THE MAHARASHTRA LABOUR WELFARE FUND ACT

[*Text as on 6th May 2024*]

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[1] This Order was published in Government of India, Ministry of Home Affairs, Notification No. S/2/59-SR(*R*) 9, dated 4th December 1959. It came into force on 15th December 1959.

[2] This Act was extended throughout the State of Maharashtra *vide* (Mah. 36 of 1961, s. 2.)

Note.- The date mentioned in the bracket indicates the date of commencement of the Act.

ACT No. XL OF 1953

[1][THE MAHARASHTRA LABOUR WELFARE FUND ACT.]

[This Act received the assent of the President on the 12th June 1953; assent was first published in the *Bombay Government Gazette*, Part IV, on the 17th June 1953.]

An Act to provide for the constitution of a Fund for the financing of activities to promote welfare of labour in the State of [2][Maharashtra] [3][for conducting such activities and for certain other purposes.]

WHEREAS it is expedient to constitute a Fund for the financing of activities to promote 'welfare' of labour in the State of [4][Maharashtra] [5][for conducting such activities and for certain other purposes]; It is hereby enacted as follows :—

1. Short title, extent and commencement.— (*1*) This Act may be called [6][the Maharashtra Labour Welfare Fund Act.]

[7][(*2*) It extends to the whole of the State of Maharashtra.]

(*3*) It shall come into force in such area and on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

2. Definitions.— In this Act, unless the context otherwise requires—

(*1*) "Board" means [8][the Maharashtra Labour Welfare Board] constituted under section 4;

[9][(*1A*) "contribution" means the sum of money payable to the Board in accordance with the provisions of section 6BB;]

[10][(*2*) "Employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual, clerical, supervisory or technical in an establishment directly by the employer or through contractor or any other agency, but does not include any person—

(*i*) who is employed mainly in a managerial capacity,

(*ii*) who, being employed in a supervisory capacity, draws wages exceeding three thousand and five hundred rupees per mensem, or exercises powers or carries out, either by the nature of the duties attached to the office, or by reason of the powers vested in him, functions mainly of a managerial nature, or

(*iii*) who is employed as an apprentice under the Apprentice Act, l961 (52 of 1961);]

(*3*) "Employer" means any person who employs either directly or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes—

(*i*) in a factory, any person named under section 7(*1*)(*f*) of the Factories Act, 1948 (LXIII of 1948) as the manager ;

(*ii*) in any establishment, any person responsible to the owner for the supervision and control of the employees or for the payment of wages ;

(*4*) "Establishment" means—

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1 For Statement of Objects and Reasons of the L. A. Bill No. XL of 1953, *see Bombay Government Gazette*, Extraordinary, Part V, dated 8th April 1953, pages 327-328.
2 This word was substituted for the word "Bombay" by Mah. 36 of 1961, s. 3(*a*).
3 These words were substituted for the words "and for conducting such activities" by Mah. 36 of 1961, s. 3.
4 This word was substituted for the word "Bombay" by Mah. 36 of 1961, s. 3(*a*).
5 These words were substituted for the words "and for conducting such activities" by Mah. 36 of 1961, s. 3.
6 The short title was amended for "Bombay Labour Welfare Fund Act, 1953" by Mah. 24 of 2012, s. 2, Schedule, entry 48, *w.e.f.* 1-5-1960.
7 Sub-section (*2*) was substituted by Mah. 36 of 1961, s. 4.
8 These words were substituted for the words "any Labour Welfare Boards" by Mah. 36 of 1961, s. 5(*a*).
9 Sub-clause (*1A*) was inserted by Mah. 16 of 1971, s. 2(*1*).
10 Clause (*2*) was substituted and shall be deemed to have been substituted *w.e.f.* 31-12-2000 by Mah. 24 of 2003, s. 2(*a*).

