

THE ANDHRA PRADESH INDUSTRIAL WORKERS (REPRESENTATION,  
PARTICIPATION IN MANAGEMENT AND RELIEF) ACT, 1998

ACT No. 24 OF 1998

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THE ANDHRA PRADESH INDUSTRIAL WORKERS  
(REPRESENTATION, PARTICIPATION IN MANAGEMENT  
AND RELIEF) ACT, 1998

ACT No.24 OF 1998

[20<sup>th</sup> June, 1998]

AN ACT TO PROVIDE FOR RECOGNISATION TO TRADE UNIONS WITH A VIEW TO FACILITATING COLLECTIVE BARGAINING AND PROVIDE FOR PARTICIPATION OF WORKERS IN MANAGEMENT OF INDUSTRIAL ESTABLISHMENTS, PROTECTION OF WORKS, CONSTITUTION OF CONTINGENCY FUND TO PROVIDE RELIEF TO THE WORKMEN AFFECTED BY CLOSURE OF INDUSTRIAL ESTABLISHMENTS DUE TO SICKNESS OR OTHERWISE AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

Whereas it is considered expedient to provide statutory recognition to the unions in Industrial establishment so as to facilitate collective bargaining and to promote better relations between employees and employer;

And whereas, it is felt necessary to give effect to the concept of workers participation in the management of industrial establishments enshrined in article 43-A of the Constitution of India as one of the Directive Principles of State Policy;

And whereas it is considered that promotion of participation of workers in the management would contribute to harmonious industrial relations and serve to protect workers interests in industry;

And whereas, it is considered essential constitute and industrial workers Contingency Fund to provide relief to workers affected by unauthorised closures, temporary or permanent, of industrial establishment due to sickness or other-wise and to provide for their sustenance;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty ninth Year of the Republic of India, as follows:-

CHAPTER - I  
PRELIMINARY

1. Short title, extent application and commencement - (1) This Act may be called the Andhra Pradesh Industrial Workers (Representation, Participation in Management and Relief) Act, 1998.

(2) It shall extend to the whole of the State of Andhra Pradesh.

(3) It shall apply to all industrial establishments and units situated in the State of Andhra Pradesh.

(4) It shall come into force on such date as the Government, may by notification appoint and they may appoint different dates for different provisions or different chapters.

2. Definitions - (1) In this Act, unless, the context otherwise, requires,-

(i) 'affected workman' means a workman who has worked for a period of ninety days within a period of one hundred and eighty days proceeding the date of closure of a closed industrial establishment;

(ii) 'authority' means the authority appointed under sub-section (1) of section 23;

(iii) 'appellate authority' means, the authority appointed under sub-section (2) of section 23;

(iv) 'Board' means the board constituted under section 42;

(v) 'Closed Industrial Establishment' means an establishment wherein cessation or suspension of operation by way of lockout or otherwise, other than an authorised closure under section 25-O of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), continues for a period of sixty days, and includes lockout continued despite prohibitory orders:

Provided that an industrial establishment in which cessation or suspension of operations take place due to a lockout declared consent on a strike contrary to the provisions of the Industrial Dispute Act, 1947 (Central Act 14 of 1947), shall not be deemed to be a closed industrial establishment for the purposes of this Act;

(vi) 'Contingency Fund' means the Andhra Pradesh Industrial Workers' Contingency Fund constituted under section 38;

(vii) 'Craft Union' means a union registered under the (Central Act XIV of 1947) Trade Unions Act, 1926 but whose activities are restricted to a category of the workmen employed in the industrial establishment;

(viii) 'election authority' means the election authority appointed under section 7 of this Act;

(ix) 'employer' means the owner, or person having charge of, or ultimate control over the affairs of an industrial establishment and includes the Director, Manager, Agent or any other person managing the affairs of an industrial establishment;

(x) 'enterprise council' means a council constituted under section 24, at the level of industrial establishment;

(xi) 'factory council' means a council constituted under section 24 at the level of the Factory;

(xii) 'Government' means the State Government of Andhra Pradesh;

(xiii) 'Inspector' means an Inspector appointed under section 55;

(xiv) 'Establishment or Industrial establishment' means an establishment; and its one or more units in which an industry as defined in clause (j) of section 2 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) is carried on; or any other establishment as the Government may, by notification, declare as such, for the purposes of this Act, but does not include those industries to which the Central Government is the appropriate Government under the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(xv) 'notification' means a notification published in the Andhra Pradesh Gazette; and the word 'notified' shall be construed accordingly;

(xvi) 'prescribed' means prescribed by rules made by the Government under this Act;

(xvii) 'recognised union' means a union which has been recognised under Chapter II of this Act;

(xviii) 'shop council' means a council constituted under section 24

of this Act at the shop floor level;

(xix) 'union' means a Trade Union registered under the Trade Unions Act, 1926 (Central Act XVI of 1926);

(xx) 'unit' means a unit of the industrial establishment as determined under section 5;

(xxi) 'Workman' means any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express, or implied, but does not include any such persons:

(i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957, or

(ii) who is employed in the police service or as an officer or employee of a prison; or

(iii) who, is employed mainly managerial or administrative capacity; or

(vi) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem, or exercises, either by the nature of duties attached to the office, or by reason of the powers vested in him functions mainly of a managerial nature.

