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2nd Session 1971-72



National Apprenticeship Act, No. 49 of 1971

Date of Assent : November 3, 1971

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National Apprenticeship Act, No. 49 of 1971

L. D.—O. 18/71.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL APPRENTICESHIP BOARD AND AN APPRENTICESHIP FUND, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: November 3, 1971]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the National Apprenticeship Act, No. 49 of 1971.

Short title.

2. For the purposes of this Act, the Minister may, by Order published in the *Gazette*, divide apprentices into such different categories as may be specified in the Order, and the expression "category" or "categories" wherever it appears in any context relating to apprentices in the succeeding provisions of this Act shall be read and construed subject to the preceding provisions of this section.

Division of apprentices into categories.

3. (1) The succeeding provisions of this Act shall not apply to any category of apprentices until the Minister, by Order published in the *Gazette*, declares that such provisions shall so apply to that category. Such Order shall come into force on the date of such publication, or on such later date as may be specified therein.

Application of succeeding provisions of this Act.

(2) So long as an Order is in force under subsection (1) in respect of any category of apprentices the succeeding provisions of this Act shall apply to that category, and accordingly the expression "categories" or "category" wherever it appears in any context relating to apprentices in the succeeding provisions of this Act shall be read and construed subject to the preceding provisions of this section.

PART I

THE NATIONAL APPRENTICESHIP BOARD

4. (1) With effect from such date as may be appointed by the Minister by Order published in the *Gazette*, there shall be established a Board which shall

Establishment of the National Apprenticeship Board.

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be called the National Apprenticeship Board (hereinafter referred to as "the Board") and which shall consist of the persons who are for the time being members of the Board under this Part.

(2) The Board shall by the name assigned to it by sub-section (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

General
objects of the
Board.

5. (1) Subject to the provisions of sub-section (2), the general objects of the Board shall be—

(a) to formulate, implement and supervise a scheme of training to cover each category of apprentices;

(b) to establish apprenticeship standards in relation to such training, to determine the periods of training for each category of apprentices and the numbers, nature and content or the type and level of training to be undergone by each such category;

(c) to determine the trade tests to be undergone by each category of apprentices and their proficiency, and to issue certificates to those who qualify;

(d) to determine, in consultation with the Minister, the amount of allowances payable to each category of apprentices;

(e) to determine the hours and conditions of work, leave entitlements, holidays, and other conditions to be observed by each category of apprentices; and

(f) to do all such other acts or things as are necessary for, or incidental to, the attainment of the objects herein before mentioned.

(2) The Board shall carry out its objects in accordance with the provisions of this Act and the regulations made thereunder.

Powers of the
Board.

6. The Board may exercise all or any of the following powers:—

(a) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any immovable or movable property;

- (b) to provide financial assistance, welfare and recreational facilities, houses, hostels and other like accommodation for the persons employed by or serving the Board;
- (c) to construct, manufacture, purchase, maintain and repair anything required for attaining the objects of the Board;
- (d) to make and recover charges for any services rendered, or facilities or equipment provided, by the Board;
- (e) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Board, all such contracts or agreements as may be necessary for the exercise of the powers of the Board;
- (f) to train, or assist financially the training of, persons to do work which is connected with the attainment of the objects of the Board;
- (g) subject to the provisions of this Act, to make rules in respect of the administration of the affairs of the Board; and
- (h) to do all such other things which, in the opinion of the Board, are necessary to facilitate the proper carrying out of its objects or the performance of its duties.

7. (1) It shall be the duty of the Board—

Duties of the Board.

- (a) to render as far as possible, such services as are contemplated by the objects of the Board for the benefit of the Government, or any agency or Department of Government, or any local authority, or any Government-Sponsored Corporation, or any establishment which is or is to be carried on in Ceylon ;
- (b) to advise the Minister on all matters relating to the training of apprentices, either of its own motion or at the request of the Minister; and
- (c) to take all such measures as may be necessary for the attainment of its objects.

(2) Nothing in the preceding provisions of this section shall be construed as imposing on the Board, either directly or indirectly, any form of duty or

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liability enforceable by proceedings before any court, or tribunal to which the Board would not otherwise be subject.

