

**THE MADHYA PRADESH SHRAM KALYAN NIDHI ADHINIYAM,
1982**

Contents

CHAPTER I	4
PRELIMINARY.....	4
1. Short title, extent and commencement.....	4
2. Definitions	4
CHAPTER II.....	6
CONSTITUTION OF A FUND AND THE BOARD	6
3. Labour Welfare Fund	6
4. Constitution of Board and allowances payable to the members.....	6
5. Disqualification and removal	7
6. Resignation of office by member and filling up of casual vacancies.....	7
7. Power to appoint Committees	8
CHAPTER III.....	8
VESTING AND APPLICATION OF FUND	8
8. Unpaid accumulations and claims thereto	8
9. Contribution.....	9
10. Interest on unpaid accumulations or fine on the notice of demand	11
11. Vesting and application of fund	11
12. Power of Board to borrow	12
13. [Investment of Fund.....	12
14. Audit and Accounts	12
14-A. [Annual report of the Board.....	12
14-B. Report of activities by employers.....	13
14-C. Delegation of powers of the Board.....	13
14-D. [Consolidated forms to maintain registers and records and furnishing of report and returns by employers.....	13
CHAPTER IV.....	13
APPOINTMENT OF OFFICERS AND STAFF	13
15. Welfare Commissioner, Additional or Deputy Welfare Commissioners.....	13
16. Appointment of Inspectors	14
17. [Appointment of Officers and other staff	14
18. Deputation of Government Servants	14
19. Power to impose punishment.....	14
20. Service Conditions.....	14
21. Limitation on expenditure.....	14

CHAPTER V.....	15
MISCELLANEOUS	15
22. Power to call for records.....	15
23. Directions by the State Government to Board.....	15
24. [Mode of recovery of sum payable to the Board.....	15
25. Supersession of Board.....	15
26. Members etc. to be public servant	16
27. Protection to persons acting in good faith.....	16
28. [.....	16
29. Amendment of Central Act, No. 4 of 1936.....	16
30. Vesting of certain properties.....	16
31. Penalty for obstructing inspector in discharge of inspector's duties or for failure to produce documents etc.	16
32. Provisions relating to jurisdiction.....	17
33. Power to make rules	17
33-A. [Power to make regulations.....	18
34. Power to resolve difficulties.....	18

THE MADHYA PRADESH SHRAM KALYAN NIDHI ADHINIYAM, 1982¹

(No. 36 of 1983)

[Received the assent of the President on the 6th November 1983; assent first published in the Madhya Pradesh Gazette (Extraordinary), dated the 18th November, 1983.]

As amended by M.P. Act 11 of 1996, w.e.f. 28.6.1996, and M.P. Act 39 of 1997, with retrospective effect from 28.6.1996.

An Act to provide for the constitution of a Fund for the financing of activities to promote the welfare of labour in the State of Madhya Pradesh, for conducting such activities and for matters ancillary thereto.

Be it enacted by the Madhya Pradesh Legislature in the Thirty Third Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement

- (1) This Act may be called the Madhya Pradesh Shram Kalyan Nidhi Adhiniyam, 1982.
- (2) It extends to the whole of the State of Madhya Pradesh.
- (3) It shall come into force on such date or dates as the State Government may, by notification, appoint and different dates may be appointed for different areas and for different establishments or classes of establishments.

