

UNORGANISED NON-AGRICULTURAL SECTOR WORKERS (CONDITIONS OF WORK AND LIVELIHOOD PROMOTION) BILL, 2007.

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Statement of objects and reasons

The unorganised non agricultural sector of the Indian economy, accounts for about thirty percent of total employment in the country. The workers in this sector may be broadly divided into wage workers, and self-employed workers (comprising independent self-employed as well as home workers). This Bill is intended to provide minimum conditions of work for those unorganised non-agricultural workers who are wage and home workers in the unorganised non-agricultural sector, as well as other non-agricultural workers whose minimum conditions of work are not regulated by any other legislation. It also provides a mechanism for dispute resolution for such workers, as well as for protection and promotion of livelihoods of workers in the unorganised non-agricultural sector.

UNORGANISED NON-AGRICULTURAL SECTOR WORKERS (CONDITIONS OF WORK AND LIVELIHOOD PROMOTION) BILL, 2007.

A

BILL

To provide for minimum labour standards, dispute resolution mechanism and protection and promotion of livelihood for unorganized non-agricultural sector workers and to provide for other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the fifty-seventh year of the Republic of India as follows:-

Chapter I PRELIMINARY

1. Short title, extent, commencement and application

(1) The Act may be called Unorganised Non-agricultural Sector Workers (Conditions of Work and Livelihood Promotion) Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and different areas in a State and for different provisions of this Act, within six months from the date of the assent.

2. Definitions

For the purposes of this Act, unless the context otherwise requires;

- a) **“Adolescent”** means a person above the age of 14 years and who has not completed 18 years of age.
- b) **"Agriculture" means:**
 - (i) Farming, including the cultivation and tillage of soil etc;
 - (ii) Dairy farming;
 - (iii) Production, cultivation, growing and harvesting of any agricultural or horticultural commodity;
 - (iv) Raising of livestock, bee-keeping or poultry;
 - (v) Fishing and/ or fish farming or sericulture;
 - (vi) Any practice performed on a farm as incidental to, or in conjunction with, the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products);
 - (vii) Growing fodder or thatching grass or for grazing cattle.
- c) **“Casual worker”** means a person who is casually engaged in non agricultural work of a casual nature, in consideration of wages, according to the terms of the daily or periodic work contract.
- d) **"Child"** means a person who has not completed 14 years of age.
- e) **“Employer”** means a natural or juridical person, or an association of such persons, by whom any unorganised non-agricultural worker is engaged or employed either directly or otherwise, in consideration of wages.
- f) **"Government"** means either Central Government, or State Government, or Union Territory administration, or local government, or Cantonment Boards as the case may be.
- g) **"Home worker"** means an unorganised non-agricultural sector worker involved in the production of goods or services as specified by an employer, in his / her own home or other premises of his / her choice (other than the work place of the employer) for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs. (Note: This definition is similar to the definition of home workers as per ILO Convention No. 177. Home workers share

a number of characteristics with wage employed, but since they also operate an enterprise, they are clubbed with self-employed workers in Indian data systems)

- h) **“Migrant worker”** includes inter state and intra state migrant workers.
- i) **“Non-agriculture”** means all occupations other than those included in agriculture and includes occupations related to Mining and Quarrying, Manufacturing, Electricity, Gas and water supply and Construction sectors, and services (including Trade; hotels; restaurants; transport, storage and communications; Financing, insurance, real estate and business services; and Community, social and personal services).
- j) **“Remuneration”** means as defined in the Equal Remuneration Act, 1976.
- k) **“Self employed non-agricultural worker”** means any person who operates a non-farm enterprises or engages in a non-agricultural profession, trade or business, either on own account individually or with one or more partners, or as a home worker.
- l) **“Unorganised non-agricultural sector”** consists of all unincorporated private non-agricultural enterprises owned by individuals or households engaged in the production and sale of non-agricultural goods and services and operated on a proprietary or a partnership basis and employing less than ten persons.
- m) **“Unorganised non-agricultural sector worker”** means a self employed non-agricultural worker or a wage worker employed or engaged in the unorganised non-agricultural sector.
- n) **“Unorganised non-agricultural worker”** means unorganised non-agricultural sector workers whether or not covered by one or more existing laws dealing with conditions of work, and also includes non-agricultural wage workers employed in enterprises other than the unorganised non-agricultural sector who are not eligible for protection within the scope of existing laws that provide for minimum conditions of work as applicable in the State concerned.
- o) **“Wages”** means as defined in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936).
- p) **“Wage worker”** means a person employed for a remuneration as an unorganised non-agricultural worker, directly by an employer or through any agency or contractor, whether exclusively for one employer or for one or more employers, whether simultaneously or otherwise, whether in cash and/or in kind, whether as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers.