Power of the Minister in relation to the Board.

8. (1) The Minister may, from time to time, give directions to the Board in regard to the general policy on apprenticeship training, the terms and conditions of work of apprentices and such other matters as he may deem appropriate.

(2) The Minister shall, in issuing directions under sub-section (1) with regard to any matter affecting the subjects or functions assigned to any other Minister, act in consultation with that Minister.

(3) The Board shall comply with any directions issued to it by the Minister under sub-section (1).

Constitution of the Board.

9. (1) The Board shall consist of the following members:—

- (a) the Director of Apprenticeship;
- (b) the prescribed number of members representing employers in private establishments;
- (c) the prescribed number of members representing employers in public establishments;
- (d) the prescribed number of members representing trade unions;
- (e) the prescribed number of members representing the Ministries and Government departments concerned with the subjects or functions of education, training, labour, industry and agriculture;
- (f) the prescribed number of members representing persons having special knowledge or experience of matters relating to training, labour or industry.

(2) All representative members of the Board shall be appointed by the Minister.

(3) A person shall be disqualified for being appointed, or for continuing, as a representative member of the Board, if he is or becomes a Member of Parliament.

Chairman and Vice-Chairman of the Board.

10. (1) The Director of Apprenticeship shall be the Chairman of the Board.

(2) The members of the Board shall from amongst their number elect the Vice-Chairman of the Board.

11. Every representative member of the Board shall, unless he earlier vacates office by death, resignation or removal, hold office for the prescribed period.

Term of office of the representative members of the Board.

12. (1) The Minister may, if he considers it expedient so to do, remove, by Order published in the *Gazette*, any representative member of the Board without reason stated.

Power of the Minister to remove from office a representative member of the Board.

(2) A representative member of the Board in respect of whom an Order under sub-section (1) is made by the Minister shall vacate his office on the date of the publication of such Order in the *Gazette*.

(3) The removal of any representative member of the Board under sub-section (1) shall not be called in question in any court.

13. A representative member of the Board may at any time resign his office by letter addressed to the Minister.

Resignation of representative members.

14. (1) If a representative member of the Board dies or resigns or is removed from office, the Minister may, having due regard to the preceding provisions of this Part, appoint any other person to be a representative member in place of the member who dies or resigns or is removed from office.

Casual vacancies among representative members.

(2) A representative member appointed under sub-section (1) shall, unless he earlier resigns or vacates office by death or removal, hold office for the unexpired part of the term of office of the representative member whom he succeeds.

15. Where a representative member of the Board is by reason of illness, infirmity or absence from Ceylon, temporarily unable to perform the duties of his office, the Minister may, having due regard to the preceding provisions of this Part, appoint another person to act in his place.

Temporary appointments of representative members of the Board.

16. Any representative member of the Board who vacates office, other than a member who is removed from office under section 12, shall be eligible for reappointment.

Eligibility of representative members for reappointment.

Acts or proceedings of the Board deemed not to be invalid by reason of any vacancy, or defect in the appointment, of a member.

Application of the seal of the Board.

Reimbursement of expenses of representative members of the Board.

Meetings of the Board.

The Board deemed to be a scheduled institution within the meaning of the Bribery Act.

17. No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members or defect in the appointment of any member thereof.

18. (1) The seal of the Board shall be in the custody of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The application of the seal of the Board shall be authenticated by the signature of the Chairman of the Board, and some other officer of the Board authorized by the Board to authenticate the application of the seal.

19. The representative members of the Board shall not be paid any remuneration, but shall be reimbursed from the funds of the Board for such travelling, hotel and incidental expenses as they may incur for the purpose of attending meetings of the Board or for such other purpose connected with the activities of the Board as may be approved by the Minister.

20. (1) The meetings of the Board shall be held once at least in every two months.

(2) The quorum for any meeting of the Board shall be as prescribed.

(3) The Chairman or in his absence the Vice-Chairman, or in the case of the absence of both, a member chosen by the members present, shall preside at a meeting of the Board.

(4) All questions for decision at any meeting of the Board shall be decided by the vote of the majority of the members present. In case of an equality of votes, the presiding officer shall have a casting vote.

