

at all, on such terms as the Commissioner thinks just in the circumstances;

(c) the Commissioner may at any time rectify the register;

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a person under any legal disability ~~or to any dependant~~ ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement, <sup>and</sup> ~~or~~ may make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force.

IX of 1872.

29. Where a memorandum of any agreement, the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

30. (1) An



Appeals.

30. (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
- (b) an order refusing to allow redemption of a half-monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Indian Limitation Act, 1908, shall be applicable to IX of 1908. appeals under this section.

31. The

31. The Commissioner may recover as an an Recovery. arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.

of 1890.

## CHAPTER IV.

### RULES.

32. (1) The Governor General in Council may make rules to carry out the purposes of this Act. Power of the Governor General in Council to make rules.

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

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(f) for

- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same; and
- (i) for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power of  
Local  
Government  
to make  
rules.

**33.** The Local Government may, subject to the control of the Governor General in Council, make rules to provide for all or any of the following matters, namely:—

- (a) for regulating the scales of costs which may be allowed in proceedings under this Act;
- (b) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;
- (c) for the maintenance by Commissioners of registers and records of proceedings before them; and
- (d) generally for carrying out the provisions of this Act in respect of any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province.

Publication  
of rules.

**34.** (1) The power to make rules conferred by sections 32 and 33 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897.

X of 1897.

1897, as that after which a draft of rules proposed to be made under section 32 or section 33 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication, shall have effect, as if enacted in this Act.

SCHEDULE I.

[See sections 2 (1) and 4.]

*List of injuries deemed to result in permanent partial disablement.*

Injury.	Percentag of loss of earning capacity.
Loss of right arm above or at the elbow . . . . .	70
Loss of left arm above or at the elbow . . . . .	60
Loss of right arm below the elbow . . . . .	60
Loss of leg at or above the knee . . . . .	60
Loss of left arm below the elbow . . . . .	50
Loss of leg below the knee . . . . .	50
Permanent total loss of hearing . . . . .	50
Loss of one eye . . . . .	30
Loss of thumb . . . . .	25
Loss of all toes of one foot . . . . .	20
Loss of one phalanx of thumb . . . . .	10
Loss of index finger . . . . .	10
Loss of great toe . . . . .	10
Loss of any finger other than index finger . . . . .	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

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SCHEDULE II.

[See section 2 (1) (n).]

*List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.*

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

- (i) employed in connection with the service of a tramway as defined in section 3 of the Indian Tramways Act, 1886; or XI of 1886.
- (ii) employed within the meaning of clause (2) of section 2 of the Indian Factories Act, 1911, in any place which is a factory within the meaning of sub-clause (a) of clause (3) of that section; or XII of 1911.
- (iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act; or IV of 1923.
- (iv) employed as the master of a registered ship or as a seaman; or
- (v) employed for the purpose of loading, unloading or coaling any ship at any pier, jetty, landing place, wharf, quay, dock, warehouse or shed, on, in or at which steam, water or other mechanical power or electrical power is used; or
- (vi) employed in the construction, repair or demolition of—
  - (a) a building which is designed to be, is, or has been more than one storey in height above ground level, or
  - (b) a building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof, or
  - (c) a bridge which is, has been or is designed to be more than fifty feet in length; or
- (vii) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric cable; or
- (viii) employed in the construction, inspection or upkeep of any underground sewer; or
- (ix) employed in the service of any fire brigade.

SCHEDULE III.

SCHEDULE III.

(See section 3.)

*List of occupational diseases.*

Occupational disease.	Employment.
Lead poisoning or its sequelae . . .	Any process involving the use of lead or its preparations or compounds.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.

SCHEDULE IV.

(See section 5.)