3. Rules of evidence

In this Act, notwithstanding anything contained in the Indian Evidence Act, 1872, the burden of proof that compliance with the provisions of the Act has been effected will be entirely on the employer wherever applicable.

[Explanatory Note: This section facilitates shifting of the burden of proof from the workers to the employer. This is a departure from the normal practice and ordinary rules of evidence, which places the burden on the plaintiff/petitioner/complainant.]

Part -1

Chapter II

CONDITIONS OF WORK TO BE ENSURED FOR THE UNORGANISED NON-AGRICULTURAL WAGE WORKER

4. Conditions of work of the unorganised non-agricultural wage and home worker

Every unorganised non-agricultural wage worker and home worker shall be entitled to the following conditions of work:

(1) No employer shall employ any unorganised non-agricultural wage worker or home worker, in contravention of the following Acts:

- a) Bonded Labour System (Abolition) Act, 1976;
- b) Child Labour (Prohibition and Regulation) Act, 1986;
- c) The Employment of Manual scavengers and Construction of Dry Latrines (Prohibition) Act, 1993; and
- d) Minimum Wages Act, 1948.

(2) (a) The normal hours of work of a wage worker shall be limited to eight hours a day beyond which a worker shall be paid overtime at double the normal rate of wages per hour;

(b) Every eight hour working day of the wage worker shall have at least an half hour break, so however that the spread over of work shall not exceed ten hours.

(c) Women and adolescents shall not be employed as wage workers between the hours of 9 p.m. and 5 a.m., except where permitted under rules made in this behalf.

(d) Every non-agricultural wage worker shall be entitled to one paid day of rest after completing six continuous days of employment by or under a single employer.

(3) (a) The Central government shall notify a National Minimum Wage.

(b) The National Minimum Wage shall apply to all unorganised non- agricultural wage and home workers in employments not notified under the Minimum Wages Act;

Provided that where the wage under the Minimum Wages Act is lower than the National Minimum Wage, the concerned State Government shall amend the prescribed Minimum Wage to bring it in conformity with the National Minimum Wage;

Provided further that till such time as this is done, the wage worker shall be entitled to receive the National Minimum Wage.

(c) For the purpose of fixation of a National Minimum Wage for all employments, the Central government shall appoint a committee *inter-alia* consisting of employer representatives, wage worker representatives and experts within one year, who shall fix the National Minimum Wage after taking into account the minimum basic needs of the wage and home workers and his/her family, variations in the cost of living in different areas and such other parameters as may be decided by the Committee.

(d) The National Minimum Wage shall be announced by the Central Government within one year of the implementation of this Act and shall be periodically reviewed through a modality prescribed by the National Board for Promotion of Livelihood of Unorganised Non-agricultural Sector Workers.

(d) Where the wages of a wage worker or home worker are determined by a piece rate system, the earnings of a worker working for 8 hours should be at least equal to the time rated minimum wages fixed for that category of work in the state concerned, and where the rates have not been fixed under the Minimum Wages Act, 1948 in the relevant state, the rates as fixed under clause (b) above.

(e) Wages in employments performed predominantly by women shall be brought on par with employments certified as equivalent in value by an Employment Certification Committee to be constituted by the State Board for Promotion of Livelihood of Unorganised Non-agricultural Sector Workers. The Employment Certification Committee shall periodically evaluate employments in the state for this purpose.