(5) Subject to the preceding provisions of this section, rules may be made under this Act in respect of the meetings of the Board, the procedure to be followed, and the business to be transacted, at such meetings.

21. The Board shall be deemed to be a scheduled institution within the meaning and for the purposes of the Bribery Act, and the provisions of that Act shall be construed accordingly.

22. (1) The Board may establish Committees to assist the Board in the discharge of its functions. The members of any such Committee shall be appointed by the Board from among persons who are or are not members or employees of the Board.

Power of the Board to appoint Committees.

(2) The Board may delegate to any Committee appointed by the Board any of its functions so, however, that such delegation shall not be deemed or construed to preclude the Board from discharging any such function so delegated. The Board may amend or revoke any decision made by such Committee in consequence of such delegation.

(3) The members of any Committee appointed by the Board may receive such remuneration or allowances out of the funds of the Board as the Minister may determine.

PART II

STAFF OF THE BOARD

23. (1) The Minister may appoint any person, by name or by office, to be or to act as the Director of Apprenticeship (in this Act referred to as "the Director"). The Director shall be the Chairman as well as the chief executive officer of the Board and shall be responsible for carrying out the decisions and directions of the Board.

Appointment of Director of Apprenticeship, &c.

(2) The Minister may appoint persons, by name or by office, to be or to act as Deputy or Assistant Directors of Apprenticeship to assist the Director in the performance of his duties.

(3) The Director may delegate any of his powers, functions or duties to any Deputy or Assistant Director of Apprenticeship, and any such power, function or duty, so delegated shall be exercised, discharged or performed by such Deputy or Assistant Director subject to the general or special directions of the Director.

(4) The Board may appoint to the staff of the Board such other officers and servants as the Board may deem necessary.

(5) The Minister may, if he considers it expedient so to do, remove the Director or any Deputy or Assistant Director from office without reason stated. Such removal shall not be called in question in any court.

Remuneration
of Director,
&c.

24. The terms and conditions of service, including his remuneration, of the Director shall be as determined by the Minister.

Appointment
of acting
Director.

25. Whenever the Director is by reason of absence from Ceylon or illness or other infirmity unable to perform the duties of his office, the Minister may appoint some other person to act in his place.

Staff of the
Board.

26. (1) Subject to the other provisions of this Act, the Board may—

- (a) appoint, dismiss and exercise disciplinary control over the staff of the Board;
- (b) fix the wages or salary or other remuneration of such staff;
- (c) determine the terms and conditions of service of such staff;
- (d) establish and regulate a provident fund or scheme for the benefit of such staff and may make contributions towards such fund or scheme.

(2) Rules may be made under this Act in respect of all or any of the matters referred to in sub-section (1).

Appointment
of public
officers to the
staff of the
Board.

27. (1) At the request of the Board any officer in the public service may, with the consent of that officer and of the Permanent Secretary to the Ministry in charge of the Minister to whom the subject of public administration has been assigned, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(2) Where an officer in the public service is temporarily appointed to the staff of the Board—

- (a) he shall be subject to the same disciplinary control as any other member of such staff;
- (b) if, at the time of his temporary appointment to the staff of the Board, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

- (i) he shall, while in the employ of the Board, be deemed to have been absent from duty in the public service on

leave granted without salary on grounds of public policy and accordingly, section 10 (i) of those Minutes shall apply to him; and

(ii) in respect of him, the Board shall pay out of the funds of the Board to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund of Ceylon for every complete month during which he is in the employ of the Board, such sum not exceeding twenty-five *per centum* of the salary payable to him in his substantive post in the public service as may be determined by the Minister of Finance; and

(c) if, at the time of his temporary appointment to the staff of the Board, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the Board shall, for the purposes of that Ordinance, be deemed to be service to the Government, and accordingly he shall, while he is in the employ of the Board, continue to pay to the Public Service Provident Fund such contribution as he was liable under that Ordinance to pay, and in respect of him the Board shall pay at the close of each financial year out of the funds of the Board to the Deputy Secretary to the Treasury to be credited to the officer's account in the Public Service Provident Fund a sum equivalent to such contribution as the Government is liable to pay to the Public Service Provident Fund in respect of him.