*Table of assumed wages.*

Limits.		Assumed Wages.		
Where the sum arrived at by a calculation under clause (a) or clause (b) of section is—				
	Rs. A. P.	Rs. A. P.	Rs.	A. P.
less than . . . . .	9 0 0	but less than 11 . . . . .	8	0 0
not less than . . . . .	9 0 0	ditto 11 0 0	10	0 0
.. . . .	11 0 0	ditto 13 0 0	12	0 0
.. . . .	13 0 0	ditto 17 8 0	15	4 0
.. . . .	17 8 0	ditto 22 8 0	20	0 0
.. . . .	22 8 0	ditto 27 8 0	25	0 0
.. . . .	27 8 0	ditto 32 8 0	30	0 0
.. . . .	32 8 0	ditto 37 8 0	35	0 0
.. . . .	37 8 0	ditto 42 8 0	40	0 0
.. . . .	42 8 0	ditto 50 0 0	46	4 0
.. . . .	50 0 0	ditto 60 0 0	55	0 0
.. . . .	60 0 0	ditto 70 0 0	65	0 0
.. . . .	70 0 0	ditto 80 0 0	75	0 0
.. . . .	80 0 0	...	83	5 4

# Trade Unions Act

(11)

## ACT No. XVI OF 1926.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th  
March, 1926.)

**An Act to provide for the registration of Trade Unions and  
in certain respects to define the law relating to registered  
Trade Unions in British India.**

**W**HEREAS it is expedient to provide for the registration  
of Trade Unions and in certain respects to define the  
law relating to registered Trade Unions in British India; It  
is hereby enacted as follows: —

### CHAPTER I.

#### *Preliminary.*

1. (1) This Act may be called the Indian Trade Unions Short title,  
extent and  
commencement.  
Act, 1926.

(2) It extends to the whole of British India, including  
British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor  
General in Council may, by notification in the Gazette of India,  
appoint.

2. In this Act, unless there is anything repugnant in the Definitions.  
subject or context,—

(a) “executive” means the body, by whatever name  
called, to which the management of the affairs of a  
Trade Union is entrusted;

(b) “officer”, in the case of a Trade Union, includes any  
member of the executive thereof, but does not in-  
clude an auditor;

(c) “prescribed” means prescribed by regulations made  
under this Act;

(d) “registered office” means that office of a Trade Union  
which is registered under this Act as the head office  
thereof;

(e) “Registered

- (e) "Registered Trade Union" means a Trade Union registered under this Act;
- (f) "Registrar" means a Registrar of Trade Unions appointed by the Local Government under section 3, and "the Registrar", in relation to any Trade Union, means the Registrar appointed for the province in which the head or registered office, as the case may be, of the Trade Union is situated;
- (g) "trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and
- (h) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business;
- (ii) any agreement between an employer and those employed by him as to such employment; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

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## CHAPTER II.

### *Registration of Trade Unions.*

Appointment of  
Registrars.

3. Each Local Government shall appoint a person to be the Registrar of Trade Unions for the province.

4. Any



4. Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act. Mode of registration.

5. (1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely:— Application for registration.

- (a) the names, occupations and addresses of the members making the application;
- (b) the name of the Trade Union and the address of its head office; and
- (c) the titles, names, ages, addresses and occupations of the officers of the Trade Union.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

6. A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:— Provisions to be contained in the rules of a Trade Union.

- (a) the name of the Trade Union;
- (b) the whole of the objects for which the Trade Union has been established;
- (c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;
- (d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union;
- (e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary

rary

rary members as officers required under section 22 to form the executive of the Trade Union;

- (f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;
- (g) the manner in which the rules shall be amended, varied or rescinded;
- (h) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed;
- (i) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union; and
- (j) the manner in which the Trade Union may be dissolved.

Power to call for further particulars and to require alteration of name.

7. (1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(2) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

Registration.

8. The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

Certificate of registration.

9. The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form

form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

10. A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar— Cancellation of registration.

- (a) on the application of the Trade Union to be verified in such manner as may be prescribed, or
- (b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6:

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

11. (1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal to such Judge, not below the grade of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the Local Government may appoint in this behalf. Appeal.

(2) The Judge may, after such inquiry as he deems necessary, dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9, or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of the inquiry, the Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court; and he may also direct by whom the whole or any part of the costs of the inquiry shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the Civil Procedure Code, 1908.