(2) The words and expressions used but not defined in this Act shall have the same meaning assigned to them in the,-

(i) Trade Unions Act, 1926 (Central Act XVI of 1926;

(ii) Industrial Disputes Act, 1947 (Central Act 14 of 1947).

## CHAPTER - II RECOGNITION OF UNIONS

3. Levels of recognised unions- (1) Except in respect of establishments specified in the First Schedule to this Act, the recognised union shall be at the level of an industrial establishment.

(2) In every establishment specified in the First Schedule to this Act, there shall be a recognised union for the industrial establishment and also a recognised union for each industrial unit thereof.

4. Power to amend First Schedule - The Government in consultation with the Chief Election Authority, may by notification add to, alter or amend the First Schedule from time to time.

5. Determination of industrial units - (1) The units of an establishment specified in the First Schedule shall be determined by the election authority in consultation with the employers and the unions in such industrial establishment.

(2) An appeal against the decision of the election authority under sub-section (1) shall lie within such time as may be prescribed, to the Chief Election Authority who shall, after giving reasonable opportunity to all concerned, decide such appeal, and whose decision thereon shall be final and binding.

(3) The units determined either under sub-section (1), or under sub-section (2) shall not be altered for a period of five years.

6. Chief Election Authority - The Commissioner of Labour shall be the Chief Election Authority for the purposes of this Act.

7. Election Authorities - (1) The Chief election authority may appoint such number of officers as he considers necessary to be the election authorities for such areas or, establishments or units, as the case may be, for the purposes of this Act.

(2) The election authority, on such appointment may appoint such number of persons under their control to assist the election authorities to discharge their duties and perform their functions.

8. Powers of election authority - (1) The Chief Election Authority and the election authorities appointed under section 7, shall be competent to enquire into any matter which in their opinion is relevant in performing their functions under this Act.

(2) For the purpose of sub-section (1), the Chief Election Authority or the election authority is competent to require any person who, in his opinion, is able to furnish relevant information or produce relevant documents, to furnish any such information or produce any such document.

(3) For the purpose of any such enquiry, the Chief election authority or the election authority shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof, from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) such other matters as may be prescribed.

9. Registrar - The Chief Election Authority may specify by order such registers and records, in such form as he may specify to be maintained for the purposes of this Act.

10. Returns - Every recognised union shall submit such returns, in such form, to the election authority or such other officer as may be specified by order by the Chief Election Authority.

11. Existing Recognised Unions - Notwithstanding anything contained in this Act, a union which has been recognised under Code of Discipline as on the date of the commencement of this Act, shall be deemed to be a recognised union and shall continue as such till the expiry of two years from the date of recognition and thereafter shall continue in accordance with the provisions of this Act.

12. Application for recognition - (1) Where, in any establishment or unit more than one eligible unions are functioning, any of such unions may apply to the election authority to be considered as a recognised union for such an establishment, or unit or for both as the case may be.

(2) An eligible union whose operations do not extend to the whole of the establishment but are restricted to one, or more units thereof, shall be entitled to apply for recognition only for such unit or units.

(3) On receipt of such application, the election authority shall address all the eligible unions in the establishment or units inviting objections to be filed, if any within such period as may be prescribed:

(4) If no objections are received, the election authority shall grant to the applicant union a certificate of recognition for the establishment, or unit or for both as the case may be.

(5) Where objections are received by the election authority, the election authority shall determine the recognised union by holding elections.

Explanation:- For the purpose of this section, eligible union means a union:-

(i) which has been functioning for not less than one year from the date of its registration; and

(ii) which is not a craft union.

13. Manner of election - The election for the purpose of granting recognition shall be held by secret ballot and in such manner as may be prescribed.

14. Eligible voters - (1) For the purpose of election, the following workmen shall constitute the eligible voters namely:-

(i) all permanent workmen; and

(ii) all such casual or temporary or badli, workmen or contract labour who worked in the establishment for not less than two hundred and forty days within a continuous period of three hundred sixty and five days, preceding the date of application under sub-section (1) of section 12:

Provided that such of these contract labour who have been exclusively engaged by the industrial establishment in the essential, economic activity of such establishment alone shall be eligible to vote:

Provided further that such of those contract labour who are engaged in building construction activities, cleaning operations, or in such activities other than the essential economic activity of an industrial establishment shall not be eligible to vote.