(*i*) a factory ;

(*ii*) a tramway or [1][motor omnibus service or a motor transport undertaking to which the Motor Transport Workers Act, 1961 (XXVII of 1961), applies ; and

[2][(*iii*) any establishment within the meaning of the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948), which employs, or on any working day during the preceding twelve months, employed [3][five] or more persons [4][including the establishments which have been granted exemption partly or wholly under the proviso to section 4 of that Act] :

Provided that, any such establishment shall continue to be an establishment for the purposes of this Act, notwithstanding a reduction in the number of persons to less than [5][five] at any subsequent time :

Provided further that, where for a continuous period of not less than three months, the number of persons employed therein has been less than [6][five] such establishments shall cease to be an establishment for the purposes of this Act with effect from the beginning of the month following the expiry of the said period of three months, but the employer shall within one month from the date of such cessation, intimate by registered post the fact thereof to such authority as the State Government may specify in this behalf] ;

[7][*Explanation*.— For the removal of doubt, it is hereby declared that where an establishment has different branches or departments, all such branches or departments, whether situated in the same premises or different premises, shall be treated as parts of the same establishment ;]

[8][(*5*) "Factory" means a factory as defined in section 2(*m*) of the Factories Act, 1948 (LXIII of 1948), and includes any place wherein five or more persons are employed or working, and—

(*i*) where in any manufacturing process is being carried on with the aid of power or is ordinarily so carried on ;

(*ii*) which is deemed to be a factory under section 85 of the said Act ;]

(*6*) "Fund" means the [9][Labour Welfare Fund] constituted under section 3 ;

(*7*) "Independent member" means a member of the Board who is not connected with the management of any establishment or who is not an employee, and includes an officer of Government nominated as a member ;

(*8*) "Inspector" means an Inspector appointed under section 12 ;

[10][* * * * * * *]

(*9*) "prescribed" means prescribed by rules made under this Act ;

(*10*) "Unpaid accumulation" means all payments due to the employees but not made to them within a period of three years from the date on which they became due whether before or after the commencement of this Act including the wages, and gratuity legally payable [11][but not including the amount of contribution if any, paid by an employer to a provident fund established under the Employees' Provident Funds Act, 1952 (XIX of 1952)] ;

[12][(*11*) "wages" means wages as defined in section 2 (*vi*) of the Payment of Wages Act, 1936 (4 of 1936), and includes bonus payable under the Payment of Bonus Act, 1965 (21 of 1965)] ;

(*12*) "Welfare Commissioner" means the Welfare Commissioner appointed under section 11.

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1 These words were substituted for the words "motor omnibus service; and" by Mah. 4 of 1984, s. 2(*b*)(*i*).
2 This portion was substituted for the portion beginning with "(*iii*) any establishment" and ending with "or any State Government" by Mah. 16 of 1971, s. 2(*3*).
3 This word was substituted for the word "ten" by Mah. 4 of 1984, s. 2(*ii*).
4 These words were added by Mah. 24 of 2003, s. 2(*b*)
5 This word was substituted for the word "ten" by Mah. 4 of 1984, s. 2(*ii*).
6 This word was substituted for the word "ten" by Mah. 4 of 1984, s. 2(*ii*).
7 This *Explanation* was added by Mah. 24 of 2003, s. 2(*iii*).
8 This clause was substituted for original clause (*5*), by Mah. 4 of 1984, s. 2(*c*).
9 These words were substituted for the words "any of the Labour Welfare Funds," by Mah. 4 of 1984, s. 5(*d*).
10 Clauses (*8a*) and (*8b*) were deleted by Mah. 4 of 1984, s. 5(*e*).
11 This portion was inserted by Mah. 4 of 1984, s. 5(*f*).
12 Clause (*11*) was substituted by Mah. 16 of 1971, s. 2(*4*).

2A. [*Construction of certain references in the Act.*] *Deleted by Mah. 36 of 1961 s. 6.*

3. Welfare Fund.— [1][(*1*) The State Government shall constitute a fund called the Labour Welfare Fund, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid [2][at such intervals as may be prescribed] to the Board, which shall keep a separate account therefor until claims thereto have been decided in the manner provided in section 6A, and the other sums specified in sub-section (*2*) shall be paid into the Fund.]

(*2*) The Fund shall consist of—

(*a*) all fines realised from the employees ;

(*b*) [3][unpaid accumulations transferred to the Fund under section 6A] ;

[4][(*bb*) any penal interest paid under section 6B ;]

[5][(*bbb*) any contribution paid under section 6BB ;]

(*c*) any voluntary donations ;

(*d*) any fund transferred under-section (*5*) of section 7 ; [6][* * *]

(*e*) any sum borrowed under section 8 ;

[7][(*f*) any loan, grant-in-aid or subsidy paid by the State Government.]

(*3*) The sums specified in sub-section (*2*) [8][shall be paid, or collected by such agencies, at such intervals] and in such manner and the accounts of the Fund shall be maintained and audited in such manner as may be prescribed.

