



No. Z-20011/05/2010-BL

**Government of India
Ministry of Labour & Employment**

Jaisalmer House, Mansingh Road
New Delhi – 110011

Dated the 12th July, 2013

To,

Principal Secretary/ Secretary
Department of Labour
All State /UT Governments
Chairman/Secretary
State Building and Other Construction Workers Welfare' Board
All State /UT Governments

Subject:- Implementation of provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and Building and Other Construction Workers' Welfare Cess Act, 1996 – regarding.

Sir/Madam,

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act and Building and Other Construction Workers' Welfare Cess Act were enacted in 1996 to regulate the employment and conditions of service and to provide for safety, health and welfare measures of building and other construction workers.

2. The State Governments have been mandated to constitute Building and Other Construction Workers Welfare Boards. The functions of the Board, inter-alia, include providing immediate assistance to a beneficiary in case of accident, making payment of pension, sanctioning loans and advances for construction of house, giving financial assistance for the education of children, meeting medical expenses for major ailments etc. The implementation of various provisions of these Acts specially those relating to registration of workers as beneficiaries, collection of cess and its utilization for welfare of building and other construction

workers is the responsibility of the State Government and State Building and Other Construction Worker Welfare Board.

3. It has however been noticed that the percentage of construction workers registered continues to be very low in large number of States and only about one crore construction workers have been registered with the State Building and Other Construction Workers Welfare Boards against the total estimated number of around 4.50 crore. Similarly percentage utilization of fund for welfare of construction workers has also been very low in large number of States despite rapid growth in collection of cess.

4. This Ministry has been requesting States at various levels in the past to improve the situation. Secretary, Labour & Employment through his D.O. letter dated 29th June, 2012 to the Chief Secretaries requested States to take steps for accelerating registration of workers, drawing strategy for implementing model schemes of the Central government and utilizing of funds for vocational training and skill development of construction workers and their children. The Hon'ble Supreme Court in the Writ Petition (C) No. 318 of 2006 has given very clear and specific directions for improving implementation of the provisions of the Act. In addition, the good practices adopted by some of the States have been shared with the States not been able to perform well through various workshops, meetings etc. from time to time.

5. The progress of registration of construction workers vis-a-vis potential as well as percent utilization of cess, however, continues to remain very poor in very large number of States. Given the objective for which Act was enacted and States were allowed to collect the cess, the existing state of affairs in large number of States cannot be allowed to continue indefinitely. Central Government has been empowered under section 60 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 to issue directions to the States and Boards for carrying into execution any of the provisions of the Act. Hon'ble Supreme Court, vide his order dated 7th February, 2012 in the Writ Petition (Civil No.318 of 2006 and Contempt Petitions numbering 41, 42, 43 & 44 related to this Writ has issued specific direction asking Central Government to issue appropriate directions under Section 60 of the BOCW (RECS) Act, 1996 as well as Cess Act.

6. After careful consideration of existing state of affairs and all other aspects in this regard, Central Government hereby issues following directions under section 60 of the Building and Other Construction Workers (RECS) Act, 1996:

- (a) As per Section 12(1) of the Act, every building worker who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act. A very large number of workers are working every year under Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA). Most of the works taken up under MNREGA, barring few related to forestry, horticulture etc., clearly fall under the category of 'Building and Other Construction Work' defined under section 2(1)(d) of the Act. To facilitate easy registration of the people who have largely worked under MNREGA works falling under the category of building and construction work, States should carry out a special drive for registration of such people under the BOCW(RECS) Act and shall allow registration of such workers who have completed 50 days of work in a year under MNREGA under BOCW (RECS) Act on the basis of simpler process like self-certification by the applicants or certification by Panchayats, etc.
- (b) As per section 12(2) of the Act, an application for registration has to be made in the prescribed form to the officer authorized by the Board in this behalf. Since, it is very difficult for building and other construction worker to approach offices situated away from their usual place of residence and work, States shall authorize all Gram Panchayats and Municipalities also to register construction workers under the Act. In addition, Assistant/Junior Engineers of the various Engineering Departments like PWD, Irrigation, Water Supply, Power etc. shall also be given power to register workers under BOCW (RECS) Act.