2. Definitions

In this Act, unless the context otherwise requires,

- (1) "Board" means the Madhya Pradesh Labour Welfare Board constituted under section 4;
- (2) "Contribution" means the sum of money payable to the Board in accordance with the provisions of Section 9;
- (3) "Employee" means any person who is employed for hire on reward to do any skilled, semi-skilled or un-skilled, manual, clerical, supervisory, or technical work in an establishment but does not include any person,
 - (a) who is employed mainly in a managerial or administrative capacity; or
 - (b) who, being employed in a supervisory capacity draws wages exceeding ²[ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office, or by reason of the powers vested in him, functions mainly of a managerial nature;
- (4) "Employer" means any person who employs either directly or through another person either on behalf of himself or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes,

- (i) in relation to a factory any person named under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (No. 63 of 1948).
 - (ii) in relation to any establishment carried on by or under the authority of the State Government the person or authority appointed by the State Government for supervision and control of employees, or where no, person or authority has been so appointed, the Head of the Department;
 - (iii) in any other case, the person, who, or the authority which has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;
- (5) "Establishment" means,
- (i) a factory; or
 - (ii) any establishment which carries on any business or trade or any work in connection with or ancillary thereto;
- which employs or has employed on any working day during the preceding twelve months more than such number of persons as may be specified by the State Government by notification, but does not include
- (a) an establishment (not being a factory) of the State Government: and
 - (b) an establishment owned by, or carried on under the authority of, the Central Government for which the Central Government is the appropriate Government under clause (a) of Section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), for purposes of industrial disputes;
- (6) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (No. LXIII of 1948);
- (7) "Fund" means the Madhya Pradesh Labour Welfare Fund constituted under Section 3;
- (8) "Independent member" means
- (i) a member of the Board not connected with the management of any establishment or who is not an employee, and
 - (ii) an officer of the State Government nominated as member;
- (9) "Industrial Court" means the Court constituted under section 9 of the Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960);
- (10) "Inspector" means an Inspector appointed under Section 16;
- (11) "Unpaid accumulations" means all payments due to an employee from an employer but not made to him within a period of three years from the date on which they became due whether before or after the commencement of this Act, including the wages, house rent allowance and gratuity legally payable but not fund including the amount of contribution, if any, payable by an employer to a provident fund established under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (No. 19 of 1952).

- (12) "Wages" means wages as defined in clause (vi) of Section 2 of the Payment of Wages act, 1936 (No. 4 of 1936);
- (13) "Welfare Commissioner" means the Welfare Commissioner appointed under Section 15.

CHAPTER II

CONSTITUTION OF A FUND AND THE BOARD

3. Labour Welfare Fund

- (1) The State Government shall constitute a fund which shall be called the Madhya Pradesh Labour Welfare Fund.
- (2) The Fund shall consist of
 - (a) all fines realised from the employees;
 - (b) all unpaid accumulations transferred to the Fund under Section 8;
 - (c) any contribution paid under section 9;
 - (d) any penal interest paid under section 10;
 - (e) any voluntary donations;
 - (f) any amount, transferred to the Fund under sub-section (3);
 - (g) any sum paid to the Fund as grant-in-aid or subsidy by the State Government;
 - (h) any sum borrowed under section 12;
 - (i) any loan advanced by the State Government.
- (3) If any fund is created or any sum is set apart by the employer of an establishment for the welfare of the employees, it may at the request of the employer and after approval of the State Government be transferred to the fund.
- (4) Notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid to the Board at such interval as may be prescribed, which shall keep a separate account thereof until claims thereto have been decided in the manner provided in section 8, and the other sums specified in sub-section (2) of this section shall be paid into the Fund.
- (5) The sums specified in sub-section (2) shall be paid to, or collected by, such agencies at such intervals and in such manner as may be prescribed.

4. Constitution of Board and allowances payable to the members

- (1) The State Government shall, by notification, constitute the Madhya Pradesh Labour Welfare Board for the whole State for the purpose of administering the Fund and to perform such other functions as may be assigned to the Board by or under this Act.
- (2) The Board shall be a body corporate by the name specified in sub-section (1) having perpetual succession and a common seal, with power to acquire subject

to the provisions of this Act property both movable and immovable, and may, by the said name, sue or be sued.