(2) If any doubt arises whether activity is an essential economic activity or not, it shall be referred to the Commissioner of Labour whose decision thereon shall be final.

Explanation:- For the purpose of this section, the expressions "permanent workmen, casual workmen, Temporary workmen and badli workmen", shall have the same meaning as assigned under the Model Standing Orders prescribed under rule 3 of the Andhra Pradesh Industrial Employment (Standing Orders) Rules, 1953 under the First Schedule to the Industrial Employment (Standing Orders) Act, 1946 (Central Act 20 of 1946). The term contract labour shall have the same meaning as assigned to it under the Contract Labour (Regulation and Abolition) Act, 1970

(Central Act 37 of 1970).

15. Declaration of results - (1) The election authority shall declare the results of the election in such form as may be prescribed.

(2) The election authority shall, soon after the declaration of the results, grant a certificate of recognition to such of the unions which secured the maximum number of votes polled.

(3) The election authority shall communicate to the employer concerned, the results of the election and the names of the recognised union.

16 Recognition In case of single union - (1) Wherein an establishment or unit only one union is registered, it may apply in the prescribed form to the election authority for recognition.

(2) On receipt of such application, the election authority shall grant a certificate of recognition to such union in the form prescribed:

Provided that such certificate shall not be granted unless such union:-

- (i) is the only union registered;
- (ii) enjoys a membership of not less than fifteen percent of the eligible voters in the establishment or the unit as the case may be;
- (iii) has its operations extending over the establishment or the unit as the case may be; and
- (iv) is not a craft union.

(2) The election authority shall communicate to the employer concerned the name of the recognised union.

17. Appeal - (1) An appeal against the results declared under sub-section (1) of section 15 of grant or certificate of recognition under sub-section (2) of section 16 shall lie within such time as may be prescribed, to the Chief Election Authority or to such officer as he may, by general or special order specify, who shall after giving reasonable opportunity to all concerned decided such appeal within the prescribed period and whose decisions thereon shall be final and binding.

(2) During the pendency of an appeal under sub-section (1), the recognised union shall continue to function as such, but it shall not enter into any agreement with the employer, unless specifically so authorised by the Commissioner of Labour.

18. Term of recognised union (1) The term of a recognised union shall be for a period of two years from the date of grant of certificate of recognition; and shall continue thereafter till such time an application is made under section 12 and till the recognised union is determined afresh:

Provided that where a union is granted recognition by a decision on an appeal filed under section 17, the term of such recognised union, shall be reckoned from the date of issue of such order.

(2) No application made by any union, shall be entertained by the election authority during the period of two years from the date of grant of certificate of recognition; or from the date of order of the appellate authority, as the case may be.



19. Rights of Union - (1) Every recognised union shall have such rights as specified in the Second Schedule to this Act.

(2) Every union other than the recognised union shall have such rights as specified in the Third Schedule to this Act.

20. Obligations of employers - Every employer of an establishment shall abide by such obligation as specified in the Fourth Schedule to this Act.

21. Interpretation of provisions - If any doubt arises as the interpretation of any or all of the provisions specified in the Second, Third and Fourth Schedules to this Act, the same shall be referred to the Commissioner of Labour, whose decision thereon shall be final.

### CHAPTER-III WORKERS PARTICIPATION IN MANAGEMENT

22. Application - (1) The provisions of this chapter shall apply to every establishment in which fifty or more workmen are employed on any day of the proceeding twelve months.

(2) The establishment to which the provisions of this chapter apply, shall continue to be governed by the provisions of this chapter not withstanding that number of workmen employed therein falls below fifty.

23. Authorities - (1) The Government may, by notification appoint such officers as they consider necessary to be the authorities for the purpose of constituting the councils under section 24 or for the purpose of specifying Board Level participation under section 36.

(2) The Government may, by notification appoint an appellate authority to hear and dispose of appeals under sub-section (3).

(3) An appeal against the order of the authority under sub-section (1) shall lie, within such time as may be prescribed, to the appellate authority who shall within the prescribed period, pass an order; and whose decision thereon shall be final and binding.

24. Constitution of councils - (1) It shall be lawful for the authority appointed under sub-section (1) of section 23 to constitute in any establishment, any or all of the following councils namely; shop council, factory council and enterprise council to give effect to workers participation in management at shop floor level, factory level and establishment level respectively:

Provided that the number of shop councils in a factory shall not exceed ten in number.

(2) The councils constituted by the authority under sub-section (1) shall commence functioning within forty five days from the date of orders of the authority. The employer and the union, or unions empowered under section 26 shall nominate, under intimation to each other and to the authority, their representatives to the membership as well as to the office of the Chairman or Co-Chairman. Such nomination shall be made within a period of thirty days from the date of orders of the authority.