(f) Wages of workers shall be duly paid for the periods agreed upon. The wage period can on no account exceed one month; any delay in payment beyond this periods will require the employer to pay penal rates of interest, as specified in this behalf, for the period of the delay to the non-agricultural wage worker.

(g) There shall be no deduction from wages/remuneration due to a wage/homeworker, including in such cases where such wages are paid as advance to the worker, in the form of interest, payments to contractors or agents, overvaluation of goods supplied or basic amenities including accommodation in the case of seasonal migrant workers, fines, inadequate or poor quality output, except in accordance with rules made in this behalf by the State Government.

(h) Every unorganised non-agricultural wage and home worker shall receive a wage slip from his/her employer providing details of remuneration received by him/her.

(i) Every unorganised non-agricultural wage worker, except casual workers, shall receive a letter of employment from his/her employer, stating the terms of employment of his/her employment

(j) Every employer shall maintain such registers and records as may be necessary to verify the employer's claim regarding the employment status of non agricultural wage and home workers and details of payments made to them.

(k) Where a home worker has supplied his/her own tools, equipment or used part of his/her own dwelling for any non agricultural process, the value of such contribution shall be ascertained by the employer and be added to the wages payable to such worker; provided however that the amount imputed for this purpose shall not be less than such percentage or premium as specified by the State Government.

(4) All unorganised non-agricultural workers shall have the right to organise, by forming trade unions or other membership based organisations, for representation and collective bargaining in different fora. **(Note: This applies to both wage workers and self employed workers)**

(5) No employer shall discriminate against any unorganised non-agricultural wage worker on the grounds of sex, caste, religion, incidence of HIV-AIDS, migration status, place of origin, in employment, wage rates and conditions of work as laid down in this Act.

(6) Every employer shall provide the unorganised non- agricultural wage or home worker with adequate safety equipment while handling hazardous substances and equipments. The State Board for Promotion of Livelihood of Unorganised Non-agricultural Sector Workers shall carry out periodic studies on occupational hazards arising in this sector and develop suitable outreach/extension programmes for this purpose.

(7) Every employer shall compensate a non-agricultural wage or home worker for any accident or occupational hazard arising out of or in the course of employment that results in any temporary, permanent, partial or total disablement of the wage worker, at rates to be specified in this behalf which shall not be lower than the benefits provided under the 'Unorganised Workers Social Security Act.

Provided further that where the wage worker is covered under the Social Security for Unorganised Workers Act, 2007 such compensation by the employer shall not be payable.

(8) The employer shall ensure that there is no sexual harassment of the non-agricultural wage worker at the place of work.

(9) The State Board for Promotion of Livelihood of Unorganised Non-agricultural Sector Workers shall make rules with respect to child care facility to be made available at local levels.

(10) The provisions for lighting, ventilation, safe drinking water, washing facilities, first aid box available at a place of work maintained by the employer and reasonable housing and provision for basic amenities for seasonal migrant workers shall be specified in the rules.

Chapter III

ENFORCEMENT AND DISPUTE RESOLUTION BODIES

5. Disputes Resolution Council and Conciliation Committees

(1) The State Government shall, by rules, constitute Dispute Resolution Council (DRC) at District level and Conciliation Committees (CC) at an appropriate level below the district level i.e. Block/Tehsil/Mandal level, for resolution of disputes relating to the non observance of provisions of this Act arising amongst the unorganised non-agricultural wage workers/ home workers and employers.

(2) The Composition of the DRCs and CCs shall be tripartite and consist of an officer designated by the State Government to be the Member Secretary, one person nominated from the most representative of membership-based organisations of the unorganised non-agricultural workers in that State, having membership in the district, and a person nominated from the most representative organisation of employers' organisations in the non-agricultural unorganised sector in the state. The State government, may, if it thinks fit, appoint two persons as assessors to advise the conciliation Committee on the proceedings before it.

(3) When there is a complaint regarding sexual harassment, the CC/DRC shall co-opt two other members from the Panchayats/local bodies, who shall be women, at the time of dealing with such complaints.

(4) The honorarium and/ or the allowances to be paid to the workers and employers representatives on the DRC shall be determined by the State Government.

