

**The Bill Proposed by National Commission for
Enterprises in the Unorganised Sector 2005,
which was discussed at Indian Labour Conference,
December 2005**

**UNORGANISED SECTOR WORKERS
(CONDITIONS OF WORK & LIVELIHOOD PROMOTION) BILL, 2005**

The Bill Proposed by National Commission for Enterprises in the Unorganised Sector 2005, which was discussed at Indian Labour Conference, December 2005

UNORGANISED SECTOR WORKERS (CONDITIONS OF WORK & LIVELIHOOD PROMOTION) BILL, 2005.

Statement of objects and reasons

Chapter I PRELIMINARY

1. Short title, extent, commencement and application
2. Definitions
3. Rules of evidence

Part-1

Chapter II CONDITIONS OF WORK TO BE ENSURED FOR THE UNORGANISED SECTOR WAGE WORKER

PART A: Agricultural

4. Conditions of work of the unorganised sector wage worker (agricultural)

PART B: Non- Agricultural

5. Conditions of work of the unorganised sector wage worker (non-agricultural)

Chapter III DISPUTE RESOLUTION BODIES AND THEIR CONSTITUTION

6. Resolution of Disputes
7. Reference of disputes
8. Contravention of provisions regarding employment of unorganised sector workers

Part-2

Chapter IV PROTECTION AND PROMOTION OF LIVELIHOOD OF SELF EMPLOYED WORK- ERS IN THE UNORGANISED SECTOR

9. Measures for protection and promotion of livelihood of Self employed workers

Part-3

Chapter V STATE ADVISORY COMMITTEE

10. Constitution
11. Functions of the State Advisory Committee
12. Composition of the State Advisory Committee
13. Duration

Chapter VI MISCELLANEOUS

14. Power to make Rules
15. Savings

Statement of objects and reasons

The unorganised sector of the Indian economy, accounting for more than 90 per cent of employment covers a variety of employments. The workers in this sector may be broadly divided into self-employed and wage workers. This Bill is intended to provide minimum conditions of work, protection and promotion of livelihoods and a mechanism for dispute resolution. Both the agricultural and non agricultural unorganised sector workers are covered under this bill.

UNORGANISED SECTOR WORKERS (CONDITIONS OF WORK & LIVELIHOOD PROMOTION) BILL, 2005.

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

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

Chapter I PRELIMINARY

1. Short title, extent and commencement and application

- (1) The Act may be called Unorganised Sector Workers (Conditions of Work & Livelihood Promotion) Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Definitions

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

- a) **“Agriculture”** would include the following occupations:
- (i) Farming, including the cultivation and tillage of soil etc;
 - (ii) Dairy farming;
 - (iii) Production, cultivation, growing and harvesting of any horticultural commodity;
 - (iv) Raising of livestock, bee-keeping or poultry;
 - (v) Fishing and/ or fish farming;
 - (vi) Any practice performed on a farm as incidental to, or in conjunction with, the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products);
 - (vii) Growing fodder or thatching grass or for grazing cattle.
- b) **“Child”** means a person who has not completed 15 years of age;
- c) **“Employer”** means a natural or juridical person, or an association of such persons, by whom any unorganised sector worker is engaged or employed either directly or otherwise, for any remuneration;
- d) **“Government”** means either Central Government, or State Government, or Union Territory administration;
- e) **“Home based worker”** means a person involved in the production of goods or services for an employer in his / her own home or other premises of his / her choice other than the work place of the employer for remuneration irrespective of whether or not the employer provides the equipment, materials or other inputs;
- f) **“Self employed worker”** means any person who is not employed by an employer, but directly engages himself / herself in any occupation in the unorganised sector, subject to a monthly earning of Rs.5,000/- or such limits as may be notified from time to time, or, subject to such ceiling on land cultivated as may be notified from time to time by the State Government;
- g) **“Unorganised sector”** means all private unincorporated enterprises including own-account enterprises engaged in agriculture, industry, trade and/or business;
- h) **“Unorganised sector workers”** means a self employed worker or a wage worker;
- i) **“Wage worker”** means a person employed for a remuneration in the unorganised sector, directly by an employer or through any agency or contractor or under putting out system, whether exclusively for one employer or for one or more employers, whether simultaneously or otherwise, whether in cash and/or in kind, whether as a home based worker, or as a temporary or casual worker, or as a migrant worker, or as a outworker, or, workers employed by households including domestic workers, with a monthly wage of not more than Rs 5000/- or such limits as may be notified from time to time but does not include an unpaid family worker.