(3) Where an officer in the public service is permanently appointed to the staff of the Board—

(a) he shall be deemed to have left the public service;

(b) if, at the time of his permanent appointment to the staff of the Board, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

(i) he shall be eligible for such an award under those Minutes as might have been made to him if he had been

retired from the public service on the ground of ill health on the date of his permanent appointment to the staff of the Board,

- (ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the Board is terminated by retirement on account of age or ill health or by the abolition of the post held by him in the Board or on any other ground approved by the Minister of Finance, and
 - (iii) in the event of his death while in the employ of the Board, such an award as might have been made in respect of him under those Minutes if he had died immediately before his permanent appointment to the staff of the Board may be made in respect of him; and
- (c) if, at the time of his permanent appointment to the staff of the Board, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, he shall, for the purposes of that Ordinance, be deemed to have left the service of the Government upon the determination of contract with the consent of the Government otherwise than by dismissal.

(4) Where the Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Appointment
of Inspectors.

28. (1) The Board may appoint any member of the staff, by name or by office, to be an Inspector for the purposes of this Act.

(2) The powers, functions or duties of an Inspector may be exercised, discharged or performed by the Director so, however, that the provisions of subsection (3) shall not apply to the Director.

(3) Every Inspector shall be furnished with his certificate of appointment as an Inspector by the Board. Such certificate shall be in such form as may

be provided by rules made under this Act, and shall, if so required when within any establishment, be produced by the Inspector to the occupier or person holding a responsible position of management at the establishment.

29. (1) Subject to any rules made in that behalf, an Inspector shall have power to do all or any of the following acts or things, that is to say:—

Powers of
Inspectors.

- (a) to enter, inspect and examine any establishment or part thereof at all reasonable times, by day and night;
- (b) to examine any apprentice employed therein, or to require the production of any register, record or other documents maintained in pursuance of this Act, and to take on the spot or otherwise any statement of any person which he may consider necessary for carrying out the purposes of this Act;
- (c) to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the regulations made thereunder are being observed in the establishment;
- (d) to exercise such other powers as may be prescribed;
- (e) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matter which is being investigated by him, every person whom he finds on the premises of the establishment entered by him by virtue of the aforesaid powers or whom he has reasonable ground for believing to be or to have been employed in such establishment or to be in possession, custody or control of anything referred to in this sub-section;
- (f) to require any person referred to in paragraph (b) to appear before him at a time and place fixed by him, and then and there question that person concerning any matter which is being investigated by him.

(2) The occupier of any establishment, his agents and servants, shall at all times furnish the means or facilities required by an Inspector as are necessary for the purpose of exercising his powers under sub-section (1).

PART III

FINANCE AND ACCOUNTS

Apprenticeship
Fund.

30. (1) There shall be established a Fund called the Apprenticeship Fund, hereinafter referred to as "the Fund".

(2) All training provided by employers under the provisions of this Act shall be financed from the Fund.

(3) The Fund shall be made up of—

(a) such contributions from the Consolidated Fund of Ceylon as may be authorized by any Appropriation Act or by resolution of the House of Representatives so, however, that such contributions shall not be paid or made available to the Board except on such terms, conditions and instalments as may be determined by the Minister of Finance;

(b) all sums paid or recovered as training cess under this Act;

(c) grants or voluntary contributions from other sources; and

(d) borrowings from banks or other sources.

(4) Individual establishments which meet the cost of apprenticeship training assigned to them may, with the approval of the Director, set off such cost against the training cess or claim a refund.

(5) The Fund shall be administered by the Director under the general direction of the Board.

Training
cess to be
levied and paid
in respect of
certain
establishments.

31. (1) There shall be levied and paid for each year a training cess in respect of every establishment employing not less than fifty persons. The rate or amount of such cess shall be as determined from time to time by the Minister by Order published in the *Gazette*.

(2) Any establishment in respect of which the training cess is payable under sub-section (1) is in this Act referred to as an "establishment subject to the cess".

(3) The training cess for any year due in respect of any establishment subject to the cess shall be paid by the proprietor thereof to the Board in the prescribed manner, and before the prescribed date, or before the expiry of the prescribed period, in that year.