(5) The persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other related conditions, the procedure to be followed in the discharge of their functions, conduct of meetings, periodicity of meetings and the manner of filling vacancies among the members of the CC/DRC, shall be such as may be prescribed by the State Government.

(Note: In order to determine the most representative organisation, membership figures including the verification of trade unions carried out by the CLC may be relied upon.)

6. Functions and powers of the Conciliation Committee and Dispute Resolution Council

(1) Any unorganised non-agricultural wage worker or employer, or, organisation representing such worker may raise a dispute relating to the non-observance of conditions of work as specified in this Act by filing a complaint before the Conciliation

Committee in the manner prescribed by the State Government. The DRC may also take *suo moto* cognizance of such disputes.

(2) Every complaint so filed shall be deemed to be a dispute under this Act notwithstanding that such a complaint had not been referred to the employer at the first instance, and been rejected.

(3) The status of employment of workers in the dispute raised before the CC or DRC shall not be affected merely for the reason that a complaint regarding their conditions of work has been raised before the DRC or CC.

(4) Upon reference of a dispute, the Conciliation Committee shall proceed to arrive at a conciliated settlement. The Conciliation Committee shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters connected therewith, and may do all such things as they think fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(5) The Conciliation Committee may for the purpose of investigating the dispute, after giving reasonable notice, enter the premises to which the dispute relates. The Conciliation Committee shall also have the powers under the Code of Civil Procedure 1908 to enforce the attendance of parties, compel the production of documents and material objects.

(6) The Conciliation Committee may if it thinks fit appoint one or more persons having special knowledge of the matter under consideration to advise it on the proceeding before it.

(7) The time limit for the conclusion of the proceedings of the CC shall not exceed four weeks. Where the parties to the dispute apply in the prescribed manner, whether jointly or separately, to the CC for the extension of such period and the member-secretary of the CC considers it necessary or expedient to extend such period, he/she may for reasons to be recorded in writing, extend such period by such further period as he/she may think fit;

Provided that no proceedings before a CC shall lapse merely on the ground that the period specified under this sub section has expired without such proceedings being completed.

(8) If the Conciliation Committee is able to arrive at a conciliated settlement, it shall record its finding to such effect and shall issue such directions as considered necessary.

(9) Upon failure of such conciliation proceedings, the Conciliation Committee shall record its findings and refer the dispute to the DRC, which shall within two weeks of receipt of reference, refer the matter to the adjudicator provided in this section.

(10) Where a dispute is raised directly before the DRC, the DRC shall ordinarily refer the dispute to the CC below it, under whose jurisdiction the dispute falls.

(11) In cases of disputes raised directly before it or referred to it by the CC under subsection (8) above, the DRC may itself seek to bring about a conciliated settlement.

(12) In such cases, the DRC shall have all the powers mentioned in section 7(4) and 7(5) specified above.

(13) If the DRC is able to arrive at a conciliated settlement, it shall record its finding to such effect and shall issue such directions as considered necessary.

(14) In case of failure of conciliation, the DRC shall record its finding and refer the matter directly to the Adjudicator referred to in section 7, within 4 weeks of the reference of the dispute. Where the parties to the dispute apply in the prescribed manner, whether jointly or separately, to the DRC for the extension of such period and the member-secretary of the DRC considers it necessary or expedient to extend such period, he/she may for reasons to be recorded in writing, extend such period by such further period as he/she may think fit.

Provided that no proceedings before a DRC shall lapse merely on the ground that the period specified under this sub section has expired without such proceedings being completed.

(15) The DRC shall also monitor the functioning of the CCs.

(16) Where the dispute pertains to any matter covered by any law mentioned in Section 4(1), the CC/DRC shall forward the complaint to the appropriate authority created under the relevant Act for adjudication.

7. Adjudication

(1) The State Government shall by notification in the Official Gazette appoint any officer of the Government not below the rank of a District Labour Officer for each district, or any officer with experience as Civil Judge or as Magistrate to be the Adjudicator under the section. The Adjudicator shall hold sessions in such Block/ Tehsil/Mandal towns and with such frequency, as may be specified in the rules made in this behalf by the State Government, in order to adjudicate upon the disputes referred to it by the DRCs at the Block/ Tehsil/Mandal level.