(3) Where an employer, or union or unions fail to nominate their representatives within the period stipulated the authority shall be competent to nominate such persons as he deems fit to represent the employer or the workmen in regard to membership as well as to the office of Chairman or Co-Chairman.

25. Membership of the Councils - (1) The membership of the shop council shall be five percent of the total workmen employed in the concerned shop or twelve, whichever is less. The membership of the factory council and enterprise council shall be ten percent of the total workmen employed in the factory or the establishment, as the case may be, or twenty whichever is less.

Explanation:- For the purpose of this sub-section where the calculation by percentage does not result in even number, the membership of such council shall be determined at the immediate next even number.

(2) The membership in every council shall be in equal proportion between the representatives of the workmen and those of the employer.

(3) The nomination of members to the factory council by employers as well as unions, shall be so made that every Chairman or Co-Chairman of a shop council is a member of the factory council. Similarly, the nomination to the enterprise council shall be so made that the Chairman or Co-Chairman of the factory council is a member of the enterprise council.

(4) (a) The membership of the shop council shall be restricted to workmen and, so far as the employers, representatives are concerned, the employees, other than workmen, connected with the concerned shop floor.

(b) The representation of workmen in the factory council shall be restricted to the workmen and not more than two office bearers of the union who are non-workmen. The representation of employer shall be through employees of the factory who are non-workmen.

(c) The representation of the workmen in the enterprise council shall be restricted to (i) workmen (ii) office bearers; not more than two in number. The employer will be entitled to nominate not more than two outside experts.

26. Power to nominate - (1) The management or its representative, duly authorised in this behalf, may nominate its representatives to the respective councils.

(2) The representatives of the workmen shall be nominated by the recognised union:

Provided that in the establishments specified in the First Schedule, the workmen's representatives for the shop council and factory council shall be nominated by the recognised union at the unit level.

(3) Where unions other than the recognised union possesses membership of not less than twenty percent of the total number of eligible voters, than the representatives of workmen to the shop, factory and enterprise council shall be nominated by the recognised union as well as such other minority union in proportion of their respective membership.

Explanation:- (i) For the purpose of sub-section (3), the strength in the establishment shall be the basis for nomination to enterprise council.

(ii) For nomination to factory council and shop councils, the strength in the establishment shall be the basis in respect of establishments other than those specified in the First Schedule. In respect of establishments specified in the First Schedule, the strength at the industrial unit level shall be the basis for nomination to factory councils and shop councils.

27. Term of members of Councils - (1) The term of office of the members of the shop council, factory council and enterprise council shall be for a period of two years from the date of constitution of such council:

Provided that the members of the council shall continue to hold the office till a new council is reconstituted.

(2) A member of the council nominated to fill up a casual vacancy shall hold office for the remaining period of the term of office.

(3) A member whose term of office is completed is eligible for renomination.

28. Resignation of membership to the Councils - A member of the council after giving a notice of fifteen days to the Chairman, may resign his membership which shall take effect from the date of acceptance of the resignation or on the expiry of thirty days from the date of giving such notice.

29. Cessation of membership of Councils - If a member of a council fails to attend three consecutive meetings of the council, he shall cease to be a member of such council. However, the council may, on the request made in writing by such member, by resolution restore his membership.

30. Nomination and term of Chairman and Co-Chairman -

(1) There shall be a Chairman and a Co-Chairman to each council. The Chairman and Co-Chairman shall be from among the representatives of the workmen and the management. They shall hold such offices for a period of six months and at the end of such period the Chairman and the Co-Chairman shall exchange their respective offices.

(2) The employer, or his representative, duly authorised in this behalf, may nominate the employers representative to the post of Chairman or Co-Chairman. The recognised union shall have right to nominate its representative to the post of Chairman or Co-Chairman.

Explanation:- In respect of establishments specified in the First Schedule, the recognised union means the recognised union at the established level for enterprise councils and the recognised union at the unit level for factory council and shop council.

(3) The workers, representative will be the first Chairman of each council.

(4) The nomination, either by the employer or the recognised union to the post of Chairman, or Co-Chairman shall not be altered for period of not less than one year.

31. Powers and functions of the Chairman - (1) The Chairman shall preside over the meetings of the council and shall cause the minutes of such meetings to be recorded in such manner as may be prescribed. He shall keep the records relating to the proceedings of the meetings in his custody. He shall furnish a copy of the proceeding recorded at each meeting to the Chairman of the factory council or enterprise council or to the Chief, Executive or Managing Director, as the case may be, within the prescribed period.

(2) In the absence of the Chairman for a period not exceeding one week, the Co-Chairman shall preside over meetings, if any, and shall cause the minutes to be recorded. If the absence of Chairman exceeds one week, the Co-Chairman shall discharge all the functions of the Chairman.