(4) In the event of the dismissal of an appeal under subsection (2), the person aggrieved shall have the right of appeal to the High Court.

12. All

Registered office.

12. All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

Incorporation of registered Trade Unions.

13. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both moveable and immoveable property and to contract, and shall by the said name sue and be sued.

Certain Acts not to apply to registered Trade Unions.

14. The following Acts, namely:—

- |  |             |
|--|-------------|
| (a) The Societies Registration Act, 1860,              | XVI of 1860 |
| (b) The Co-operative Societies Act, 1912,              | II of 1912. |
| (c) The Provident Insurance Societies Act, 1912,       | V of 1912.  |
| (d) The Indian Life Assurance Companies Act, 1912, and | VI of 1912. |
| (e) The Indian Companies Act, 1913,                    | VII of 1912 |

shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

### CHAPTER III.

#### *Rights and Liabilities of registered Trade Unions.*

Objects on which general funds may be spent.

15. The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely:—

- (a) the payment of salaries, allowances and expenses to officers of the Trade Union;
- (b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union;
- (c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;

(d) the

- (d) the conduct of trade disputes on behalf of the Trade Union or any member thereof;
- (e) the compensation of members for loss arising out of trade disputes;
- (f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;
- (g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment;
- (h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;
- (i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;
- (j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year; and
- (k) subject to any conditions contained in the notification, any other object notified by the Governor General in Council in the Gazette of India.

16. (1) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

Constitution of a separate fund for political purposes.

(2) The objects referred to in sub-section (1) are:—

- (a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted

constituted under the Government of India Act or of any local authority, before, during, or after the election in connection with his candidature or election; or

- (b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or
- (c) the maintenance of any person who is a member of any legislative body constituted under the Government of India Act or of any local authority; or
- (d) the registration of electors or the selection of a candidate for any legislative body constituted under the Government of India Act or for any local authority; or
- (e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

Criminal conspiracy in trade disputes.

17. No officer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code, in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence. XLV

Immunity from civil suit in certain cases.

18. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any ~~voluntary~~ act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

19. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Enforceability of agreements.

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

20. The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an officer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

Right to inspect books of Trade Union.

21. Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:

Rights of minors to membership of Trade Unions.

Provided that no person who has not attained the age of eighteen years shall be an officer of any such Trade Union.

22. Not less than one-half of the total number of the officers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Proportion of officers to be connected with the industry.

Provided that the Local Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

23. Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

Change of name.

24. Any

Amalgamation  
of Trade Unions.

24. Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

Notice of  
change of name  
or amalgama-  
tion.

25. (1) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different province, to the Registrar of such province.

(2) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8, and the change of name shall have effect from the date of such registration.

(4) The Registrar of the province in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

Effects of  
change of  
name and of  
amalgamation.

26. (1) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An



(2) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

27. (1) When a registered Trade Union is dissolved, notice <sup>Dissolution.</sup> of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

28. (1) There shall be sent annually to the Registrar, on <sup>Returns.</sup> or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of March. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

#### CHAPTER IV.

##### *Regulations.*

29. (1) Subject to the control of the Governor General in <sup>Power to make regulations.</sup> Council, the Local Government may make regulations for the purpose of carrying into effect the provisions of this Act.

(2) In

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration;
- (b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one province to another;
- (c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited;
- (d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections; and
- (e) any matter which is to be or may be prescribed.

Publication of regulations.

30. (1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations so made shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Act.

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## CHAPTER V.

### *Penalties and Procedure.*

Failure to submit returns.

31. (1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees

rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues:

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

32. Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

Supplying false information regarding Trade Unions.

33. (1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

Cognizance of offences.

(2) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

# ACT No. XV OF 1928.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th  
September, 1928.)

## An Act to amend the Indian Trade Unions Act, 1926, for a certain purpose.

XVI of 1926.