(Note: NO appeal has been provided for under this Act. Moving the High Courts under Art. 226 of the Constitution would of course be available).

(2) The State Government shall issue such notifications and directions as are necessary to ensure that the adjudication proceedings are concluded expeditiously with minimum loss of time and costs to the parties involved. The award of the Adjudicator shall be publicised in the manner as prescribed by the State Government.

7A. The designated department(s) of the State Government concerned shall be responsible for enforcement and implementation of the provisions of this Act.

8. Contravention of provisions regarding employment of unorganised non-agricultural workers

(1) Whoever contravenes any provisions of this Act or the rules made there under, other than those made punishable under any other law, regarding the employment of unorganised non-agricultural, workers shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and in case of continuing contravention, with additional fine which may extend up to one hundred rupees for every day during which such contravention continues.

(2). No court shall take cognizance of an offence punishable under this Act or the abetment of any such offence, save on a complaint made by, or the previous sanction in writing of or under the authority of the State Government. No court inferior to that of a Metropolitan Magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

(3). No suit, prosecution or other legal proceeding shall lie against any person for anything done in good faith or intended to be done in pursuance of this Act or rules.

(4) No court shall take cognisance of an offence punishable under this Act unless the complaint is made within six months from the date on which the alleged commission of the offence came to the knowledge of the CC or the DRC concerned.

(5) Any person who commits a breach of any conciliated settlement arrived at in the CC or DRC or final award by the adjudicator, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, [and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first] and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realized from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach.

(6) Where any money is due to a unorganised sector worker under a settlement or an award, the workman himself or any other person authorized by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the state government for the recovery of the money due to him, and if the state government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

Part-2

Chapter IV PROTECTION AND PROMOTION OF LIVELIHOOD OF UNORGANISED NON-AGRICULTURAL WORKERS

9. Measures to safeguard and promote livelihood

The appropriate Government shall seek to safeguard and promote the livelihood of the unorganised non-agricultural workers for fulfilling the following objectives:

- a) Promotion of gainful employment opportunities and livelihood options ;
- b) Provision of training facilities for skill upgradation ;
- c) Promotion of labour organisations and cooperative groups to secure gainful employment and dignified conditions of work;
- d) Provision of credit, raw material (input) supply, appropriate technology and adequate marketing and storage facilities for the goods and services produced in the unorganised non- agricultural sector;
- e) Ensuring social security benefits covering life, health, disability, maternity and old age benefits;
- f) Ensuring access to affordable credit facilities through banking and non banking institutions, in the State or co-operative Sector or private sector ;
- g) Ensuring the right to livelihood including the right over common properties and natural resources in the following manner:
 - i. Ensuring the rights of all types of unorganised non agricultural workers having traditional access to common and public property resources for their livelihood ;
 - ii. Ensuring the right of unorganised non-agricultural workers to share public space to engage in economic activities;
 - iii. Ensuring the right to inhabitation in places where the workers are usually residing, provided that the land has been in their occupation for a specified period of time;
- h) Ensuring that area development plans pay adequate regard to the concerns and protection and promotion of livelihood of unorganised non-agricultural workers such as street vendors and slum dwellers;
- i) Encourage the promotion of associations of self employed non-agricultural workers with a view to articulation of their problems and representing their interest in various fora;

- j) Ensuring special protection for migrant workers and their families in providing them with ration cards, housing, access to health-care, education to their children, and other state-provided entitlements, on par with local workers.

Chapter V

NATIONAL BOARD FOR PROMOTION OF LIVELIHOOD OF UNORGANISED NON-AGRICULTURAL WORKERS

10. Establishment

With effect from such date as the Central Government shall establish for the purposes of this Act, a Board to be called the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers .

11. Constitution of a National Fund for Unorganised Sector Workers (Agricultural & Non-agricultural)

The Central Government shall create a National Fund for Unorganised Sector workers (Agricultural and Non- agricultural) to achieve the objectives specified in Chapter IV. The Fund would be utilized only for the programmes and projects recommended by the National Board for Promotion of Livelihood of Unorganised Agricultural Workers and National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers .

12. Functions of the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers

The National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall perform the following functions at the national level:

- a) Monitor & review the existing schemes, policies and programmes of various Ministries and Departments of Government of India for the unorganised non agricultural sector and make appropriate recommendations;
- b) Advise the Government regarding the promotion of gainful employment opportunities and promotion of livelihood options and matters relating to welfare of unorganised non-agricultural sector workers;
- c) Review the working of the State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers and make suitable recommendations to the Government(s) concerned for further improvement;
- d) Recommend programmes and projects for implementation through the National Fund;

- e) Identify skill and training requirements for both self employed workers and wage workers in the unorganised non-agricultural sector and to advise the government accordingly;
- f) Collect, compile and collate information and publish statistics with the help of statistical organisation regarding the unorganised non-agricultural sector and the possibilities and challenges facing the unorganised sector in terms of employment opportunities;
- g) Assess and advise the government on the credit requirements and banking needs of this sector;
- h) Carry out periodic surveys on the condition of work in the unorganised non-agricultural sector and make suitable recommendations to the government;
- i) Hold public hearings to entertain petitions submitted by the unorganised non-agricultural sector workers and to explain the efforts made to address the grievances of unorganised non- agricultural sector workers;
- j) Ensure special protection for migrant workers and their families in providing the ration cards, housing and education to their children;
- k) Provide for guidelines of periodic review of the national minimum wages fixed by the Central Government after taking into account the minimum basic needs of the wage workers and his/her family.

13. Composition of the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers

(1) The National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be constituted by the Central Government consisting of the following:

- a) Five representatives of the State Boards for Promotion of Livelihood of Unorganised Non-agricultural Workers;
- b) Five representatives of national level membership based organisations of unorganised non-agricultural sector wage workers;
- c) Five representatives of national level organisations of unorganised non-agricultural sector workers including the non-agricultural self-employed and home workers;
- d) One representative each from the Ministries of Agriculture, Food Processing, Agro and Rural Industries, Labour, Small Industry, Banking, Panchayats, Rural Development, Health, Science and Technology, Finance, Women & Child Development and Social Justice and Empowerment, Tribal Affairs, Development of North-east Region, Urban Employment and Poverty Alleviation, and the Planning Commission of the Government of India ;

e) Appropriate number of experts in the area of skill formation, finance, marketing, technology and natural resource management.

[a, b, c and e may be based on the principle of rotation. In b and c above, at least a majority of representatives must be from socially deprived groups such as SC/ST, OBC, and Muslim, and at least two of the five members in each category must be women]]

(2) A Union Minister in the rank of Cabinet Minister of the Union of India shall be the Chairperson of the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers.

(3) An officer in the rank of the Secretary to the Government of India, as designated by the Government of India, shall be the full-time Member-Secretary, who shall be its Chief executive Officer.

(4) The tenure of the members shall be for a period of three years. The National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall meet as often as required but not less than twice a year. The honorarium and/ or the allowances to be paid to the non official members of the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be as determined by the Central Government.

(5) The National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall have a secretariat with adequate professional and other staff. The staff of the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be governed by the Central Government rules and regulations existing from time to time. The annual budget of the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be prepared by the Secretariat.

Chapter VI

STATE BOARD FOR PROMOTION OF LIVELIHOOD OF UNORGANISED NON-AGRICULTURAL WORKERS

14. Establishment

A State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be constituted by every State Govt. or Govt of the Union Territory for worker in the unorganised sector.