4. Board.— (*1*) [9][The State Government shall, by notification in the *Official Gazette* constitute the Board for the whole of the State of Maharashtra for the purpose of administering the Fund, and to carry on such other functions assigned to the Board by or under this Act.] The Board shall consist of the [10][following members, not exceeding twenty-six in number], namely :—

(*a*) such number as may be prescribed of representatives of employers and employees to be nominated by the State Government :

Provided that both employers and employees shall have equal representation on the Board;

(*b*) such number of independent members as may be prescribed, nominated by the State Government; [11][* *]

(*c*) such number of independent members as may be prescribed, nominated by the State Government to represent women ;

[12][(*d*) the Principal Secretary or Secretary (Finance) or his nominee shall be the *ex-officio* member; and

(*e*) the Principal Secretary or Secretary (Labour) or his nominee shall be the *ex-officio* member.]

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1 Sub-section (*1*) was substituted by Mah. 36 of 1961, s. 7(*a*).
2 These words were inserted by Mah. 22 of 1966, s. 2(*a*).
3 This portion was substituted for the words "all unpaid accumulations" by Mah. 36 of 1961, s. 7(*b*).
4 Clause (*bb*) was inserted by Mah. 22 of 1966, s. 2(*b*).
5 Clause (*bbb*) was inserted by Mah. 16 of 1971, s. 3(*a*).
6 The word "and" was deleted by Mah. 16 of 1971, s. 3(*b*).
7 Clause (*f*) was added by Mah. 16 of 1971, s. 3(*c*).
8 These words were substituted for the words "shall be collected by such agencies" by Mah. 22 of 1966, s. 2(*c*).
9 This portion was substituted for the portion beginning with "The State Government of Bombay" and ending with "and the Karnataka area respectively" by Mah. 36 of 1961, s. 8(*a*).
10 These words were substituted for the words "following members" by Mah. 16 of 1971, s. 4(*1*).
11 The word "and" was deleted by Mah. 24 of 2003, s. 3(*a*).
12 Clauses (*d*) and (*e*) were added by Mah. 24 of 2003, s. 3(*b*).

(*2*) The members of the Board shall elect one of its independent members as the Chairman of the Board.

(*3*) Save as otherwise expressly provided by this Act, the term of office of the members of the Board shall be three years commencing on the date on which the names are notified in the *Official Gazette*.

(*4*)The allowances if any, payable to the members of the Board [1][* * * * *] shall be such as may be prescribed.

(*5*) [2][The Board shall be a body corporate by the name of the Maharashtra Labour Welfare Board] having perpetual succession and a common seal, with power to acquire property both moveable and immovable, and shall by the said name sue and be sued.

[3][(*6*) Notwithstanding anything contained in this section, until the Board for the State of Maharashtra is duly constituted in accordance with the provisions of sub-section (*1*), the existing Board functioning and operating immediately before the commencement of the Bombay Labour Welfare Fund (Extension and Amendment) Act, 1961 (Mah. XXXVI of 1961), in any area of the State shall continue to function and operate in that area and shall be the Board for the purpose of this Act for that area; and on the constitution of the Board for the whole of the State of Maharashtra under sub-section (*1*)—

(*a*) such existing Board shall stand dissolved, and the members, thereof shall vacate office ;

(*b*) all properties, funds and dues which are vested in or realisable by the existing Board shall vest in, and be realisable by the Board so constituted ;

(*c*) all rights and liabilities which were enforceable by or against the existing Board, shall be enforceable by or against the Board so constituted and wherein any proceedings in any court or tribunal the existing Board is a party thereto, the Board so constituted shall be deemed to be substituted as a party to those proceedings; and

(*d*) the Welfare Commissioner and the other officers and servants of the existing Board shall continue to be the Welfare Commissioner and officers and servants of the Board so constituted; but the terms and conditions of service of the Welfare Commissioner and other officers and servants shall not, until duly altered by a competent authority, be less favourable under the Board so constituted than those admissible to them while in the service of the existing Board.]

4A. [*Powers of the Board in respect of the Karnatak area to be exercised by the Government of Mysor for certain period.*] *Deleted by Mah. 36 of 1961, s. 9.*

5. Disqualifications and removal.— (*1*) No person shall be chosen as, or continue to be a member of the Board who—

(*a*) is a salaried official of the Board ; or

(*b*) is or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with this creditors ; or

(*c*) is found to be a lunatic or becomes of unsound mind ; or

(*d*) is or has been convicted of any offence involving moral turpitude.