- (3) The Board shall consist of the following members, namely:
- (a) Chairman to be nominated by the State Government;
 - (b) such number, as may be prescribed, of representatives of employer and employees to be nominated by the State Government:

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

- (c) such number of independent members as may be prescribed to be nominated by the State Government; and
 - (d) Secretary of the Board.
- (4) Save as otherwise expressly provided in this Act, the term of office of the Chairman and the members nominated under clauses (b) and (c) of sub-section (3) shall be three years from the date of their nomination.
- (5) The members of the Board shall be entitled to get such allowances, if any, as may be prescribed.

5. Disqualification and removal

- (1) No person shall be nominated as, or continue to be a Chairman or, a member of the Board who,
- (a) is a salaried official of the Board: or
 - (b) is an undischarged insolvent; or
 - (c) is found to be a lunatic or becomes of unsound mind and stands so declared by a competent court; or
 - (d) is or has been convicted of any offence involving moral turpitude:

Provided that the disqualification under clause (a) shall not apply to Secretary of the Board.

- (2) The State Government may remove from office any member of the Board constituted under Section 4 who,
- (a) is or has become subject to any of the disqualifications mentioned in subsection (1): or
 - (b) is absent without leave of the Board from more than three consecutive meetings of the Board; or
 - (c) is in the opinion of the State Government actual in a manner prejudicial to the interest of the Board.

6. Resignation of office by member and filling up of casual vacancies

- (1) A member may resign his office by giving notice thereof in writing to the State Government and on such resignation being accepted shall be deemed to have vacated his office from the date of such acceptance by the State Government.

- (2) A casual vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the State Government and a member so nominated hold office for the unexpired portion of the term of the office of his predecessor:
- (3) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board or on the ground that any person had taken part in the proceedings of the Board and had voted in an unauthorised manner.

7. Power to appoint Committees

For the purpose of advising the Board in the discharge of its functions and also for carrying into effect any of the objects specified in sub-section (2) of section 11, the Board may constitute one or more committees. The constitution and term of office of any committee shall be such as may be prescribed.

CHAPTER III

VESTING AND APPLICATION OF FUND

8. Unpaid accumulations and claims thereto

- (1) All unpaid accumulations shall be deemed to be abandoned property.
- (2) Any unpaid accumulations paid to the Board in accordance with the provisions of section 3 shall, on such payment discharge an employer of the liability to make payment to an employee in respect thereof, but to the extent only of the amount paid to the Board: and the liability to make payment to the employee to the extent aforesaid shall, subject to the succeeding provisions of this section, be led to be transferred to the Board.
- (3) As soon as possible after the payment of any unpaid accumulation to the Board, the Board shall by notice (which shall contain such particulars as may be prescribed)
 - (a) to be displayed on the notice board of the factory or establishment in which the unpaid accumulation was earned; and
 - (b) to be published in a newspaper in the language commonly understood in the area and having circulation in the area in which the establishment in which the unpaid accumulation was earned

is situate invite claims to be filed, within a period of one hundred and eighty days the date of such display or publication of the notice, by employees for any amount due to them. The notice shall continue to be displayed on the notice board continuously for a period of one hundred and eighty days from the date it is so displayed.

- (4) If any question arises whether the notice referred to in subsection (3) was given as required by that sub-section, a certificate of the Board that it was so given, shall be conclusive.
- (5) If a claim is received in answer to the notice under subsection (3), the Board shall transfer such claim to the authority appointed under section 15 of the Payment of Wages Act. 1936 (No. 4 of 1936) having jurisdiction in the area in the factory or establishment is situated, and the authority shall proceed to adjudicate upon,

and decide, such claim within a period of ninety days from the in which the claim is transferred to it by the Board. In hearing such claim authority shall have the power conferred by and follow the procedure (in so it is applicable) laid down for giving effect to the provisions of that Act.

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

Provided that, the Board shall not be liable to pay any sum in excess of that paid under sub-section (4) of section 3 to the Board as unpaid accumulations, in respect of the claim.