15. Functions of the State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers

Every State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall have the following functions:

- a) Monitor & review the existing schemes, policies and programmes of various Ministries and Departments of the concerned State Government for the unorganised non agricultural sector and make appropriate recommendations;
- b) Advise the Government regarding the promotion of gainful employment opportunities and promotion of livelihood options for unorganised non-agricultural sector workers;
- c) Recommend the programmes and projects for implementation to the National Board for Promotion of Livelihood of Unorganised Non-agricultural Workers through the National Fund;
- d) Identify skill and training requirements for both self employed workers and wage workers in the unorganised non-agricultural sector and to advise the government accordingly;
- e) Collect, compile and collate information and publish statistics with the help of statistical organisation regarding the unorganised non-agricultural sector and the possibilities and challenges facing the unorganised sector in terms of employment opportunities;
- f) Assess and advise the government on the credit requirements and banking needs of this sector;
- g) Carry out periodic surveys on the condition of work in the unorganised non-agricultural sector and make suitable recommendations to the government;
- h) Encourage the promotion of labour cooperatives to secure gainful employment and dignified conditions of work;
- i) Hold public hearings to entertain petitions submitted by the unorganised non-agricultural sector workers and to explain the efforts made to address the grievances of unorganised non-agricultural sector workers;
- j) Carry out surveys to determine the safety and health standards required in different occupations and employments in the unorganised non-agricultural sector and, publish manuals and outreach programmes for worker safety;
- k) Review the National Minimum Wages for the state after taking into account the cost of living, and minimum basic needs of the non-agricultural wage and home workers and his/her family;

- l) Constitute Employment Certification Committee to bring the wages in employments performed predominantly by women on par with employments certified as equivalent in value and periodically evaluate employments in the state for this purpose;
- m) Carry out periodic studies on occupational hazards arising in this sector and develop suitable outreach/extension programmes for this purpose;
- n) Make provisions for improvement in housing, rational use of public spaces keeping in mind the needs of the self employed workers working from their homes/rented premises/streets or public spaces to improve their working conditions.

16. Composition of the State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers

(1) A State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall consist of the following:

- a) Five representatives of membership based organisations of unorganised non-agricultural sector wage workers;
- b) Five representatives of organisations of unorganised non-agricultural sector workers including the non-agricultural self-employed and home workers;
- c) One representative each from the Ministries of Agriculture, Food Processing, Agro and Rural Industries, Labour, Small Industry, Banking, Panchayats, Rural Development, Health, Science and Technology, Finance, Women & Child Development and Social Justice and Empowerment, Tribal Affairs, Urban Employment and Poverty Alleviation, and the Planning Commission /Board of the state Government;
- d) Appropriate number of experts in the area of skill formation, finance, marketing, technology and natural resource management.

[a, b, and d may be based on the principle of rotation. In a and b above, at least a majority of representatives must be from socially deprived groups such as SC/ST, OBC, and Muslim, and at least two of the five members in each category must be women]

(2) A Minister in the rank of Cabinet Minister of the State Government shall be the Chairperson of the State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers.

(3) An officer in the rank of the Secretary to the State Government, as designated by the State Government shall be the Member-Secretary who shall be its Chief executive Officer.

(4) The tenure of the members shall be for a period of three years. State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall meet as often as

required but not less than twice a year. The honorarium and/ or the allowances to be paid to the non official members of the State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be as determined by the State Government.

(5) The State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall have a secretariat with adequate professional and other staff. The staff of the State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be governed by the State Government rules and regulations existing from time to time. The annual budget of the State Board for Promotion of Livelihood of Unorganised Non-agricultural Workers shall be prepared by the Secretariat.

Chapter VII MISCELLANEOUS

17. Power to make Rules

The Central and State Government shall have the power to make rules for the purposes of carrying out the objects of the Act.

18. Savings

(1) This law will not affect the application of any other State or Central Acts which applies to the unorganised non-agricultural worker or to the employer under this Act. (Note: Even if the employer or establishment is covered, the worker who is not covered under the formal sector law would get benefit under this law for the matter covered here).

(2) Notwithstanding anything contained in this Act, wherever any unorganised non-agricultural worker is eligible for superior or better benefits under any existing law in force the worker shall continue to be entitled for such benefits.

19. Effect of laws and agreements inconsistent with this Act

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act.

(2) Nothing contained in this Act shall be construed to preclude a unorganised non-agricultural worker from entering into an agreement with his/her employer for granting him/her rights or privileges in respect of any matter which are more favourable to him/her than those to which he/she would be entitled under this Act.