### 32. Resignation of Chairman and Co-Chairman –

The Chairman or the Co-Chairman may tender his resignation by a letter addressed to the Co-Chairman or the Chairman as the case may be. Such resignation shall be considered in the council and the council may, by a resolution recorded for the purpose accept such resignation. The resignation tendered shall take effect from the date of such resolution or on expiry of thirty days from the date of tendering resignation, whichever is earlier.

### 33. Filling up of casual vacancy in the office of Chairman or Co-Chairman –

During the casual vacancy in the office of Chairman or the Co-Chairman, it shall be filled by nomination of another person, who shall hold office for the residual period of the term at his predecessor.

34. Meetings of the Councils - (1) The Chairman shall hold the meetings of the council as frequently as he thinks necessary, so however, that at least one meeting shall be held in every calendar month.

(2) The Chairman shall fix the date, time and place of every meeting and shall send notice in writing along with the list of business to be transacted at the meeting to each member at least three days before the date fixed for such meeting.

(3) No business shall be transacted at any meeting of the council unless one-third of the total number of members are present and also unless at least one member each representing the workmen and the employer is present.

(4) The matters for shop councils, factory councils and enterprise councils shall be as provided under the Fifth Schedule to this Act.

(5) The decisions shall be taken by majority of members present and voting. In the event of equality of votes, the Chairman shall have a casting vote. The decision so taken shall be recorded as resolutions of the council.

(6) The proceedings of each meeting shall be confirmed in the next meeting with or without modifications, as may be considered necessary.

(7) The management shall provide necessary facilities for holding the meetings of the council and shall treat the time spent by the members of the council in such meetings as on duty.

35. Resolutions of enterprise Councils - The resolutions of the enterprise council shall be placed before the Board of Directors by the Secretary or the Chief Executive of the Board. The Board of Directors shall discuss the same at its next meeting and take appropriate decisions.

36. Participation at Board Level - (1) The authority appointed under sub-section (1) section 23 is competent to specify, by an order in writing, the establishments wherein workers participation shall be introduced at the level of the Board of Directors. For this purpose, the authority shall determine the number of workmen Directors, which shall not be less than twenty-five percent of strength of the Board of Directors.

(2) The representation of workmen in the Board shall be through direct election from among the eligible voters of the establishment. The workmen and the office-bearers of the unions operating in that establishment shall be eligible to contest elections.

(3) The election specified under sub-section (2) shall be conducted by the election authority. The election shall be by secret ballot and in such manner as may be prescribed.

(4) An appeal against the result of elections conducted under sub-section (3) shall lie, within such time as may be prescribed, to the Chief Election Authority or such other officer as he may, by general or special order, specify and whose decision thereon shall be final and binding.

#### CHAPTER - IV PROTECTION OF WORKERS' INTERESTS IN CLOSED ESTABLISHMENTS

37. Application - (1) The provision of this chapter shall apply to every establishment in which hundred or more workmen are employed on any day of the preceding twelve months:

Provided that the Government may, after giving not less than one months' notice of its intention so to do, by notification, apply the provisions of this chapter to any establishment, employing such number of workmen, less than hundred, as may be specified in the notification.

(2) An establishment to which the provisions of this chapter apply, shall continue to be governed by the provisions of this chapter notwithstanding that the number of persons employed therein falls below the number specified under sub-section (1).

38. Fund - The Government shall, with effect from such date as may be notified, constitute a fund called the "Industrial Workers' Contingency Fund".

39. Contribution to the Fund - Every workmen of an establishment shall contribute every year to the fund such sum, as the Government may prescribe, which shall not be less than one percent of the minimum wages in force for the General Engineering Industry. Every employer shall, in respect of each such workman, contribute a sum equivalent to two times the workman's contribution to the fund. It shall be the duty of the employer to remit in such manner, as may be prescribed, the employers contribution together with the contribution of the workmen to such authority as the Government may notify in this behalf.

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40. Deduction - Notwithstanding anything contained in any other law for the time being in force, the employer shall be entitled to deduct the Workman's contribution from his wages in such manner, as may be prescribed and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act 1936 (Central Act 4 of 1936).

41. Recovery - Any sum payable to the Fund under this Act, shall, without prejudice to any other mode of recovery be recoverable as arrears of land revenue under the Andhra Pradesh Revenue Recovery Act, 1864 (Act II of 1864).

42. Constitution of the State Board - (1) The Government shall, by notification, constitute a Board for the whole of the State to be called the Andhra Pradesh Industrial Workers' Contingency Fund Board, for the purpose of administering the fund and to carry out such other functions, as are assigned to the Board by, or under this Act.

(2) The Board shall be a body corporate by the name of the Andhra Pradesh Industrial Workers' Contingency Fund Board having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.