WHEREAS it is expedient to amend the Indian Trade Unions Act, 1926, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Trade Unions Short title.  
(Amendment) Act, 1928.

XVI of 1926.

2. For section 11 of the Indian Trade Unions Act, 1926, Substitution  
of new section  
for section 11,  
Act XVI of  
1926.  
the following section shall be substituted, namely:—

“ 11. (1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal—

(a) where the head office of the Trade Union is situated within the limits of a Presidency-town or of Rangoon, to the High Court, or

(b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the Local Government may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as

the

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*Indian Trade Unions (Amendment)*. [ACT XV OF 1928.]

the case may be, and the Registrar shall comply with such order.

v of 1903.

(3) For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908, and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly."

GOVERNMENT OF INDIA  
LEGISLATIVE DEPARTMENT.

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(12)

THE TRADE DISPUTE  
ACT, 1929  
(VII OF 1929)

CALCUTTA: GOVERNMENT OF INDIA  
CENTRAL PUBLICATION BRANCH  
1929

*Price 1 anna or 1½d.*

**THE TRADE DISPUTES ACT, 1929**  
**(VII OF 1929).**

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# ACT No. VII OF 1929.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 12th April, 1929.)

## An Act to make provision for the investigation and settlement of trade disputes, and for certain other purposes.

WHEREAS it is expedient to make provision for the investigation and settlement of trade disputes, and for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Trade Disputes Act, 1929. Short title; extent, commencement and duration.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

(4) It shall remain in force for a period of five years only.

2. In this Act, unless there is anything repugnant in the subject or context,— Interpretations.

(a) “ Board ” means a Board of Conciliation constituted under this Act;

(b) “ Court ” means a Court of Inquiry constituted under this Act;

(c) “ employer ”, in the case of any industry, business or undertaking carried on by any department of the Government, means the authority prescribed in this behalf or, where no authority is prescribed, the head of the department;

(d) a person shall be deemed to be “ independent ” for the purpose of his appointment as the chairman or other member of a Court or a Board if he is unconnected



unconnected with the dispute with reference to which the Court or the Board is appointed and with any trade or industry directly affected by the dispute;

- (e) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, where such closing, suspension or refusal occurs in consequence of a dispute and is intended for the purpose of compelling those persons, or of aiding another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "public utility service" means—
- (i) any railway service which the Governor General in Council may, by notification in the Gazette of India, declare to be a public utility service for the purposes of this Act; or
  - (ii) any postal, telegraph or telephone service; or
  - (iii) any industry, business or undertaking which supplies light or water to the public; or
  - (iv) any system of public conservancy or sanitation;
- (h) "railway company" means a railway company as defined in section 3 of the Indian Railways Act, 1890;
- (i) "strike" means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;
- (j) "trade dispute" means any dispute or difference between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person; and
- (k) "workman"

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- (k) "workman" means any person employed in any trade or industry to do any skilled or unskilled manual or clerical work for hire or reward, but does not include any person employed in the naval, military or air service of the Crown or in the Royal Indian Marine Service.

*Reference of Disputes to Courts and Boards.*

3. If any trade dispute exists or is apprehended between an employer and any of his workmen, the Local Government or, where the employer is the head of a department under the control of the Governor General in Council or is a railway company, the Governor General in Council may, by order in writing,—

Reference of  
disputes to  
Courts or  
Boards.

- (a) refer any matters appearing to be connected with or relevant to the dispute to a Court of Inquiry to be appointed by the Local Government or the Governor General in Council, as the case may be; or
- (b) refer the dispute to a Board of Conciliation to be appointed by the Local Government or the Governor General in Council, as the case may be, for promoting a settlement thereof:

Provided that, where both parties to the dispute apply, whether separately or conjointly, for a reference to a Court, or where both parties apply, whether separately or conjointly, for a reference to a Board, and the authority having the power to appoint is satisfied that the persons applying represent the majority of each party, a Court or a Board, as the case may be, shall be appointed accordingly.