(4) Where the training cess for any year due in respect of any establishment subject to the cess is not paid to the Board by the proprietor of that establishment in accordance with sub-section (3), the Board may in its discretion order that a sum not exceeding ten *per centum* of the amount of the cess shall be added to the cess and recovered therewith. Any sum so added to the cess shall be deemed to constitute a part of the cess.

(5) Where the training cess for any year due in respect of any establishment subject to the cess is not paid to the Board by the proprietor of that establishment in accordance with sub-section (3), such cess may be recovered by the Board from such proprietor in like manner as though it were a debt due to the Crown.

32. The Board may, with the concurrence of both the Minister and the Minister of Finance, or in accordance with the terms of any general authority given with like concurrence, borrow, by way of overdraft or otherwise, or negotiate and obtain on credit terms, such sums as the Board may require for meeting the obligations of the Board and exercising, discharging or performing the powers, functions or duties under this Act:

Borrowing
powers of the
Board.

Provided, however, that the aggregate of the amounts outstanding in respect of any loan raised by the Board under this section shall not at any time exceed such amount as may be determined by the Minister with the concurrence of the Minister of Finance.

33. (1) Every apprentice undergoing training shall be paid an apprenticeship allowance from the Fund.

Apprenticeship
allowance.

(2) The Board shall, in consultation with the Minister, determine the amount of allowance to be paid to apprentices. Different allowances may be so

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determined in respect of apprentices having regard to the category to which they belong and their individual educational qualifications and skill.

(3) An apprentice in any establishment—

(a) shall not be entitled to receive any other payment direct from his employer; or

(b) shall not be entitled to be paid on the basis of piece work; or

(c) shall not be entitled to be paid any sum by way of bonus or incentive payable to other workers in that establishment.

Other training costs.

34. The Board shall determine the manner in which, and the extent to which, other training costs incurred by the establishments should be reimbursed from the Fund.

Surplus moneys.

35. All surplus moneys in the Fund which are not required to meet any immediate expenditure incurred or to be incurred by the Board shall be deposited by the Board in the General Treasury on such terms as may be determined by the Minister of Finance.

Board to utilize its moneys.

36. The moneys of the Board may be utilized by the Board for the purpose of carrying out its objects or in the exercise, discharge or performance of its powers, functions or duties under this Act.

Accounts of the Board.

37. The Board shall, in respect of each financial year, cause proper accounts of its income and expenditure and of all its other transactions to be kept, and shall prepare an annual statement of accounts and statistics relating to its business, in such form and containing such particulars as the Minister may determine.

Financial year of the Board.

38. The financial year of the Board shall be the calendar year.

Audit of accounts of the Board.

39. (1) The accounts of the Board in respect of each financial year shall be submitted to the Auditor-General for audit before the lapse of six months from the end of that year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Board, the Auditor-General shall be paid from the funds of the Board such remuneration as the Minister may, with the concurrence of the Minister of Finance, determine. Any remuneration received from the Board by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purposes of such audit, be credited to the Consolidated Fund of Ceylon.

(3) The Auditor-General and any person assisting him in the audit of the accounts of the Board shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Board, or its officers with such information within their knowledge as may be required for such purposes.

(4) For the purposes of this section, the expression "qualified auditor" means—

- (i) an individual who, being a member of the Institute of Chartered Accountants of Ceylon, possesses a certificate to practise as an Accountant issued by the Council of that Institute; or
- (ii) a firm of Chartered Accountants each of the partners of which, being a member of that Institute, possesses a certificate to practise as an Accountant issued by the Council of that Institute.

40. (1) The Auditor-General shall examine the accounts of the Board and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to the House of Representatives in any examination of the activities and accounts of the Board.

(2) The Auditor-General shall transmit his report to the Board together with the audited accounts.

The Auditor
General's
report.

The Auditor-General's report and the report of the annual activities of the Board to be transmitted to the Minister.

41. The Board shall, on the receipt of the audited accounts and the Auditor-General's report each year, transmit such report and such accounts together with the statement by the Board of its activities during the financial year to which such report relates, to the Minister who shall cause copies thereof to be laid before the House of Representatives within twelve months of the close of the financial year of the Board to which the accounts relate.