43. Members of the Board and term - (1) The Board shall consist of such of members as may be prescribed from each of the following categories, namely:-

- (a) representatives of employers and employees in equal proportion, to be nominated by the Government.
- (b) independent members, to be nominated by the Government as follows:-

(i) Minister for Labour:- Chairman;

(ii) Commissioner of Labour:- Ex-Officio;

(iii) The Secretary to Government, Finance and Planning (Finance Wing) Department:- Ex-Officio;

(iv) the Secretary to Government, Industries Department:- Ex-Officio;

(2) An officer of the Labour Department, not below the rank of a Deputy Commissioner of Labour shall discharge the functions of Secretary to the Board.

(3) Save as otherwise expressly provided in this Act, the term of office of the members of the Board shall be, as may be prescribed in this behalf.

44. Allowance - The allowance if any, payable to the non-official members of the Board and the conditions of nomination of the representations of the employers and employees shall be such as may be prescribed.

45. Disqualification and removal - (1) No person shall be nominated or continued to be a member of the Board who-

(a) is an official, drawing salary from the Board;

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

(c) is found to be of unsound mind;

(d) is or has been convicted by a criminal court for an offence involving moral turpitude, unless such condition has been set aside; or

(e) is in arrears of any sum due to the Board.

(2) The 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:

Provided that before taking action under this sub-section, the member concerned shall be given an opportunity to make a representation against the action proposed.

46. Resignation - (1) A member may resign his office by giving notice of his intention thereof in writing to the Government; and on the acceptance of his resignation, he shall be deemed to have vacated his office as such member.

(2) A casual vacancy in the office of a member shall be filled by nomination of another person from the concerned category and the member so nominated shall hold office for the residue period of the term of the office of his predecessor.

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

47. Grants and loans - Government may, from time to time, make grants and advance loans to the Board to the extent of the Fund available for the purposes of this Act, on such terms and conditions as the Government may, in each case, determine.

48. Vesting of Fund - Subject to the provisions of this Act, the Fund shall vest in and be held and applied by the Board as trustees for the purposes of this Act.

49. Application of Fund - Without prejudice to the generality of the provisions of section 48, the Fund shall be utilised by the Board, which may,-

(a) grant to the affected workmen such sums as the Board may decide; and such sums shall not be less than the minimum wages in force for the General Engineering Industry;

(b) contribute towards the share capital for the formation of an Industrial Workers Co-operative Society;

(c) grant such other financial assistance to the Industrial Workers Co-operative Societies; or

(d) take such measures as the Board may consider necessary for promoting the welfare of affected workmen.

50. Borrowings - Subject to the provisions of this Act, the Board may from time to time, with the previous sanction of the Government, and subject to such conditions as may be specified by the Government in this behalf, borrow sums required for the purpose of this Act.

51. Directions by the Government - The Government may from time to time, give to the Board such directions as in their opinion are necessary or expedient for incurring the expenditure from the Fund or for carrying out the purposes of this Act and it shall be the duty of the Board to comply

without fail all such directions.

52. Assistance to affected workmen - (1) Government may, by notification, appoint such officers as they deem fit to maintain the list of affected workman.

(2) It shall be lawful for the Government to direct the Employment Exchange to sponsor the names of affected to workmen on priority basis.

(3) The Government may notify such other schemes as they consider necessary for providing assistance to the affected workmen.

53. Audit of accounts - (1) The accounts of the Board shall be audited by such persons as may be appointed by the Government and any expenditure incurred in connection with such audit shall be payable by the Board to the Government.

(2) The person so appointed and any other person so authorised by him in connection with such audit of accounts of the Board shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers of the Board.

(3) The accounts of the Board certified by the person so appointed or any other person authorised in this behalf together with the audit report thereon shall be forwarded annually to the Government.

#### CHAPTER - V MISCELLANEOUS

54. Act not to apply to certain classes of employers - Nothing in this Act shall apply to,-

- (a) the Indian Red Cross Society, or to any other such institutions of a like nature;
- (b) Universities and other Educational Institutions;
- (c) Religious and Charitable Institutions; and
- (d) such other industrial establishments as the Government may by notification specify for purposes of all or any of the provision of this Act.

55. Appointment of inspectors - The Government may by notification, appoint such persons as they think fit to be Inspector's for the purpose of this Act and may specify the limit within which they shall exercise jurisdiction.

56. Duties of Inspectors - An Inspector appointed under section 55 for the purpose of ascertaining whether any of the provisions of this Act have been violated, may-

- (a) require an employer or union to furnish such information as he may consider necessary;
- (b) at any reasonable time and with such assistance as he may consider necessary, enter the place of any industrial establishment a unit, or any premises connected therewith and require any person found to be in charge thereof to produce, before him for examination of any accounts, books registers and other documents relating to the employment of workmen or the payment of wages in such establishment;



(c) examine the employer, his agent, or servant or any other person found in charge of the industry or any premises connected therewith, or any person whom the Inspector has reason to believe to be or to have been a workman in such establishment in discharging his duties.