*Courts of Inquiry.*

4. (1) A Court shall consist of an independent chairman and such other independent persons as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

Constitution  
of Courts.

(2) A Court, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman.

5. (1) A

Duties of  
Courts.

5. (1) A Court shall, either in public or in private, at its discretion, inquire into the matters referred to it and report thereon to the authority by which the Court was appointed.

(2) A Court may, if it thinks fit, make interim reports.

*Boards of Conciliation.*

Constitution of  
Boards

6. (1) A Board shall consist of a chairman and two or four other members, as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(2) Where the Board consists of more than one person, the chairman shall be an independent person and the other members shall be either independent persons or persons appointed in equal numbers to represent the parties to the dispute; all persons appointed to represent any party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make the necessary recommendation within the prescribed time, the appointing authority shall select and appoint such persons as it thinks fit to represent that party.

(3) A Board, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman:

Provided that, where a Board includes an equal number of persons representing the parties to the dispute and the services of any such person cease to be available before the Board has completed its work, the authority appointing the Board shall appoint, in the manner specified in sub-section (2), another person to take his place, and the proceedings shall be continued before the Board so re-constituted.

Duties of  
Boards.

7. (1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same, and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits thereof and the right settlement thereof, and in so doing may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period sufficient in its opinion to allow the parties to agree upon terms of settlement.

(2) If

(2) If a settlement of a dispute is arrived at by the parties thereto after it has been referred to a Board and during the course of the investigation thereof, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and the Board shall send a report of the settlement, together with the memorandum, to the authority by which the Board was appointed.

(3) If no such settlement is arrived at during the course of the investigation, the Board shall, as soon as possible after the close thereof, send a full report regarding the dispute to the authority by which the Board was appointed, setting forth the proceedings and steps taken by the Board for the purpose of ascertaining the facts and circumstances relating to the dispute and of bringing about a settlement thereof, together with a full statement of such facts and circumstances and its findings thereon and the recommendation of the Board for the determination of the dispute.

(4) The recommendation of the Board shall deal with each item of the dispute, and shall state in plain language what in the opinion of the Board ought and ought not to be done by the respective parties concerned.

#### *General.*

8. No order of the Governor General in Council or of a Local Government appointing any person as a member of a Court or a Board shall be called in question in any manner.

Finality of orders constituting a Court or Board.

9. (1) Courts and Boards shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

Procedure and powers.

(2) Courts and Boards shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects; and
- (c) issuing commissions for the examination of witnesses;

and shall have such further powers as may be prescribed; and every inquiry or investigation by a Court or Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

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10. (1) If

Filling of vacancies.

10. (1) If the services of the chairman or of any other independent member of a Court or Board cease to be available at any time for the purposes of the Court or Board, the appointing authority shall in the case of a chairman, and may in the case of any other member, appoint another independent person to fill the vacancy, and the proceedings shall be continued before the Court or Board so re-constituted.

(2) Where the Court or Board consists of one person only and his services cease to be available as aforesaid, the appointing authority shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

Form of report.

11. The report of a Court or Board shall be in writing and shall be signed by all the members of the Court or Board:

Provided that nothing in this section shall be deemed to prevent any member of a Court or Board from recording a minute of dissent from a report or from any recommendation made therein.

Publication of results of inquiry.

12. (1) The final and any interim report of a Court or Board, together with any minute of dissent recorded therewith, shall, as soon as possible after its receipt by the authority by which the Court or Board was appointed, be published by that authority in such manner as it thinks fit.

(2) The said authority may publish or cause to be published from time to time, in such manner as such authority thinks fit, any information obtained, or conclusions arrived at, by the Court or Board as the result or in the course of its inquiry or investigation.

Certain matters to be kept confidential.

13. (1) Notwithstanding anything contained in section 12, there shall not be included in any report or publication made or authorised by a Court or Board or the authority appointing a Court or Board any information obtained by the Court or Board in the course of its inquiry or investigation as to any Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given before the Court or Board, except with the consent in writing of the Secretary of the Trade Union or of the person, firm or company in question; nor shall any individual member of the Court or Board or any person concerned in the proceedings before it disclose any such information without such consent.