PART IV

APPRENTICES AND THEIR TRAINING

Qualifications for being engaged as an apprentice.

42. (1) A person shall not be qualified for being engaged as an apprentice of any category—

- (a) if he is under the age of sixteen years;
- (b) if he has attained the age of sixteen years but has not attained the age of eighteen years except with the prior sanction of the Board given in accordance with the succeeding provisions of this section; or
- (c) unless he satisfies the prescribed standards of education and physical fitness applicable in the case of that category.

(2) The Board shall not grant its sanction to the engagement of a person as an apprentice of any category under paragraph (b) of sub-section (1) unless the requirements of that category of apprentices make it necessary that apprentices should be recruited under the age of eighteen years.

(3) Different standards of education and physical fitness may be prescribed in respect of different categories of apprentices.

Contract of apprenticeship.

43. (1) No person shall be engaged as an apprentice unless—

- (a) a contract of apprenticeship has been signed by or on behalf of the apprentice and his employer; and
- (b) the contract has been registered with the Director.

(2) Every contract of apprenticeship may contain such terms and conditions as may be determined by the Board so, however, that such terms and conditions shall not be inconsistent with the provisions of this Act or the regulations made thereunder.

(3) The Board may determine from time to time the allowances and conditions of work and training of apprentices.

(4) Subject to the provisions of section 42, a person who is a minor may be engaged as an apprentice only if a contract of apprenticeship has been signed on his behalf by his parent or guardian with his employer.

44. (1) The contract of apprenticeship training of any apprentice shall specify the period of such training. The period so specified shall be determined by reference to the succeeding provisions of this section.

Period of
apprenticeship
training.

(2) Save as otherwise expressly provided by sub-section (3), the period of apprenticeship training of any category of apprentices shall be such period as shall be prescribed in respect of that category.

(3) Where any apprentice has undergone institutional training in a school recognized by the Board and has passed the prescribed trade tests conducted by the proper authorities, the period of apprenticeship training of that apprentice shall be such period as shall be determined by the Board.

(4) Different periods of apprenticeship training may be prescribed or determined under the preceding provisions of this section in respect of different categories of apprentices.

45. (1) A contract of apprenticeship shall terminate on the expiration of the period specified therein.

Termination of
contract of
apprenticeship.

(2) Before a contract of apprenticeship terminates by the effluxion of time, either party to such contract may apply in writing to the Director for a termination of such contract.

(3) Upon the receipt of an application for the termination of a contract of apprenticeship made by a party to the contract under sub-section (2), the Director—

(a) shall give notice of such application to the other party to the contract; and

(b) shall, after giving each party to the contract an opportunity of being heard, make order either dismissing the application, or allowing the application and terminating the contract.

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(4) No order shall be made by the Director under sub-section (3) allowing an application for the termination of a contract of apprenticeship unless he is satisfied—

- (a) that it is desirable to do so in the interests of any or each party to the contract; or
- (b) that any or each party to the contract has failed to carry out the terms and conditions of the contract.

(5) Where the Director makes an order under this section allowing an application for the termination of a contract of apprenticeship on the ground that any one party to the contract has failed to carry out the terms and conditions of the contract, then,—

- (a) if such party is the employer of the apprentice to whom the contract relates, such employer shall pay to that apprentice such compensation as may be determined by the Director; or
- (b) if such party is that apprentice, he shall refund to such employer as the costs of training such amount as may be determined by the Director; or
- (c) if such party is not satisfied with the decision of the Director, he may appeal to the Board.

Number of apprentices and their selection.

46. (1) The Board shall determine the number of apprentices of each category to be trained, and shall give general directions regarding the selection of establishments where the apprenticeship training shall be provided and the method of selection of such apprentices.

(2) The Director shall, in accordance with the directions of the Board, require employers to take the specified number of apprentices within the prescribed period.

(3) In determining the number of apprentices to be trained in each establishment, the Director shall have regard to the facilities and resources already available in the establishment for such training, training programmes being undertaken by the establishment as well as the facilities and resources that may have to be made available for the efficient conduct of such training.