(d) make copies of, or take extracts from, any book, register or other document maintained in relation to such establishments; and

(e) exercise such other powers as may be prescribed in this behalf.

57. Furnishing of records etc - Any person required to produce any book, register, or other document or to give information by an inspector under section 56 shall comply with such requirement.

58. Maintenance of records - Every employer shall prepare and maintain such registers, records and other documents in such form and in such manner as may be prescribed.

59. Power to amend Schedules - The State Government may, if it is of the opinion that it is expedient or necessary in public interest, so to do by notification in the Official Gazette, add to or alter or amend the Schedule and on any such notification being issued, the Schedule shall be deemed to have been amended accordingly.

60. Provisions not to override other laws - Save as otherwise expressly provided in this Act, the provisions of this Act shall be in addition to and not, in derogation of any other law for the time being in force relating to any establishment.

61. Bar of Jurisdiction- No order passed or proceedings taken under the provisions of this Act shall be called in question in any Court, in any suit, or application; and no injunction shall be granted by any Court in respect of any action taken or about to be taken in pursuance of any power conferred by or under this Act.

62. Officers to be Public Servants - All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

63. Protection of Action taken in good faith - No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

64. Penalties - Whoever contravenes any of the provisions of this Act shall be punishable with a fine of five hundred rupees or more which may extend to five thousand rupees or with imprisonment for a term which may extend to six months, or with both.

65. Cognizance of offences - No court shall take cognizance of any offence punishable under this Act, save on a complaint made by or under the authority of the Government.

66. Trial of offences - 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.

67. Power to remove difficulties - If any difficulty arises in giving effect to the provisions of this Act, the Government may by notification in the Andhra Pradesh Gazette, do anything not inconsistent with such provisions which appears to them to be expedient or necessary for the purpose of removing the difficulty.

68. Power to review the implementation of the provisions - The Government may, from time to time, review the implementation of the provisions of this Act, in such manner, as they deem fit, and for this purpose they may constitute a Committee consisting of such persons as they consider necessary.

69. Power to make rules - (1) The Government may make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

FIRST SCHEDULE  
(See section 3)

NAME OF THE INDUSTRIAL ESTABLISHMENT

1. ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION.
2. ANDHRA PRADESH STATE ELECTRICITY BOARD.
3. MEDICAL & HEALTH DEPARTMENT.
4. ANDHRA PRADESH DAIRY DEVELOPMENT CO-OPERATIVE FEDERATION LIMITED.
5. GOVERNMENT PRINTING PRESS.
6. MUNICIPAL CORPORATION OF HYDERABAD.
7. HYDERABAD METROPOLITAN WATER WORKS.

SECOND SCHEDULE  
[ See section 19 (1) ]

A. RIGHTS OF A RECOGNISED UNION AT THE INDUSTRIAL ESTABLISHMENT LEVEL:-

The Union which has been conferred the status of a Recognition Union in respect of an Industrial establishment shall have the right,—

(i) to raise issues and enter into collective agreements with employer on general matters concerning the terms of employment and conditions service of workmen in an industrial establishment;

Provided however, that the Recognised Union shall not be entitled to either raise a demand or to enter into an agreement with the employer if an eligible union has duly made an application under sub-section (1) of section 12 of the Act;

(ii) to collect membership fees/subscriptions payable by members to the union within the premises of the industrial establishment;

(iii) to put up a Notice Board on the premises of the industrial establishment in which its members are employed and affix or cause to be affixed thereon notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, indecent or inflammatory or subversive to discipline;

(iv) to hold discussions with the workers who are members of the union at a suitable place or places within the premises of the industrial establishment after consulting the employer;

(v) to discuss with the employer or any person appointed by him for the purpose in respect of the grievances of its members employed in the industrial establishment;

(vi) to inspect by prior arrangement with the employer any place of the industrial establishment where any member of the union is employed;

(vii) to nominate its representatives on the Works Committees constituted under section 3 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(viii) to nominate its representatives on shop councils, factory councils/enterprises councils of the industrial establishment, provided that in respect of industrial establishment listed in Schedule-I to this Act the union shall nominate its representatives only to the Enterprise Councils;

(ix) to nominate its representatives on other statutory Committee, if any, to be set up in the industrial establishment;

(x) to appear on behalf of the workman or workmen in any domestic/departmental enquiry held by the employer;

(xi) to obtain from the employer information on any matter connected with the conditions of employment of the workmen therein:

Provided that the rights referred to in this Schedule would be without prejudice to any additional privileges being enjoyed, by Recognised Union at present either by award, agreement or by usage.