(2) If

(2) If any member of a Court or Board or any person present at or concerned in the proceedings before a Court or Board discloses any information in contravention of the provisions of sub-section (1), he shall, on complaint made by or under the authority of the Trade Union or individual business affected, be punishable with fine which may extend to one thousand rupees :

Provided that nothing in this sub-section shall apply to the disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code.

of 1860.

14. Subject to such conditions and restrictions as may be prescribed, any party to a dispute under inquiry or investigation by a Court or Board shall be entitled to be represented before the Court or Board by a legal practitioner. Representa-  
tion of parties.

*Special provision regarding Public Utility Services.*

15. (1) Any person who, being employed in a public utility service, goes on strike in breach of contract without having given to his employer, within one month before so striking, not less than fourteen days' previous notice in writing of his intention to go on strike or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both. Sudden strikes  
and lock-outs  
in utility  
services.

(2) Any employer carrying on any public utility service who locks out his workmen in breach of contract without having given them, within one month before such lock-out, not less than fourteen days' notice in writing of his intention to lock them out, or, having given such notice, locks them out before the expiry thereof, shall be liable to imprisonment which may extend to one month, or to a fine which may extend to one thousand rupees, or with both.

(3) Where the employer committing an offence under sub-section (2) is a corporation, company or other association of persons, any secretary, director or other officer or person concerned with the management thereof shall be punishable as therein provided unless he proves that the offence was committed without his knowledge or without his consent.

(4) No Court shall take cognisance of any offence under this section or of the abetment of any such offence save on complaint

complaint made by, or under authority from, the Governor General in Council or the Local Government.

(5) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

*Special provision for Illegal Strikes and Lock-outs.*

Illegal strikes  
and lock-outs.

16. (1) A strike or a lock-out shall be illegal which—

- (a) has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employers locking out are engaged; and
- (b) is designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel the Government to take or abstain from taking any particular course of action.

(2) It shall be illegal to commence or continue, or to apply any sums in direct furtherance or support of any such illegal strike or lock-out.

(3) For the purposes of this section—

- (a) a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry;
- (b) without prejudice to the generality of the expression "trade or industry", workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers.

(4) A strike or a lock-out shall not be deemed to be calculated to compel the Government unless such compulsion might reasonably be expected as a consequence thereof.

Penalty.

17. (1) If any person declares, instigates, incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under the provisions of section 16, he shall be punishable with simple imprisonment which may extend

extend to three months, or with fine which may extend to two hundred rupees, or with both :

Provided that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment.

(2) No Court shall take cognisance of any offence under this section save on complaint made by, or under authority from, the Governor General in Council or the Local Government.

(3) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

18. (1) No person refusing to take part, or to continue to take part, in any strike or lock-out which is illegal under the provisions of section 16 shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

Protection of persons withholding from illegal strikes or lock-out.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

#### *Rules.*

19. (1) The Governor General in Council in respect of industries, businesses and undertakings carried on by him or under his authority, or by a railway company, and the Local Governments in respect of other businesses, industries or undertakings within their respective provinces, may make rules

Power to make rules.



rules for the purpose of giving effect to the provisions of this Act.

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

- (a) the powers and procedure of Courts and Boards, including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation and the number of members necessary to form a quorum;
- (b) the allowances admissible to members of Courts and Boards and to witnesses;
- (c) the ministerial establishment which may be allotted to a Court or Board and the salaries and allowances payable to members of such establishments;
- (d) the conditions and restrictions subject to which persons may be represented by legal practitioners in proceedings under this Act before a Court or Board;
- (e) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be published in the Gazette of India or the local official Gazette, as the case may be, and shall, on such publication, have effect as if enacted in this Act.