(4) The employer shall comply with any requisition made by the Director under the preceding provisions of this section.

(5) Several employers may join together for the purpose of providing apprenticeship training.

(6) Any employer, who is not satisfied with the decision of the Director under sub-section (2) or sub-section (3), may make a reference to the Board for a review of the decision. The Board, after considering the facts and opinions available, shall decide the reference. The decision of the Board shall be final.

47. (1) The Board shall give general directions regarding the nature and extent of training to be undergone by apprentices.

Practical
training of
apprentices.

(2) Subject to the general directions of the Board, the Director shall draw up training programmes for the different categories of apprentices.

(3) Every employer shall make suitable arrangements in his establishment for the practical training of all apprentices under his charge in accordance with the training programme prescribed or approved by the Director.

(4) Every employer shall give all reasonable facilities to the Director for the inspection, supervision and testing of the work being done by apprentices so as to ensure that the training is being given in accordance with the approved programme.

(5) (a) If, in the opinion of the Board, it is necessary to supplement the practical training of any apprentice with either institutional training or any related instruction, the Board may make the necessary arrangements for such training or instruction in a school or institution recognized by the Board.

(b) In the case of apprentices who have passed trade tests conducted by the proper authority, after having undergone institutional training, related instruction may be given on such reduced or modified scale as may be considered appropriate by the Board.

(6) The Board may determine the appropriate tests to be undergone by an apprentice so as to make a decision on his proficiency in the trade, vocation or profession in which he has served his apprenticeship, and may issue an appropriate certificate of proficiency to such apprentice.

Obligations of employers.

48. Without prejudice to the other provisions of this Act, it shall be the duty of every employer of any apprentice—

- (a) to provide that apprentice with the training suitable to the category of apprentices to which he belongs, in accordance with the provisions of this Act and the regulations made thereunder;
- (b) to ensure that a duly qualified person is placed in charge of the training of that apprentice, if the employer is not himself so qualified; and
- (c) to discharge all his obligations under the contract of apprenticeship.

Obligations of apprentices.

49. It shall be the duty of every apprentice undergoing training—

- (a) to attend both practical and instructional classes in accordance with the approved training programme and to endeavour to qualify in the particular trade, vocation or profession in which he is being trained;
- (b) to carry out all lawful orders of his employer and supervisors in the establishment in which he is being trained; and
- (c) to discharge his obligations under the contract of apprenticeship.

Conditions of work.

50. (1) The hours of work of an apprentice shall be as determined by the Board.

(2) An apprentice shall not be required to work overtime except with the approval of the Director. The Director shall not grant such approval unless he is satisfied that such overtime work is in the interest of the training of the apprentice.

(3) An apprentice shall be entitled to such leave as may be prescribed and such holidays as are observed in the establishment in which he is undergoing training.

(4) The provisions of the Factories Ordinance relating to health and safety of workers shall apply to all apprentices undergoing training in factories.

(5) The provisions of the Workmen's Compensation Ordinance relating to compensation to be paid to workers on account of injury or death by accident shall apply to all apprentices.

(6) The provisions of the Employees' Provident Fund Act, No. 15 of 1958, relating to the payment of provident fund shall apply to all apprentices covered by this Act.

51. (1) Save as otherwise expressly provided by this Act, an apprentice undergoing training under the provisions of this Act shall be a trainee and not a worker, and the provisions of any law relating to workers shall not apply to an apprentice.

Conduct and discipline.

(2) In all matters of conduct and discipline, an apprentice shall be governed by the internal rules and regulations of the establishment in which he is undergoing training.

PART V GENERAL

52. The Minister may by Order, with the concurrence of the Minister for the time being in charge of the subject of Crown lands, transfer to the Board any Crown land or building, and any Crown land or building so transferred shall, with effect from the date of the Order, vest in and be the property of the Board.

Crown lands and buildings.

53. (1) The Board shall be exempt from the payment of any stamp duty on any instrument executed by, or on behalf of, or in favour of, the Board.

Exemption from duties.