#### B. RIGHTS AND PRIVILEGES OF RECOGNISED UNIONS FOR THE INDUSTRIAL UNIT OF AN INDUSTRIAL ESTABLISHMENT.

In the industrial establishments listed in First Schedule to this Act, the union which has been conferred the status of Recognised Union for an Industrial Unit shall have all the right specified in item (i) to (x) above, subject to the following conditions,-

(i) in respect of raising demands and entering into agreements with the employer, it shall confine itself to matters which are not of general interest having effect on all the workmen of the industrial establishment; for example wages, bonus allowances;

(ii) The Recognised Union shall not be entitled to nominate representatives to the Enterprise Council.

#### **THIRD SCHEDULE** **[ See section 19(2) ]**

#### RIGHTS AND PRIVILEGES OF UNIONS OTHER THAN UNIONS RECOGNISED OPERATING IN THE INDUSTRIAL ESTABLISHMENT.

The unions other than Recognised Unions operating in the industrial establishment have the right,-

(i) to discuss with the employer or any person appointed by him in that behalf, the individual grievances of workmen, who are its members, in respect of the matters relating to discharge, removal retrenchment, termination of service and other disciplinary matters;

(ii) to appeal on behalf of any of its members in any domestic or departmental enquiry held by the employer;

(iii) to nominate its representatives on the shop council, factory council/enterprise council in terms of provisions contained in sub-section (2) of section 27 of the Act.

#### **FOURTH SCHEDULE** **( See section 20 )**

#### OBLIGATIONS OF EMPLOYERS:-

The employer of an industrial establishment, Industrial Unit shall,-

1. provide to the unions other than the Recognised Unions with copies of any settlement arrived at with the Recognised Union under section 12(3), 18 (1) of the Industrial Disputes Act, 1947 an application made to him.

2. allow the Recognised Union to inspect any place of the industrial establishment where any of its member is employed.
3. discuss and negotiate with the Recognised Union all matters relating to conditions of service of the workmen on representation made to him.
4. provide information to the Recognised Union on any matter effecting the conditions of employment of workmen.
5. inform all the unions in the industrial establishment in the event of losses for consecutive period of three months.
6. discuss with the worker's representatives in the enterprise council causes of such losses and the remedial steps taken.
7. give advance intimation to the enterprise council and factory council of the proposal to apply to the Competent Authority for retrenchment of workers/closures of industrial establishment or any activity; thereof, to enable consideration by the council of possible alternative measures.

#### FIFTH SCHEDULE [See section 34 (4)]

##### A. MATTERS FOR SHOP COUNCILS

- (i) Production facilities at the shop level.
- (ii) Storage facilities at the shop level.
- (iii) Material economy.
- (iv) Operation problems.
- (v) Wastage control.
- (vi) Hazards.
- (vii) Safety problem.
- (viii) Quality improvement.
- (ix) Cleanliness.
- (x) Month targets and Production Schedules.
- (xi) Cost reduction programmes.
- (xii) Welfare measures related particularly to the Shop.

##### B. MATTERS FOR FACTORY COUNCIL

Operational areas:-

- (i) Evolution of productivity schemes taking into account the local conditions.
- (ii) Planning, implementation.
- (iii) Review of monthly targets and schedules.
- (iv) Materials supply and its short fall.
- (v) Storage and inventories.
- (vi) House-keeping.
- (vii) Improvements in productivity in general and in critical areas in particular.
- (viii) Quality and technological improvements.
- (ix) Machine utilisation, Knowledge and development of new products.

- (x) Operational performance figures.
- (xi) Matters not resolved in the shop council or concerning more than one shop.
- (x) Review of the working of the shop council.

Personnel Matters:-

- (i) Absenteeism.
- (ii) Initiation and supervision of worker's training programme.
- (iii) Administration of special security schemes.

Welfare areas:-

- (i) Operational details.
- (ii) Implementation of Welfare Schemes.
- (iii) Medical benefits and transport facilities.
- (iv) Safety measures.
- (v) Sports and games.
- (vi) Housing.
- (vii) Township administration, Canteen etc.,
- (viii) Review of social education programmes.

Environmental areas:-

- (i) Extension activities and community development projects.
- (ii) Pollution control.

**A. MATTERS FOR ENTERPRISE COUNCIL**

Economic and financial areas:

- (i) Profit and loss statements, balance sheets.
- (ii) Review of operating expenses, financial results, cost of sales.
- (iii) Plant performance in financial terms, labour and managerial costs, market conditions etc.
- (iv) Matters not resolved in the factory council.
- (v) Review of working of factory council.

Note:- Where there is no separate factory council the matters for the factory council will go before the enterprise council.

RAJGOPAL,  
Secretary to Government I/C,  
Legislative Affairs & Justice  
Law Department.