- (7) If a claim for payment is rejected, the employee shall have a right of appeal to the Industrial Court, and the Board shall comply with any order made in appeal. An appeal shall be within sixty days of the decision of the Authority, The Industrial Court shall give its decision ordinarily within a period of sixty days from the date on which appeal is presented before it.
- (8) The decision of the Authority, subject to appeal aforesaid and the decision in appeal of the Industrial Court, shall be final and conclusive as to the right to receive payment, the liability of the Board to pay and also as to the amount, if any.
- (9) If no claim is made within the time specified in sub-section (3), or a claim has been duly rejected as aforesaid by the authority, or on appeal by the Court, then the unpaid accumulation in respect of such claim shall accrue to, and vest in, the Board as bona vacantia, and shall thereafter without further assurance be deemed to be transferred to, and form part, of the Fund.
- (10) Where the authority or the Industrial Court is unable to give its decision within the period specified in sub-section (5) or sub-section (7), as the case may be, it shall record the reasons therefor.

9. Contribution

- (1) The contribution payable under this Act in respect of an employee in an establishment shall consist of the contribution payable by the employer (hereinafter referred to as the employer's contribution) the contribution payable by an employee (hereinafter referred to as "the employee's contribution) and the contribution payable by the State Government, and shall be paid to the board and form part of the Fund.
- (2) ³[If the name of the employee stands on the register of an establishment on thirty working days in a calendar year (that is January to December) the amount of contribution payable every six months(that is 30th June and 31st December) by every employee shall be ten rupees only and by an employer for each such employee shall be thirty rupees payable every six months:]

Provided that the employer's contribution payable every six months shall not be less than one thousand five hundred rupees.]

- (3) ⁴[Subject to the provision of sub-section (2), every employer shall pay to the Board both the employer's contribution and the employee's contribution every year before the 15th day of July and 15th day of January]:

⁵[Provided that an incentive amount of five percent shall be given to employer on advance payment of two or more period of contribution before six months ending of 15th day of July and 15th day of January to the Board and such percentage of fine shall be imposed as determined by the state government, by notification, which shall not exceed ten percent, on payment after ending of said six months period]

- (4) Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of this Act and the rules made thereunder, the employer shall be entitled to recover from the employee the employee's contribution by deduction from his wages, and not otherwise; and such deduction shall be deemed to be a deduction authorised by or under the Payment of Wages Act, 1936 (No. 4 of 1936):

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

Provided further that, if through inadvertence or for unavoidable circumstances to be recorded in writing no deduction has been made from the wages of an employee for the months aforesaid, such deduction may be made from the wages of such employees for any subsequent month or months after intimation in writing to the Inspector.

- (5) Notwithstanding any contract to the contrary, no employer shall deduct the employer's contribution from wages payable to an employee or otherwise recover it from the employee.
- (6) Any sum duly deducted by an employer from the wages of an employee under this section shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.
- (7) An employer shall pay the employer's and the employee's contributions to the Board by cheque, Bank Draft, money order or in cash, and shall himself bear the expenses of remitting such contributions to the Board.
- (8) The Welfare Commissioner shall submit to the State Government as soon as possible after the end of July and January every year in the prescribed form a statement showing the total amount of the employer's contribution in respect of his establishment. On receipt of the statement from the Welfare Commissioner, the State Government shall pay to the Board a contribution of an amount equal to the employer's contribution in respect of that establishment.
- (9) ⁶[Notwithstanding anything contained in the above subsections, the State Government may revise the rate of contribution payable by the employee and the employer by notification subject to the condition of previous publication.]

10. Interest on unpaid accumulations or fine on the notice of demand

- (1) If an employer does not pay to the Board any amount of unpaid accumulations or fines realised from the employees, or the amount of the employer's and employee's contribution under section 9 within the time he is required by or under the provisions of this Act to pay it, the Welfare Commissioner may cause to be served a notice on the employer to pay the amount within the period specified therein, which shall not be less than thirty days from the date of service of such notice.
- (2) If the employer fails without sufficient cause, to pay any such amount within the period specified in the notice he shall, in addition to that amount, pay to the Board simple interest,
 - (a) for the first three months at 1⁷[one and a half per cent] of the said amount for each complete month after the last date by which he should have paid it according to the notice; and
 - (b) at ⁸[two per cent] of that amount for each complete month thereafter during the time he continues to make default in the payment of that amount.