(2) The Board shall be exempt from the payment of any customs or excise duty on any goods imported or purchased out of bond by the Board, if the Minister in consultation with the Minister of Finance, approves such exemption.

54. (1) If any employer—

Offences.

(a) engages as an apprentice a person who is not qualified for being so engaged; or
(b) fails to carry out the terms and conditions of a contract of apprenticeship; or
(c) contravenes the provisions of this Act, relating to the number of apprentices which he is required to engage under such provisions, such employer shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding

one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

(2) If any employer or any other person—

(a) required to furnish any information or return—

(i) refuses or neglects to furnish such information or return; or

(ii) furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true; or

(iii) refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished by him; or

(b) refuses or wilfully neglects to afford the Director or any other officer duly authorized any reasonable facility for making any entry, inspection, examination or inquiry authorized by or under this Act; or

(c) requires an apprentice to work overtime without the approval of the Director; or

(d) employs an apprentice on any work which is not connected with his training; or

(e) makes payment to an apprentice on the basis of piece work; or

(f) requires an apprentice to take part in any output bonus or incentive scheme; or

(g) demands or accepts any payment or benefit in respect of an apprentice or prospective apprentice in connection with his apprenticeship; or

(h) falsely holds out to be an Inspector; or

- (i) makes any relevant statement to an Inspector which is false in any material particular and which he knows to be false; or
- (j) refuses or fails to comply with any lawful direction given by an Inspector; or
- (k) hinders or obstructs an Inspector in the exercise of his powers or duties; or
- (l) fails to comply with any request under section 31,

such employer or other person shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

55. Where an offence under this Act is committed by a body of persons, then,—

Offences by bodies of persons.

- (a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence, and
- (b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence.

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

56. Any person guilty of an offence under this Act, for which no other punishment is expressly provided in this Act, shall, on conviction, after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees.

General penalty.

57. 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 under this Act.

Protection for action taken in good faith.

58. Any person who induces or procures any party to a contract of apprenticeship to commit a contravention of this Act or who otherwise incites, instigates, aids or abets such contravention shall be guilty of an offence under this Act.

Binding effect of contract.

This Act to have precedence over other written law.

59. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

Rules.

60. The Board may make rules in respect of all matters for which rules are required or authorized to be made. No such rule shall come into operation until it has been approved by the Minister.

Regulations.

61. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act, and in respect of matters for which regulations are authorized or required by this Act to be made, or are required to be prescribed.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Any person who contravenes the provisions of any regulation made under this Act shall be guilty of an offence under this Act.

Protection for action taken under this Act or on the direction of the Board.

62. (1) No suit or prosecution shall lie—

(a) against the Board for any act which in good faith is done or purported to be done by the Board under this Act; or

(b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the funds of the Board, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the funds of the Board.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of sub-section (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, unless such expense is recovered by him in such suit or prosecution.

63. No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

No writ to issue against person or property of a member of the Board.

64. All officers and servants of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Board deemed to be public servants.

65. (1) Every employer shall maintain records of the progress of training of each apprentice undergoing apprenticeship training in his establishment in such form as may be prescribed.

Records and returns.

(2) Every employer shall furnish to the Board such information and returns in respect of apprentices undergoing training in his establishment in such form and at such intervals as may be prescribed.

66. The Board shall maintain such records as are necessary in such form as may be prescribed.

Records to be maintained by the Board.

67. In this Act, unless the context otherwise requires—

Interpretation.

“ agency of the Government ” means any body, corporate or unincorporate, acting on behalf of the Government;

“ apprentice ” means any person of either sex who is undergoing apprenticeship training under a contract of apprenticeship entered into under this Act;

“ employer ” means any person who employs any other person to do work in any establishment for remuneration, and includes any person responsible for the supervision and control of employees in such establishment;

“ establishment ” means any place where any industry, trade, business or profession is carried on;

“ Government-Sponsored Corporation ” has the same meaning as in the Government-Sponsored Corporations Act;

“ local authority ” means any Municipal Council, Urban Council, Town Council or Village Council;

“ member ” means a member of the Board;

“ representative member ” means a member of any class or description referred to in paragraphs (b) to (f) of sub-section (1) of section 9.