(*2*) The State Government may remove from office any member who—

(*a*) is or has become subject to any of the disqualifications mentioned in sub-section (*1*) ; or

(*b*) is absent without leave of the Board for more than three consecutive meetings of the Board.

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1 The words "and the conditions of appointment of the representatives of the employers and employees" were deleted by Mah. 16 of 1971, s. 4(*2*).

2 These words were substituted for the portion beginning with the words "The Board shall be known" and ending with the words "a body corporate" by Mah. 36 of 1961, s. 8(*b*).

3 Sub-section (*6*) was substituted for the original sub-sections (*6*) and (*7*) by Mah. 36 of 1961, s. 8(*c*).

6. Resignation of office by member and filling up of casual vacancies.— (*1*) A member may resign his office by giving notice thereof in writing to the State Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(*2*) A causal vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the authority concerned and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.

(*3*) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in constitution of the Board.

[1][**6AA. Power to appoint Committees.—** For the purpose of advising the Board in the discharge of its functions and also for carrying into effect and any of the matters specified in sub-section (*2*) of section 7, the Board may constitute one or more Committees, of which at least one on each Committee shall be a member of the Board.]

[2][**6A. Unpaid accumulations and claims thereto.—** (*1*) All unpaid accumulations shall be deemed to be abandoned property.

(*2*) Any unpaid accumulations paid to the Board in accordance with the provision of section 3 shall on such payment, discharge an employer of the liability to make payment to an employee in respect thereof, but to the extent only of the amount paid to the Board, and the liability to make payment to the employee to the extent aforesaid shall subject to the succeeding provisions of this section be deemed to be transferred to the Board.

(*3*) As soon as possible after the payment of any unpaid accumulations is made to the Board, the Board shall by notice (containing such particulars as may be prescribed)—

(*a*) exhibited on the notice—board of the factory or establishment in which the unpaid accumulation was earned and

[3][* * * * * *]

(*c*) also published in any two newspapers circulating and in the language commonly understood in the area in which the factory or establishment in which the unpaid accumulation was earned is situate, or in such other manner as may be prescribed, regard being had to the amount of the claim,

invite claims by employees for any payment due to them. The notice shall be inserted in the manner aforesaid in June and December of every year, for a period of three years from the date of the payment of the unpaid accumulation to the Board.

(*4*) If any question arises whether the notice referred to in sub-section (*3*) was given as required by that sub-section, a certificate of the Board that it was so given, shall be conclusive.

(*5*) If a claim is received whether in answer to the notices or otherwise, within a period of four years from the date of first publication of the notice in respect of such claim, the Board shall transfer such claim to the Authority appointed under section 15 of the Payment of Wages Act, 1936 (IV of 1936), having jurisdiction in the area in which the factory or establishment is situated, and the Authority shall proceed to adjudicate upon, and decide, such claim. In hearing such claim, the Authority shall have the powers conferred by, and follow the procedure (in so far as it is applicable) followed in giving effect to the provisions of that Act.

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1 Section 6AA was inserted by Mah. 22 of 1966, s. 3.

2 Section 6A was inserted by Mah. 36 of 1961, s. 10. Section 14 of Mah. 36 of 1961 reads as under,—

"**14. Amendments made by sections 3(*b*) 7 and 10 to have retrospective effect.—** The amendments made in the principal Act by sections 3(*b*), 7 and 10 of this Act shall, in relation to unpaid accumulations (including those already paid to the Board before the commencement of this Act), be deemed always to have been made in the principal Act :

Provided that, nothing in section 10 shall apply to any unpaid accumulations not already paid to the Board and—

(*a*) in respect of which separate accounts have not been maintained, so that any unpaid claims of employees are not traceable, or

(*b*) which through maintained as part of a separate account, are proved to have been spent before the 7th day of July 1961".

3 Clause (*b*) was deleted by Mah. 22 of 1966, s. 4.

(*6*) If the Authority aforesaid is satisfied that any such claim is valid so that the right to receive payment is established, it shall decide that the unpaid accumulation in relation to which the claim is made shall cease to be deemed to be abandoned property, and shall order the Board to pay the whole of the dues claimed, or such part thereof as the Authority decides are properly due, to the employee; and the Board shall make payment accordingly :

Provided that, the Board shall not be liable to pay any sum in excess of that paid under sub-section (*1*) of section 3 to the Board as unpaid accumulations, in respect of the claim.