11. Vesting and application of fund

- (1) The fund shall vest in and be held and applied by the Board as a Trustee subject to the provisions, and for the purposes, of this Act. The moneys therein shall be utilised by the Board to defray the cost of carrying out activities which may be specified by the State Government from time to time to promote the Welfare of labour and of their departments.
- (2) Without prejudice to the generality of sub-section (1) the money's in the fund may be utilised by the Board to defray expenditure on the following:
 - (a) community and social education centres including reading rooms and libraries;
 - (b) community necessities;
 - (c) educational facilities for children, women and adults;
 - (d) games and sports;
 - (e) excursions, tours and holidays homes;
 - (f) entertainments and other forms of recreation;
 - (g) home industries and subsidiary occupations for women and unemployed persons;
 - (h) corporate activities of a social nature;
 - (i) Cost of administering the Act including allowances of the members of the Board and the salaries and allowances of the officers and staff appointed for the purposes of the Act: and
 - (j) such other objects as would in the opinion of the Board improve the standard of living and ameliorate the social conditions of labour:

Provided that the fund shall not be utilised in financing any activity which the employer is required under any law for the time being in force to carry out:

Provided further that unpaid accumulations and fines shall be paid to the Board and be expended by it under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (No. 4 of 1936), or any other law for the time being in force.

- (3) The Board may, with the approval of the State Government, make a grant out of the fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour.
- (4) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the State Government and the decision given by the State Government shall be final.
- (5) It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment if the said fund is only transferred to the Board under sub-section (3) of section 3.

12. Power of Board to borrow

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

13. ⁹[Investment of Fund

Where the fund or any portion thereof cannot be applied at an early date for fulfilling the objects of the Act, the Board may invest the same in purchasing the Savings Certificates or deposit it in Post Office savings Bank or in any account with a Scheduled Bank or invest it in Government Securities. The Board may with the approval of the State Government, also invest it in any other mode of investment].

14. Audit and Accounts

- (1) The Board shall cause to be maintained such accounts, records and registers as may be prescribed.
- (2) The Board shall, soon after the close of the financial year prepare an annual statement of its accounts in such form and in such manner as may be prescribed.
- (3) The accounts of the Board shall be audited by the Director of Local Fund Accounts and shall be subject to the provisions of the Madhya Pradesh Sthaniya Nidhi Sampariksha Adhinyam, 1973 (No. 43 of 1973) and the provisions of the said Act shall apply to the Board as if the Board were a local authority subject to the modification that principal officer in relation to the Board shall mean such officer of the Board as the State Government may, by notification, specify.

14-A. ¹⁰[Annual report of the Board

- (1) The Secretary of the Board shall prepare an annual report in respect of the affairs of the Board and the fund for the financial year. The report shall be laid before the Board at the first meeting of the next financial year. The manner and contents of the annual report shall be such as may be prescribed by the Regulations.

- (2) A copy of the report which is to be laid before the Board under sub-section (1), shall be sent to every member of the Board together with the annual statement of account and the audit report, if available.
- (3) A copy of the report, as approved by the Board, shall be sent to the State Government duly signed by the Secretary.

14-B. Report of activities by employers

Every employer shall send a report to the Welfare Commissioner on the welfare activities conducted by him during the financial year, in such form and in such manner as may be provided in the regulations made under section 33-A.

14-C. Delegation of powers of the Board

The Board may, by special resolution, delegate any of the power exercisable by it under this Act and the Rules made thereunder subject to such conditions, as may be specified in the resolution, to the Chairman or the Welfare Commissioner.]