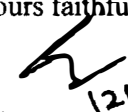
- (c) Large number of States today have practice of registration of the workers for one year which requires renewal every year. A large number of genuine workers find it very difficult to keep track of date of renewal and are not able to ensure renewal leading to loss of registration and consequent benefits. The States shall therefore allow registration of workers for periods of at least 3 years in one go to reduce the burden of renewal.
- (d) The 'Building and Other Construction Work' is defined under section 2(1)(d) of the Act. The States under this section have been authorized to notify works other than those listed in this section as 'Building and Other Construction Work'. Since, a large number of States have yet not notified additional works which fall under the category of Building and Other Construction Work and are not specifically mentioned in section 2(1)(d) of the Act, the State shall notify the works listed at Annexure-I of this letter as Building and Other Construction Work at the earliest as it will enable not only additional collection of cess from such works but also would facilitate easy registration and welfare of workers engaged in such works.
- (e) Section 22 of the Act prescribes functions of the Boards. Section 22(h) of the Act gives wide scope to the State Boards to take up schemes and make provisions of variety of welfare measures for the workers registered under the Act and their dependents. India stands at the verge of reaping demographic dividend by appropriate skilling of its young population. A clarification was issued vide this Ministry's letter of even number dated 21st May, 2012 (Annexure II) stating that States may use the cess collected for skill development of the registered workers and their dependents for skilling in all sectors including construction. Many Central Ministries have already started emphasizing on use of higher proportion of fund available under various schemes for skill development. Ministry of Social Justice and Empowerment, Ministry of Home Affairs etc, have recently issued such instructions. Given this background, State Boards shall spend every year at

least 20% of the balance cess amount at the beginning of the financial year, on activities related to skill development of registered workers and their dependents. Model schemes attached at Annexure III of this letter may be adopted by State Welfare Boards with suitable variations, as considered necessary at the earliest.

7. An early action in the matter maybe taken and action taken may please be informed to us at the earliest.

Encl: As stated:

Yours faithfully,



12/7/2013

(Shikhar Agrawal)

Director General

Tel.: 011 – 2338 3684

Annexure I

- 1.Cutting, breaking and crushing of stone
- 2.Cutting and polishing of slabs/tiles
- 3.Woodwork including painting, varnishing etc
- 4.Sewerage and plumbing work
- 5.Electrical works including wiring, distribution, panel fixing etc
- 6.Installation and repair of fire fighting systems
- 7.Installation and repair of cooling and heating systems
- 8.Installation of lifts, escalators etc
- 9.Installation of security gates, devices etc
- 10.Fabrication and installation of iron/metal grills, windows, doors
- 11.Construction of water harvesting structures
- 12.Interior work including carpeting, false ceiling, lighting, plaster of paris
- 13.Cutting, glazing and installation of glass panels
- 14.Making of bricks, roofing tiles etc not covered under Factories Act, 1948
- 15.Installation of energy efficient equipment like solar panels etc
- 16.Installation of modular units for use in places such as kitchens
- 17.Making and installation of pre-fabricated concrete modules etc
- 18.Construction of sports/ recreation facilities including swimming pools, golf courses etc
- 19.Construction/erection of signage, road furniture, bus shelters/depots/stands, signaling systems etc
- 20.Construction of rotaries, installation of fountains etc
- 21.Construction of public parks, walking tracks, landscaping etc

Annexure II

FROM : JS(AP)

FAX NO. : 01123710239

24 May 2012 15:09 P 1

MOST IMMEDIATE



**No. Z-20011/05/2010-BL
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT**

**Jaisalmer House, Mansingh Road
New Delhi - 110011, Dated the 21st May, 2012**

To,

The Principal Secretary/Secretary,
Department of Labour,
All State Govts./UTs.

Subject: - Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996-clarifications regarding.

Sir,

Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and Building and Other Construction Workers Welfare Cess Act, 1996 were enacted with a view to providing the safe and healthy working environments with certain other facilities at their workplace to the building and other construction workers. The implementation of various provisions of these Acts is within the sphere of State Governments. Among other things, the State Governments and State Building and Other Construction Workers Welfare Boards are mandated to collect cess and utilize it for welfare of these workers through various schemes formulated/ to be formulated by the Boards.

2. It has been noticed that collection of cess and its utilization for the welfare of workers has not been satisfactory. In some states, collection of cess is very meagre while in some other States most of the amount of cess collected is lying unutilized.