(*7*) If a claim for payment is refused, the employee shall have a right of appeal in Greater Bombay to the Court of Small Causes, and elsewhere to the District Court and the Board shall comply with any order made in appeal. An appeal shall lie, within sixty days of the decision of the Authority.

(*8*) The decision of the Authority, subject to appeal aforesaid, and the decision in appeal of the Court of Small Causes, or as the case may be, the District Court, shall be final and conclusive as to the right to receive payment, the liability of the Board to pay and also as to the amount, if any.

(*9*) If no claim is made within the time specified in sub-section (*5*), or a claim has been duly refused as aforesaid by the Authority, or an appeal by the Court, then the unpaid accumulations in respect of such claim shall accrue to, and vest in, the State as *bona vacantia*, and shall thereafter, without further assurance be deemed to be transferred to, form part of, the Fund.]

[1][**6BB. Contributions.**— (*1*) The contribution payable under this Act in respect of an employee in an establishment shall comprise contribution payable by the employer (hereinafter referred to as 'the employer's contribution'), contribution payable by such employee (hereinafter referred to as 'the employee's contribution') and the contribution payable by the State Government, and shall be paid to the Board and form part of the Fund.

[2][(*2*) The amount of contribution payable every six months in respect of every employee and an employer for each such employee shall be at the following rates, namely :—

(*a*) in respect of an employee, whose name appears in the register of an establishment on the 30th June and 31st December, respectively, shall be at the rate of twenty-five rupees :

Provided that, the State Government shall on receipt of a proposal from the Board, by notification in the *Official Gazette*, increase once in every three years, the rate of employee's contribution so, however that, such increase shall not exceed thirty per cent. of the rate of contribution;

(*b*) in respect of an employer, for each employee referred to in clause (*a*), thrice the amount of contribution payable by an employee.]

(*3*) Every employer shall pay to the Board both the employer's contribution and the employee's contribution in accordance with the provisions of sub-section (*2*) before the 15th day of July and 15th day of January, as the case may be.]

(*4*) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and any rules, the employer shall in the case of any such employee be entitled to recover from the employee that employee's contribution by deduction from his wages, and not otherwise; and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936 (4 of 1936).

Provided that, no such deduction shall be made in excess of the amount of the contribution payable by such employee, nor shall it be made from any wages other than the wages for the months of June and December :

Provided further that, if through inadvertence or otherwise, no deduction has been made from the wages of an employee for the months aforesaid, such deduction may be made from the wages of such employee for any subsequent month or months with the permission in writing of the Inspector appointed under this Act.

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1 Section 6BB was inserted by Mah. 16 of 1971, s. 5.

2 Sub-section (*2*) was substituted by Mah. 25 of 2024, s. 2.

(*5*) Notwithstanding any contract to the contrary, no employer shall deduct the employer's contribution from any wages payable to an employee or otherwise recover it from the employee.

(*6*) Any sum duly deducted by an employer from the wages of an employee under this section shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(*7*) An employer shall pay the employer's and the employee's contribution to the Board by cheque, money-order or in cash, and he shall bear the expenses of remitting to the Board such contributions.

(*8*) The Welfare Commissioner shall submit to the State Government as soon as possible after the end of July and January every year in the prescribed form a statement showing the total amount of [1][the employer's contribution and the employees' contribution in respect of employees in each establishment]. On receipt of the statement from the Welfare Commissioner, the State-Government shall pay to the Board a contribution of [2][an amount equal to half the employee's contribution for the period from the 31st December 2000 to the 31st March 2003; and an amount equal to twice the employee's contribution with effect from the 1st April 2003, in respect of every employee referred to in sub-clause (*i*) and (*ii*) of clause (*a*) of sub-section (*2*).]

[3]**[6B. Interest on unpaid accumulations or fines after notice of demand.—** (*1*) If an employer does not pay to the Board any amount of unpaid accumulations, or fines realised from the employees [4][or the amount of the employer's and employee's contributions under section 6BB] within the time he is required by or under the provisions of this Act to pay it, the Welfare Commissioner may cause to be served a notice on such employer to pay the amount within the period specified therein which shall not be less than thirty days from the date of service of such notice.