14-D. ¹¹[Consolidated forms to maintain registers and records and furnishing of report and returns by employers

Notwithstanding anything Contained in any other provision of the Act, Government may, by order, devise or notify consolidated forms for maintaining registers and furnishing reports and returns by an employer or establishment:

Provided that the Government may allow the registers and records to be maintained in computerised or digital formats.

CHAPTER IV

APPOINTMENT OF OFFICERS AND STAFF

15. Welfare Commissioner, Additional or Deputy Welfare Commissioners

(1)

- (i) The Welfare Commissioner shall be appointed by the State Government;
- (ii) The Welfare Commissioner shall be the principal Executive officer of the Board;
- (iii) It shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and the rules made thereunder are duly carried out and the decisions of the Board under this Act or the rules made thereunder he implemented. He shall therefore have the powers to issue orders not inconsistent with the provisions of this Act and the rules made thereunder, as he deems fit.

(2) The State Government may also appoint one or more persons as Additional or Deputy Welfare Commissioner. The Additional or Deputy Welfare Commissioner shall exercise such powers and perform such duties as the Commissioner may, with the approval of the Board, by order specify. For this purpose the Board shall be competent to fix the area or areas within which the Additional or the Deputy Welfare Commissioners shall exercise the powers and perform the functions so specified.

(3) The Secretary of the Board shall be appointed by the State Government.

16. Appointment of Inspectors

(1) The State Government may appoint Inspectors to inspect records to ascertain and verify the sums payable into the fund. Inspectors appointed under subsection (2) of section 40 of the Madhya Pradesh Shops and Establishments Act, 1958 (No. 25 of 1958) shall also be deemed to be Inspectors for purposes of this Act in respect of the establishments to which the Act applies.

(2) Any Inspector may—

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

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

17. ¹²[Appointment of Officers and other staff

The Board shall have powers subject to such conditions as may be prescribed, to appoint officers, clerical and executive staff other than those appointed under section 15 to carry out and supervise the activities financed from the fund].

18. Deputation of Government Servants

The State Government may, ¹³[in consultation with the Board, depute to the service of the Board any Government servant] and the terms and conditions of deputation of such servants do be determined by the State Government in consultation with the Board and the terms and conditions so determined shall be binding on the Board.

19. Power to impose punishment

Notwithstanding anything contained in this Act or the rules made thereunder, if in the opinion of the State Government ally officer or servant of the Board is negligent in the discharge of his duties it may after making enquiry in the prescribed manner suspend him or may impose ally other punishment as may be prescribed and if in the opinion of the State Government he is unfit for his employment, it may remove him from service.

20. Service Conditions

The method of recruitment and the conditions of service including pay-scales

(a) of the persons appointed under section 15 shall be such as may be specified by the State Government:

(b) ¹⁴[of the persons appointed under section 17 shall be such as may be determined by the Board by regulations made under section 33-A.]

21. Limitation on expenditure

The expenditure on the officers and the servants appointed under this Chapter and other administrative expenditure shall not exceed the prescribed percentage of the annual income of the Fund.

CHAPTER V
MISCELLANEOUS

22. Power to call for records

The State Government or any officer authorised by the State Government in this behalf may call for the records of the Board, inspect the same and may supervise the working of the Board.

23. Directions by the State Government to Board

The State Government may give to the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the fund or for carrying out the other purposes of the Act and the Board shall comply with such directions.

24. ¹⁵[Mode of recovery of sum payable to the Board

- (1) Any sum payable to the Board or into the fund under this Act, shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as an arrears of land revenue.
- (2) The State Government may, by notification, authorise officers of the State Government not below the rank of a Labour Officer to exercise the powers of a Tahsildar under section 147 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) for recovery of sums under sub-section (1).
- (3) The Officers authorised under sub-section (2) may cause a notice of demand to be served on any defaulter before the issue of any process under section 147 of the Madhya Pradesh Land Revenue Code 1959 (No. 20 of 1959) for the recovery of any arrears.
- (4) All other provisions of Chapter XI of the aforesaid Code shall apply mutatis mutandis for the recovery of sums payable to the Board or into the fund under this Act.]