3. Rules of evidence

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

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

Part -1
Chapter II
CONDITIONS OF WORK TO BE ENSURED FOR THE UNORGANISED SECTOR
WAGE WORKER

PART-A: Agricultural

4. Conditions of work of the unorganised sector wage worker (agricultural)

The State Government shall ensure to every unorganised sector wage worker (agricultural), the following conditions of work:

- a) No employer shall employ any unorganised sector wage worker (agricultural), in contravention of the following Acts:
 - (i) Bonded Labour System (Abolition) Act, 1976;
 - (ii) Child Labour (Prohibition and Regulation) Act, 1986;
 - (iii) The Employment of Manual scavengers and Construction of Dry Latrines (Prohibition) Act, 1993; and
 - (iv) Minimum Wages Act, 1948.
- b) The normal hours of work shall be limited to eight hours a day beyond which a worker shall be appropriately compensated;
Provided that nothing contained in this section shall be deemed to prohibit an agreement between the employer and the wage workers engaged in agriculture for working for less than eight hours on any particular day or days or on all days of employment or to affect any custom or practice prevailing in the locality under which the wage worker engaged in agriculture is required to work for less than eight hours.
- c) Where the wages are determined by a piece rate system, the earnings of a worker working diligently for 8 hours should be at least equal to the time rated minimum wages fixed for that category of work in the state concerned;
- d) All unorganised sector workers (agricultural), shall have the right to organise for collective bargaining;
- e) No employer shall discriminate against any unorganised sector wage worker (agricultural), on the grounds of sex, caste, religion, place of origin in the payment of wages and conditions of work as laid down in this Act;
- f) Every employer shall provide the unorganised sector wage worker (agricultural), with adequate safety equipment while handling hazardous substances and equipments;
- g) The employer shall ensure that there is no sexual harassment at the workplace;
- h) An employer engaged in agriculture shall give preference in employment to an unorganised sector wage worker (agricultural), who has worked on the same land during the previous agricultural season;

PART-B: Non-Agricultural

5. Conditions of work of the unorganised sector wage worker (non-agricultural)

The State Government shall ensure to every unorganised sector wage worker (non-agricultural), the follow-

ing conditions of work:

- a) No employer shall employ any unorganised sector wage worker (non-agricultural), in contravention of the following Acts:
 - (i) Bonded Labour System (Abolition) Act, 1976;
 - (ii) Child Labour (Prohibition and Regulation) Act, 1986;
 - (iii) The Employment of Manual scavengers and Construction of Dry Latrines (Prohibition) Act, 1993; and
 - (iv) Minimum Wages Act, 1948.
- b) The normal hours of work shall be limited to eight hours a day beyond which a worker shall be appropriately compensated;
- c) Where the wages are determined by a piece rate system, the earnings of a worker working diligently for 8 hours should be at least equal to the time rated minimum wages fixed for that category of work in the state concerned;
- d) All unorganised sector workers (non-agricultural), shall have the right to organise for collective bargaining;
- e) No employer shall discriminate against any unorganised sector wage worker (non-agricultural), on the grounds of sex, caste, religion, place of origin in the payment of wages and conditions of work as laid down in this Act;
- f) Every employer shall provide the unorganised sector wage worker (non-agricultural), with adequate safety equipment while handling hazardous substances and equipments;
- g) The employer shall ensure that there is no sexual harassment at the workplace;

Chapter III

DISPUTE RESOLUTION BODIES AND THEIR CONSTITUTION

6. Resolution of Disputes

The State Government shall constitute at least one Dispute Resolution Council in each district for resolution of disputes relating to the non observance of provisions of this Act arising amongst the unorganised sector wage workers and employers.