3. The matter has been examined. It is felt that the unutilized fund can be used, apart from the other activities for skill development of the workers. In this regard, the following clarifications are issued:

(a) As per section 22(1)(e) of the BOCW(RECS) Act, 1996, the Board may give such financial assistance for the education of children of the beneficiaries as may be prescribed. It is clarified that the education may include vocational education.

FROM : JS(CAP)


FAF NO. 18100710236

24 May 2012 11:40 AM

(b) As per Section 22 (1)(b), the Board may make provision and improvement of such other welfare measures and facilities as may be prescribed. Under this provision, skill upgradation or vocational education for the registered workers and their dependents may be a permissible activity. The vocational education may include training in other sectors apart from construction sector.


4. It is requested that the above clarifications may be brought to the notice of the State Building and Other Construction Workers Welfare Board.

Yours faithfully,


(S.R. Joshi)

Dy. Director General
Telefax: 011-23384891

Copy to :- Shri J.P. Rai, Executive Director, National Council on Skill Development, Office of Advisor to Prime Minister, NDCC-II, 9th Floor, Jai Singh, Road, New Delhi w.r.t his email dated 14.05.2012 to Shri Anil Swarup, DGLW on the above subject.


(S.R. Joshi)
Dy. Director General
Telefax: 011-23384891

DRAFT SCHEME ON SKILL DEVELOPMENT FOR BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE BOARDS

1. ELIGIBILITY

- Worker registered with the Board, his/her spouse, and dependent siblings and children.
- No minimum duration of registration with the Board

2. COURSES ELIGIBLE

- Vocational / skill development courses offered in any sector/trade/ stream, of duration of 1 month and more, and up to 3 years
- Courses run by Government training providers /organizations leading to the award of a certificate / diploma / degree issued by the Government or a body authorized by it would be eligible provided such courses lead to wage employment of a significant proportion of trainees post completion of training
- Courses run by private / non-government training providers would be eligible provided at least 70% of trainees are able to get wage employment upon completion of course

3. TYPE OF ASSISTANCE

3.1 Assistance may be provided as per-trainee costs to the beneficiary or the training provider.

- The per-trainee costs may include the tuition or course fee, mobilization and monitoring costs, examination/certification fees, purchase of books and tool kits, boarding/lodging costs, compensation for loss of daily wages for the duration of the training, may be in the form of stipend or otherwise, and any other reasonable expenditure found necessary for conducting the training.
- Channels through which per trainee assistance may be given may include:
 - o Payment of per trainee cost to the training provider, selected by the Board or any other government department/agency including the State Skill Mission
 - o Payment of per trainee cost to the trainee as scholarship to attend courses approved by the Board or any Government department/agency. For this purpose, the BOCW Welfare Board would have an approved list of government/private/NGO training providers where eligible beneficiaries can take admission and seek financial assistance from the Board under this scheme
- Courses for which part funding is available through other Government programs/schemes will be eligible for assistance for the gap between funding and training cost

3.2 Assistance may also be provided for setting up / improving training capacities

- The assistance may be in the form of a grant for setting-up or up-gradation of training and boarding/lodging infrastructure, purchase or repairing of equipment for training, set up or up-gradation of monitoring and tracking

infrastructure, select administrative costs and any other reasonable expenditure found necessary for setting up / improving training capacity.

- The assistance may be given to institutions under the control of Government Ministries/ Departments/ Agencies/ Corporations / Societies etc, upon receipt of specific proposal aimed at training a large number of registered beneficiaries or his/her eligible dependents

4. SCALE OF ASSISTANCE

4.1 Assistance for per-trainee costs

- Per trainee costs may vary depending upon the type of course, duration, likely placement and salary levels. However, the training providers shall ensure that a linkage between the cost incurred in the training and the subsequent salary being earned by the skilled person is as per the table below:

Minimum Salary per month	Course Fee relative to salary (excluding boarding and lodging)
Rs 5,000 to Rs 8,000	3x
Rs 8,001 to Rs 10,000	3.5x
Above Rs 10,001	4x

- o In addition, assistance for boarding and lodging up to Rs. 150 per day may be allowed.

4.2 Assistance for setting up / improving training capacity

- The scale of assistance to be decided by the Board on a case-to-case basis
- Each such proposal shall target training of at least 500 registered workers or their eligible dependents per year for a period of at least 3 years