25. Supersession of Board

- (1) If the State Government is satisfied that the Board had made default in performing any duties imposed on it by or under this Act or has abused its power or has failed to comply with any direction given by the State Government under notification supersede the Board and may reconstitute it in the manner prescribed for constitution of the Board:

Provided that before issuing the notification under this subsection, the state Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanation and objections, if any, submitted by the Board.

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

26. Members etc. to be public servant

The members of the Board, and the persons appointed under sections 15, 16, 17, 18 and 25 of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

27. Protection to persons acting in good faith

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

28. ¹⁶[

(1) Nothing in this Act shall apply to an establishment or industrial entity classified as 'Micro Industry' under the Micro, small and Medium Enterprises Development Act, 2006 (No. 27 of 2006).

(2) Notwithstanding the provisions of sub-section (1), the State Government may withdraw, partially or fully, any exemption granted to any Micro Industry, or category of Micro Industries, if it is satisfied that it is so required in the interest of workers."

29. Amendment of Central Act, No. 4 of 1936

In sub section (8) of section 8 of the Payment of Wages Act, 1936.(No. 4 of 1936) in its application to the State of Madhya Pradesh, the following proviso shall be inserted, namely:

"Provided that in case of any Factory or establishment to which the provisions of the Madhya Pradesh Shram Kalyan Nidhi Adhiniyam, 1982, apply, all such realisation shall be paid into the Madhya Pradesh Labour Welfare Fund constituted under the said Act and shall be applied for the purpose of the said Act."

30. Vesting of certain properties

The State Government may by an order transfer to the Board the property, both movable and immovable, belonging to it, and being applied in running the departmental Labour Welfare Centres.

31. Penalty for obstructing inspector in discharge of inspector's duties or for failure to produce documents etc.

(1) ¹⁷[Any person, who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, records Or other documents maintained in pursuance of the provisions of this Act or the rules made thereunder or to supply him on demand true copies of any such documents, shall, on conviction, be punished,

(a) for the first offence, with imprisonment for a term which may extend to three months, or with fine which five hundred may extend to ¹⁸[five thousand rupees], or with both; and

- (b) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to ¹⁹[ten thousand rupees], or with both:

Provided that where the offender is sentenced to a fine only, the amount or fine shall not be less than ²⁰[two thousand rupees].

(2) ²¹[If an employer

- (a) fails to pay the contribution or any sum which he is liable to pay under this Act: or
- (b) is guilty of any contravention or non-compliance with any of the requirements of this Act or the Rules or the Regulations made thereunder, in respect of which no penalty is provided;

he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ²²[twenty thousand rupees] or with both.]

32. Provisions relating to jurisdiction

- (1) No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under Section 31.
- (2) No prosecution for such offence shall be instituted, except by an Inspector with the previous sanction of the Welfare Commissioner.
- (3) No Court shall take cognizance of such offence unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

33. Power to make rules

- (1) The State Government may, by notification, and subject to the conditions of previous publication, make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
 - (a)
 - (i) the intervals at which unpaid accumulations shall be paid under sub-section (4) of section 3;
 - (ii) the agency which shall collect, the sums and the intervals at which and the manner in which such sums shall be paid or collected under sub-section (5) of section 3;
 - (b)
 - (i) the number of representatives of employers, employees and independent members on the Board under sub-section (3) of section 4;
 - (ii) the allowances, if any, payable to members of the Board under subsection (5) of section 4;
 - (a) the constitution and term of office of the members of a committee under section 7;