## BOMBAY ACT No. VII OF 1929.

*(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 23rd May 1929)*

An Act to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them in the manner hereinafter provided; And Whereas the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

S. & G. Geo.  
V, a. 61.

1. This Act may be called the Bombay Maternity Benefit Act, 1929. Short title.

2. (1) This Act shall apply in the first instance to the Bombay Suburban District and the cities of Bombay, Ahmedabad, Viramgam, Surat, Broach, Jalgaon, Sholapur, Belgaum, Amalner and Karachi. The Government may, from time to time, by notification in the "Bombay Government Gazette" extend this Act to such other places as it thinks fit. Extent and operation.

(2) It shall come into operation on the first day of July 1929.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "Employer" includes an occupier of a factory as defined in the Indian Factories Act, 1911, and the manager of a factory;

XII of  
1911.

(b) the expressions "employ", "employed", "factory", and "inspector of factories" shall have the same meanings as are respectively assigned to them under the Indian Factories Act, 1911;

XII of  
1911.

[Price—Pies 6 or 1d.]

(c) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a factory.

4. After this Act comes into operation,—

Employment of or work by women in factories prohibited during certain period.

(1) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery; and

(2) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Right to payment of maternity benefit.

5. (1) Subject to the provisions of this Act, every woman employed in a factory shall be entitled to the payment of maternity benefit at the rate of eight annas a day for the actual days of her absence for the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (2):

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than six months immediately preceding the date on which she notifies her intention under sub-section (1) of section 6.

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be seven weeks, that is to say, three weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Procedure regarding payment of maternity benefit.

6. (1) Any woman employed in a factory and entitled to maternity benefit under the provisions of this Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she receives maternity benefit.

(2) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

(3) The amount of maternity benefit for the period up to and including the day of delivery shall be paid by the employer to the woman within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child. The amount due for the subsequent period shall be paid punctually each fortnight in arrear.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child; and if the child does not survive her to her legal representative.

Payment of maternity benefit in case of a woman's death.

8. When a woman absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

No notice of dismissal to be given to a woman during period of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6 she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Forfeiture of maternity benefit.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by an employer.

11. If any woman works in any factory within four weeks of the date of her delivery she shall be liable, on conviction, to a fine not exceeding ten rupees.

Penalty for contravention of the Act by a woman.

12. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the inspector of factories.

Cognisance of offences.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class

(c) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a factory.

4. After this Act comes into operation,—

(1) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery; and

(2) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Employment of or work by women in factories prohibited during certain period.

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Right to payment of maternity benefit.

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than six months immediately preceding the date on which she notifies her intention under sub-section (1) of section 6.

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be seven weeks, that is to say, three weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

6. (1) Any woman employed in a factory and entitled to maternity benefit under the provisions of this Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she receives maternity benefit.

Procedure regarding payment of maternity benefit.

(2) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

(3) The amount of maternity benefit for the period up to and including the day of delivery shall be paid by the employer to the woman within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child. The amount due for the subsequent period shall be paid punctually each fortnight in arrear.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child; and if the child does not survive her to her legal representative.

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8. When a woman absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

No notice of dismissal to be given to a woman during period of maternity benefit.

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Forfeiture of maternity benefit.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by an employer.

11. If any woman works in any factory within four weeks of the date of her delivery she shall be liable, on conviction, to a fine not exceeding ten rupees.

Penalty for contravention of the Act by a woman.

12. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the inspector of factories.

Cognisance of offences.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class

shall try any offence against this Act or any rules thereunder.

Limitation of  
prosecutions.

13. No Court shall take cognisance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Rules.

14. (1) The Governor in Council may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll;

(b) the inspection of factories for the purposes of this Act by inspectors of factories;

(c) the exercise of powers and the performance of duties by inspectors of factories for the purposes of this Act;

(d) the method of payment of maternity benefit in so far as provision has not been made in this Act; and

(e) any other matter for which no provision has been made in this Act and for which provision is, in the opinion of the Governor in Council, necessary.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid on the table of the Bombay Legislative Council for one month previous to the next session thereof and shall be liable to be rescinded or modified. If any rule is modified the Governor in Council may accept the modification and reissue the rule accordingly or may rescind the rule.