(*2*) If the employer fails, without sufficient cause to pay any such amount within the period specified in the notice, he shall, in addition to that amount, pay to the Board simple interest—

[5][(*a*) in the case of failure to pay any amount of unpaid accumulations or fines realised from the employees,—

(*i*) for the first three months, at [6][one and a half per cent.] of the said amount for each completed months, after the last date by which he should have paid it according to the notice; and

(*ii*) thereafter, at [7][two per cent.] of that amount for each completed months, during the time he continue to make default in the payment of that amount ;

(*b*) in the case of a failure to pay any amount of the employer's and employees' contributions under section 6BB,—

(*i*) for the first three months, at [8][one and a half percent.] of the said amount for each completed month, after the last date by which he should have paid it in accordance with the provisions of sub-section (*3*) of section 6BB ; and

(*ii*) thereafter, at [9][two per cent.] of that amount for each completed month, during the time he continues to make default in the payment of that amount:]

Provided that, the Welfare Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty in respect of any period.]

7. Vesting and application of Fund.— (*1*) The Fund shall vest in and be held and applied by the Board as Trustees subject to the provisions and for the purposes of this Act. The moneys therein shall

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1 These words were substituted for the words "the employer's contribution in respect of his establishment" by Mah. 4 of 1984, s. 2(*3*)(*a*).

2 This portion was substituted and shall be deemed to have been substituted w.e.f. 31-12-2000 by Mah. 24 of 2003, s. 4(*b*).

3 Section 6B was inserted by Mah. 22 of 1966, s. 5.

4 These words, figure and letters were inserted by Mah. 16 of 1971, s. 6.

5 These clauses were substituted by Mah. 4 of 1984. s. 4.

6 These words were substituted for the words "one per cent." by Mah. 24 of 2003, s. 5(*a*)(*i*).

7 These words were substituted for the words "one and half per cent." by Mah. 24 of 2003, s. 5(*a*)(*ii*).

8 These words were substituted for the words "one per cent" by Mah. 24 of 2003, s. 5(*b*)(*i*).

9 These words were substituted for the words "one and a half per cent." by Mah. 24 of 2003. s. 5(*b*)(*ii*).

be utilized by the Board to defray the cost of carrying out measures which may be specified by the State Government from time to time to promote the welfare of labour and of their dependents.

(*2*) Without prejudice to the generality of sub-section (*1*) the moneys in the Fund may be the utilized by the Board to defray expenditure on the following :—

(*a*) community and social education centres including reading rooms and libraries ;

(*b*) community necessities ;

(*c*) games and sports ;

(*d*) excursions, tours and holiday homes ;

(*e*) entertainment and other forms of recreations ;

(*f*) home industries and subsidiary occupations of women and unemployed persons ;

(*g*) corporate activities of a social nature ;

(*h*) cost of admeasuring the Act [1][including the salaries, allowances, pension, provident fund and gratuity and any other fringe benefits of the staff] appointed for the purposes of the Act ; and

(*i*) such other object as would in the opinion of the State Government improve the standard of living and ameliorate the social conditions of labour :

Provided that the Fund shall not be utilized in financing any measure which the employer is required under any law for the time being in force to carry out :

Provided further that unpaid accumulations and fines shall be paid to the Board and be expended by it under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936), or any other law for the time being in force.

(*3*) The Board may, with the approval of the State Government, make a grant of the Fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour approved by the State Government.

(*4*) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the State Government and the decision given by the State Government shall be final.

(*5*) It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment, if the said fund is duly transferred to the Board.

8. Power of Board to borrow.— The Board may from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be specified in this behalf borrow any sum required for the purpose of this Act.

9. Investment of Fund.— Where the Fund or any portion thereof cannot be applied at any early date for fulfilling the objects of the Act, the Board shall invest the same in of the securities specified in clauses (*a*) to (*d*) and (*f*) of section 20 of the Indian Trusts Act, 1882 (11 of 1882).

10. Directions by State Government to Board.— The State Government may give the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the other purposes of the Act. It shall be the duty of the Board to comply with such directions.

11. Appointment and powers of Welfare Commissioner.— (*1*) (*i*) The Welfare Commissioner shall be appointed by the Board with the previous approval of the State Government ;

(*ii*) the Welfare Commissioner shall be the principal executive officer of the Board ;

(*iii*) it shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and the rules made thereunder are duly carried out and for this purpose he shall have the power to issue such orders not inconsistent with the provisions of the Act and rules made

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[1] These words were substituted for the words "including the salaries and allowances of the staff" by Mah. 4 of 1984, s. 5.

thereunder as he deems fit including any order implementing the decisions taken by the Board under Act or rules made thereunder.