- (b) the particulars which a notice under sub-section (3) of section 8 shall contain;
- (c) the form in which statement shall be submitted under sub-section (8) of section 9;
- (d) the accounts, records and registers to be maintained under sub-section (1) and the form in which annual statement of accounts shall be prepared under sub-section (2) of section 14;
- (e) powers which an Inspector shall exercise under clause (b) of sub-section (2) of section 16;
- (f) conditions subject to which the Board may appoint officers clerical and executive staff under section 17;
- (g) the manner in which enquiry shall be made under section 19;
- (h) ²³[the method of recruitment and conditions of service of the persons under clause (a) of section 20],
- (i) The percentage of the annual income of the Fund beyond which the Board may not spend on the staff and other administrative matters;
- (j) Any other matter which has to be or may be prescribed.

33-A. ²⁴[Power to make regulations

- (1) The Board may with the previous approval of the State Government make regulations not inconsistent with this Act and the Rules made thereunder for the purpose of giving effect to the provisions of the Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:
 - (i) the manner of preparation and the contents of the annual report under section 14-A;
 - (ii) determination of the working and service conditions of persons appointed under section 17;
 - (iii) preparation and maintenance of confidential records relating to officers and staff working under the Board and preparation and maintenance of other records of the Board;
 - (iv) any other matter which has to be or may be required to be made by regulations.)

34. Power to resolve difficulties

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Gazette, make such provision not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid on the table of the Legislative Assembly.

1 The date 14th November 1987 appointed on which all the provisions of the said Act, shall come into force in respect of all the factories in the State of Madhya Pradesh, vide Notification No. 14-1-84-XVI-B, dated the 11th November, 1987, published in M.P. Rajpatra (Asadharan) dated 12-11-87 page 2011

2 Subs for "one thousand six hundred rupees" by M.P Act 11 of 2013 [2-02-2013]

3 Subs by M.P Act 11 of 2013 [2-02-2013]

4 Subs, by MP Act 39 of 1997, w.e.f. 28th June 1996

5 Ins. By M.P Act 11 of 2013 [2-02-2013]

6 Ins. by M.P. Act 11 of 1996 [28.6.1996]

7 Subs, for "one percent" by M.P. Act 11 of 1996 [28.6.1996]

8 Subs, for "one and a half per cent" by M.P. Act 11 of 1996 [28.6.1996]

9 Subs, by M.P. Act 11 of 1996 [28.6.1996], for the following:-

"13. Investment of Fund.— Where the fund or any portion thereof cannot be applied at an early date for fulfilling the objects of the Act, the Board shall invest the same in any of the securities as may be specified by the State Government, by notification, in this behalf."

10 Ss. 14-A to 14-C inserted by M.P. Act 11 of 1996 [28.6.1996]

11 Inserted by Act No. 20 of 2014 [30.12.2014]

12 Subs, by M.P. Act 11 of 1996 [28.6.1996], for the following:-

"17. Appointment of Officers and other staff.—

(1) The Board shall have powers subject to such conditions as may be prescribed, to appoint officers, clerical and executive staff to carry out and supervise the activities financed from the Fund.

(2) The State Government shall have the power to make an appointment in respect of whom more than one third of the members of the Board have not agreed."

13 Subs, by M.P. Act 11 of 1996 [28.6.1996]

14 Subs. by M.P. Act 11 of 1996 [28.6.1996]

15 Subs. by M.P. Act 11 of 1996 [28.6.1996]

16 Substituted by Act No. 20 of 2014 [30.12.2014]

17 Re-numbered by M.P. Act 11 of 1996 [28.6.1996]

18 Subs by M.P Act 11 of 2013 [2-02-2013]

19 Subs by M.P Act 11 of 2013 [2-02-2013]

20 Subs by M.P Act 11 of 2013 [2-02-2013]

21 Ins. by M.P Act 11 of 1996 [28.6.1996]

22 Subs by M.P Act 11 of 2013 [2-02-2013]

23 Subs, by M.P. Act 11 of 1996 [28.6.1996]

24 Ins. by M.P. Act 11 of 1996 [28.6.1996]