Copies of this  
Act and rules  
thereunder to  
be exhibited.

15. A copy of the provisions of this Act and the rules thereunder in the local vernacular shall be exhibited in a conspicuous place by the employer in every factory in which women are employed.

Copy of Extract from the Bombay  
Government Gazette June 20, 1929.

Bombay Castle 17th June 1929.

No.1066. - The following draft of a notification which it is proposed to issue under section 14 of the Bombay Maternity Benefit Act, 1929 (Bom VII of 1929), is published as required by sub-section (4) of the said section for the information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration by the Governor in Council on or after the 25th July 1929.

2. Any objection or suggestion which may be sent to the Secretary to Government, General Department, by any person with respect to the said draft before the date aforesaid, will be considered by the Governor in Council.

Draft Notification.

No. . - In exercise of the powers conferred by section 14 of the Bombay Maternity Benefit Act, 1929 (Bom VII of 1929), the Governor in Council is pleased to make the following rules for the purpose of carrying into effect the provisions of the said Act, namely:-

1. Short title. - These rules may be cited as the Bombay Maternity Benefit Rules, 1929.

2. Definitions. - In these Rules:-

- (a) "Act" means the Bombay Maternity Benefits Act 1929.
- (b) "Inspector" means an inspector of factories appointed under sub-section (1) of section of the Indian Factories Act, 1911, and includes an additional inspector appointed under sub-section (4) of the said section



3. Muster roll. - The employer of every factory in which women are employed shall prepare and maintain a muster roll in the form of Schedule I to these rules. The names and record of employment of all women employed in the factory shall be entered therein and also the other particulars prescribed therein. All entries in the muster roll shall be maintained up-to-date and it shall always be available for inspection by the Inspector.

4. Responsibility of Inspector. - The inspector shall be primarily responsible for the administration of Act, within the area assigned to him under the Indi Factories Act, 1911; provided that in areas where there are more than one inspector, the Collector of Bombay may allocate the factories within such areas to such inspector as he shall deem proper.

5. Powers of inspection. - (1) The Inspector may, within the area for which he is appointed, examine the muster roll maintained under rule 3 and shall have power to make such enquiries and to require the production of such papers or documents as he considers necessary for the purpose of ascertaining whether the provisions of the Act and of these rules are properly carried out in any factory or not; provide that he shall not require any employer to answer any question or to give any evidence tending to criminate himself.

(2) Every notice given under sub-section (1) of section 6 of the Act and every receipt for maternity benefit paid to any person under the provisions of the Act or of these rules shall, on demand, be produced before the Inspector.

6. Penalty. - If any employer contravenes the provisions of rule 3 he shall be liable, on conviction, to a fine not exceeding fifty rupees.

7. Penalty. - Any person who wilfully obstructs an Inspector in the exercise of his powers or the performance of his duties or fails to produce on demand the muster roll, or notices given under section 6 (1) of the Act or receipts for maternity benefits

benefits paid or other documents necessary to enable the Inspector to ascertain that the provisions of the Act and these rules have been complied with, shall be liable, on conviction, to a fine not exceeding fifty rupees.

8. Return - Every employer of women in a factory shall furnish to the Chief Inspector of Factories by the 1st of August in each year a return in the form of Schedule II to these rules.

9. Records. Records relating to the payment of maternity benefit under the provisions of the Act or these rules shall be preserved for a period of two years from the date of their preparation.



Schedule II.

(See rule 8).

Return to be submitted to the Chief Inspector of Factories  
or before the 1st August each year.

Name of factory

Name of Occupier

Name of Manager

year ending 30th June 19

Average number of women employed daily

Number of women who claimed maternity  
benefit under section 6(1) of the Act

Number of women who were paid maternity  
benefit for actual births

Number of other persons who were paid  
maternity benefit (section 7)

Total amount of maternity benefit paid

(Signature).....

Employer.

By order of the Governor in Council,

R.B. EWBANK,

Secretary to Government.