[1][* * * * *]

12. Appointment of Inspectors.— (*1*) The State Government may appoint Inspectors to inspect records in connection with the sums payable into Fund. [2][Inspectors appointed, whether by a local authority or the State Government under the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948), in relation to any area, shall be deemed to be also Inspectors for the purposes of this Act, in respect of establishments to which this Act applies, and the local limits within which such Inspector shall exercise his functions under this Act shall be the area for which he is appointed under the said Act.]

(*2*) Any Inspector may—

(*a*) with such assistance, if any, as he thinks fit, enter at any reasonable time any premises for carrying out the purposes of this Act ;

(*b*) exercise such other powers as may be prescribed.

13. Absorption of the existing staff under Commissioner of Labour.— (*1*) The Board shall take over and employ such of the existing staff under the control of the Commissioner of Labour, Bombay, as the State Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the rules made thereunder :

Provided that— (*a*) during the period of such employment all matters relating to pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may be from time to time be made by the State Government.

(*b*) every such member have a right of appeal to the State Government, against any order of reduction, dismissal or removal from service, fine or any other punishment :

Provided further that person so taken over may elect within the prescribed period that he desires to be governed by the rules made under this Act in respect of conditions of service of the staff appointed by the Board under this Act and on his electing to do so the provisions of the first proviso shall cease to apply to him.

[3][(*2*) On the commencement of this Act in any area to which it is extended by the Bombay Labour Welfare Fund (Extension and Amendment) Act, 1961 (Mah. XXXVI of 1961), the Board shall take over and employ such of the existing staff under the control of the Commissioner of Labour, Bombay, as the State Government may direct and every such person so taken over and employed shall be subject to the like terms and conditions and to the same provisions as in sub-section (*1*), and to the other provisions of this Act and the rules made thereunder.]

14. Appointment of clerical and other staff by Board.— [4][(*1*)] The Board shall have power to appoint the necessary clerical and executive staff to carryout and supervise the activities financed from the Fund :

Provided that the expenses of the staff thus appointed and other administrative expenses shall not exceed a prescribed percentage of the annual income of the Fund :

[5][(*2*) The Board shall, with the approval of the State Government make regulations regarding the method of recruitment, pay and allowances, and other conditions of service of the member of its staff (other than the Welfare Commissioner and the Inspectors) :

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1 Sub-section (*2*) was deleted by Mah. 36 of 1961, s. 11.
2 This portion was added by Mah. 16 of 1971, s. 7.
3 Sub-section (*2*) was added by Mah. 36 of 1961, s. 12.
4 Section 14 was renumbered as sub-section (*1*) and sub-section (*2*) was added by Mah. 16 of 1971, s. 8.
5 Section 14 was renumbered as sub-section (*1*) and sub-section (*2*) was added by Mah. 16 of 1971, s. 8.

Provided that, until the regulations are so made, the conditions of service, of such staff shall be governed by the rules made by the State Government in this behalf.]

15. Power of State Government to remove any person on staff of Board.— The State Government shall have the power to remove any person whom it may deem unsuitable, from the service of the Board and to make an appointment in respect of whom more than one-third of the members of the Board have not agreed.

16. Power of State Government or authorised officer to call for Records, etc.— The State Government or any officer authorised by the State Government may call for the records of the Board inspect the same and may supervise the working of the Board.

17. Mode of recovery of [1][sums payable to Board] etc.— Any sum payable, [2][to the Board or] into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Boards as an arrear of land revenue.

[3]**[17A. Penalty for obstructing inspection in discharge of Inspector's duties or for failure to produce documents, etc.—** Any person who wilfully obstruct an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, records or other documents maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply to him on demand true copies of any such documents shall, on conviction, be punished—

[4][(*a*) for the first offence, with fine which may extend to one lakh rupees;

(*b*) for the second or subsequent offence, with fine which may extend to two lakh, rupees:]

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, in any case where the offender is sentenced to a fine only, the amount of fine shall not be less than [5][five thousand rupees].

17B. Provisions relating to jurisdiction.— (*1*) No Court inferior to that of a [6][Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence punishable under section 17A.

(*2*) No prosecution for such offence shall be instituted, except by an Inspector with the previous sanction of the Welfare Commissioner.

(*3*) No Court shall take cognizance of such offence, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.]

[7]**[17C. Compounding of offences.—** (*1*) The offence punishable under section 17A may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by the Welfare Commissioner, for a sum of fine provided for such offence, in such manner, as may be prescribed.

(*2*) Nothing contained in sub-section (*1*) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date—

(*a*) of commission of a similar offence which was earlier compounded ; or

(*b*) of commission of similar offence for which such person was earlier convicted.