7. Reference of disputes

1. Any unorganised sector wage worker or employer, or, organisation representing such worker may raise a dispute relating to the non-observance of conditions of work as specified in this Act by filing a complaint before the Dispute Resolution Council in the manner prescribed by the State Government.
2. Upon reference of such dispute, the Dispute Resolution Council shall at the first instance proceed to arrive at a conciliated settlement to the satisfaction of both parties. Upon failure of such conciliation proceedings, the Dispute Resolution Council shall adjudicate on the matter as expeditiously as possible.
3. Where the dispute pertains to any matter covered by any other existing law, the Dispute Resolution Council shall forward the complaint to the appropriate authority created under the relevant Act for adjudication and such reference shall be treated as a valid complaint under such Act.
4. The Dispute Resolution Council shall have the same powers as are vested in a civil court under

the Code of Civil Procedure, 1908 (of 1908).

8. Contravention of provisions regarding employment of unorganised sector workers

Whoever contravenes any provisions of this Act or the rules made thereunder, other than those made punishable under any other law, regarding the employment of unorganised sector workers, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and in case of continuing contravention, with additional fine which may extend upto one hundred rupees for every day during which such contravention continues. The Dispute Resolution Council shall be authorised to give the fine so collected either in whole or in part to the aggrieved party.

Part-2

Chapter IV

PROTECTION AND PROMOTION OF LIVELIHOOD OF SELF EMPLOYED WORKERS IN THE UNORGANISED SECTOR

9. Measures for protection and promotion of livelihood of Self employed workers:

The appropriate State Government shall seek to safeguard and promote the livelihood of the self employed workers in the unorganised sector through the following measures:

- (i) Provision of credit, adequate raw material (input) supply and adequate marketing facilities for the goods and services produced;
- (ii) Ensuring access to Banking Institutions, in the State or co-operative Sector and / or such appropriate arrangement for the purpose of affordable credit facilities;
- (iii) Ensuring the right to livelihood including the right over common properties and natural resources in the following manner:
 - a) Ensuring the traditional rights of all types of unorganised sector workers having traditional access to common property resources for their livelihood ;
 - b) Ensuring the right of unorganised sector workers to share public space to engage in economic activities;
- (iv) Ensuring that city plans and rural development plans pay adequate regard to the concerns of self employed workers such as street vendors, and protection and promotion of their livelihood;
- (v) Encourage the promotion of associations of self employed workers with a view to articulation of their problems and such organisation would have standing to raise grievance before the State Advisory Committee.

Part-3

Chapter V

STATE ADVISORY COMMITTEE

10. Constitution

A State Advisory Committee shall be constituted by every State Govt. or Govt of the Union Territory for self employed as well as wage worker in the unorganised sector.

11. Functions of the State Advisory Committee

Every State Advisory Committee shall have the following functions:

- (i) to advise the Government regarding the promotion of gainful employment opportunities for unorganised sector workers;
- (ii) to advise and develop plans for the promotion of livelihood options available for self employed workers in the unorganised sector;
- (iii) to identify skill and training requirements for both self employed workers and wage workers in the unorganised sector and to advise the government accordingly;
- (iv) collect, compile and publish statistics with the help of statistical organisation regarding the unorganised sector and the possibilities and challenges facing the unorganised sector in terms of employment opportunities;
- (v) to assess and advise the government on the credit requirements and banking needs of this sector;
- (vi) to carry out periodic surveys on the condition of work in the unorganised sector and to make suitable recommendations to the government; and
- (vii) to encourage the promotion of labour cooperation to secure gainful employment and dignified conditions of work;
- (viii) To hold public hearings to entertain petitions submitted by the unorganised sector workers and to explain the efforts made to address the grievances of unorganised sector workers.

12. Composition of the State Advisory Committee

A State Advisory Committee shall consist of the Minister of Labour who shall be Chairperson and the Secretary, Ministry of Labour who shall be the Member-Secretary. In addition the Committee shall consist of the following:

- (i) Four representatives of unions of unorganised sector wage workers;
- (ii) Four representatives of organisations of self employed workers in the unorganised sector;
- (iii) One representative each from the Ministries of Agriculture, Labour, Industry, Banking, Panchayats, Rural development and Health of the State Government ; and
- (iv) Appropriate number of experts in the area of skill formation, finance, marketing, technology and natural resource management.

13. Duration

The tenure of the members shall be for a period of three years. The State Advisory Committee shall meet as often as required but not less than twice a year.

Chapter VI MISCELLANEOUS

14. Power to make Rules

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

15. Savings

This law will not affect the functioning of any other State or Central Acts providing for substantially similar or superior benefits to the unorganised sector workers.