(*3*) The Welfare Commissioner shall exercise the powers to compound an offence, subject to the direction, control and supervision of the State Government.

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1 These words were deemed always to have been substituted for the words "sums payable into Fund" by Mah. 22 of 1966, s. 6(*b*).

2 These words were deemed always to have been inserted by Mah. 22 of 1966, s. 6(*a*).

3 Section 17A and 17B were inserted by Mah. 22 of 1966, s. 7.

4 These clauses were substituted by Mah. 20 of 2023, s. 4(*1*).

5 These words were substituted for the words "fifty rupees" by Mah. 20 of 2023, s. 4(*2*).

6 These words were substituted for the words "Presidency Magistrate or a Magistrate of the first class" by Mah. 10 of 1987, s. 4.

7 This section was inserted by Mah. 20 of 2023, s. 5.

(*4*) Every application for the compounding of an offence shall be made in such form and manner, as may be prescribed.

(*5*) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(*6*) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the Welfare Commissioner in writing, to the notice of the Court before whom the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(*7*) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.]

18. Supersession of Board.— (*1*) If the State Government is satisfied that the Board has made default in performing any duties imposed on it by or under this Act or has abused its power, the State Government may by notification in the *Official Gazette* supersede and reconstitute the Board [1][in the manner prescribed for constitution of the Board] :

Provided that, before issuing the notification under this sub-section, the State Government will give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(*2*) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be exercised or performed by the Board or by such officer or officers, as the State Government may appoint for this purpose.

19. Rules.— (*1*) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

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

[2][(*a*) the intervals at which or the period within which any of the sums referred to in section 3 shall be paid to the Board or into the Fund, the manner of making such payment and the agency for, and manner of, collection of any such sum;]

(*b*) the manner in which the accounts of the Fund shall be maintained and audited under sub-section (*3*) of section 3 ;

(*c*) the procedure for making grants from the Fund under section 7;

(*d*) the procedure for defraying the expenditure incurred in administering the Fund ;

(*e*) the number of representatives of employers and employees, independent members and representatives of women on the Board, and the allowances, if any, payable to them, under section 4 ;

(*f*) the manner in which the Board shall conduct their business ;

(*g*) the duties and powers of the Inspectors and the conditions of service of the Welfare Commissioner and Inspectors [3][* * *] appointed under this Act ;

[4][(*ga*) the delegation of the powers and functions of the Board to the Welfare Commissioner and the conditions and limitations subject to which the powers may be exercised or functions discharged ;]

(*h*) the percentage of the annual income of the Fund beyond which the Board may not spend on the staff and on other administrative members ;

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1 These words were substituted for the words "in the prescribed manner" by Mah. 16 of 1971, s. 9.
2 Clause (*a*) was deemed always to have been substituted for the original by Mah. 22 of 1966, s. 8(*a*).
3 The words "and other staff" were deleted by Mah. 16 of 1971, s. 10(*1*).
4 This clause was inserted by Bom. 16 of 1956, s. 2.

[1][(*i*) the registers and records to be maintained and returns to be sent to the Board under this Act ;]

(*j*) the publication of the report of the activities financed from the Fund together with a statement of receipts and expenditures of the fund and statement of accounts ;

(*k*) any other matter which under this Act is or may be prescribed.

[2][(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the *Official Gazette* of such decision, have effect only in such modified form, or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

20. Members of Board Welfare Commissioner, Inspectors and all officers and servants of Board to be public servants.— The members of the Board, the Welfare Commissioner, Inspectors and all officers and servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

21. Protection to persons acting in good faith.— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

22. Exemptions.— The State [3][Government may, after consulting the Board,] by notification in the *Official Gazette* exempt any class of establishment from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

23. Amendment of section 8 of Act IV of 1936.— In section 8 of the Payment of Wages Act, 1936 (IV of 1936), to sub-section (*8*) the following shall be added, before the *Explanation*, namely :—

"but in the case of any factory or establishment to which the Bombay Labour Welfare Fund Act, 1953 (Bom. XL of 1953), applies all such realisations shall be paid into the Fund constituted under the Act.".

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1 Clause (*i*) was substituted by Mah. 16 of 1971, s. 10(*2*).

2 Sub-section (*3*) was substituted for the original by Mah. 22 of 1966, s. 8(*b*).

3 These words were substituted for the words "Government may" by Mah. 24 of 2003, s. 6.