

Annexure

Maharashtra Act No. XX of 1978

The Maharashtra Employment Guarantee Act, 1977

An Act to make effective provision for securing the right to work by guaranteeing employment to all adult persons who volunteer to do unskilled manual work in rural areas in the State of Maharashtra.

WHEREAS it is expedient to make effective provision for securing the right to work laid down in article 41 of the Constitution of India by guaranteeing employment to all adult persons who volunteer to do unskilled manual work in rural areas in the State of Maharashtra.

AND WHEREAS it is further necessary to provide for continuing employment to surplus rural man-power in cottage, village and small industries and in agro industries.

AND WHEREAS it is also necessary to make certain supplement, incidental and consequential provisions; it is hereby enacted in the Twenty-Eight Year of the Republic of India as follows:-

1.
 - i. This Act may be called The Maharashtra Employment Guarantee Act, 1977.
 - ii. It extends to the whole of rural areas of the State of Maharashtra.
 - iii. It shall come into force in all the areas to which it extends on such date as the State Government may, by notification in Official Gazette, appoint.
2. In this Act unless the context otherwise requires:-
 - a. "adult person" means a person who has attained the age of eighteen years;
 - b. "the Committee" means the District Level Committee, or, as the case may be, the Panchayat Samiti Level Committee, constituted under section 5;
 - c. "the Council" means the Maharashtra State Employment Guarantee Council constituted under section 4;

- d. "implementing agency" includes the Department of the State Government, the Zilla Parishad, any other local authority or State Government Undertaking, which is entrusted by the State Government with the task of implementing any works taken up under the Scheme;
 - e. "implementing officer" means the highest officer of the implementing agency in the District or any officer subordinate to him to whom any of the powers or duties of the agency have been entrusted;
 - f. "Panchayat Samiti Area" includes any 'C' Class Municipal Area;
 - g. "Panchayat Samiti Level Officer" or "Samiti Officer" means the person not below the rank of Tahsildar or Block Development Officer, appointed under section 10 by the State Government for the implementation of the Scheme in the area of Panchayat Samiti concerned;
 - h. "Productive works" means any works which, in the opinion of the State Government, will directly or indirectly contribute to the increase of production, or the absence of which will inhibit the increase of production;
 - i. "prescribed" means prescribed by rules made under this Act;
 - j. "rural areas" means all the areas of the State of Maharashtra, except those for which a Municipal Corporation or Cantonment Board was established or constituted under any law for the time being in force, or those which were classified as 'A' or 'B' Class Municipal areas under the Maharashtra Municipalities Act, 1965, on the date of passing of this Act; and any area, which after the passing of this Act comes to be included within the limits of a Municipal Corporation or Cantonment Board or an 'A' or 'B' Class Municipal Council shall cease to be a rural area, from the date of such inclusion;
 - k. "Scheme" means the Employment Guarantee Scheme prepared and published under Section 7 and for the time being in force.
3. Every adult person in the rural areas in Maharashtra shall have a right to work, that is, a right to get guaranteed employment for doing unskilled manual work and to receive wages there weekly or in any case not later than a fortnight, in accordance with the provisions of this Act and the Scheme made thereunder.
- Explanation: A work shall be regarded as unskilled, if any adult person, without any special training, can normally be expected to do it and which is so classified in the Scheme.
- 4.1 For the purpose of having a periodical review and supervision of the implementation of this Act, there shall be a Council called the Maharashtra State Employment Guarantee Council. The State Government shall appoint the President and the Chairman and other members of the Council. The number of the other members of the Council shall not exceed twenty-six, of whom at least two members shall be appointed from persons belonging to the Backward Classes.
- 4.2 The other function of the Council shall be to advise the State Government on all matters concerning this Act and the Scheme and their implementation.

- 4.3 The Council shall be competent to undertake an evaluation of the Scheme and for this purpose collect or cause to be collected statistics pertaining to the rural economy of Maharashtra in general and socio-economic condition of the rural labour and the implementation of the Scheme in particular. It shall also be competent for the Council to recommend to the State Government the appointment of one or more Study Groups for undertaking a study of specific questions and problems connected with the implementation of this Act and the Scheme.
- 4.4 The Council shall co-ordinate the working of the District Level Committee.
- 4.5 The President shall be the head of the Council. The President and the Chairman shall exercise such powers and perform such duties, and the inter-se relations between them shall be such, as the State Government may, from time to time, prescribe.
- 5.1 The State Government shall constitute a District Employment Guarantee Committee in every district and a Panchayat Samiti Employment Committee in every Panchayat Samiti area. On every District Level Committee and Panchayat Samiti Level Committee, at least two members shall be appointed from persons belonging to the backward classes and two members shall be either from persons who have been employed on the works of the Scheme or from any registered union of the agricultural labourers. The Chairman of every such Committee shall be appointed from the non-official members thereof.
- 5.2 These Committees shall, within their respective jurisdictions, supervise and review the implementation of the Scheme, from time to time, and shall suggest to the State Government and the Council such steps as in their opinion are necessary for a more effective implementation of this Act. The Collector and the Samiti Officers concerned shall from time to time, report to the Committees the action taken by them or the State Government on the suggestions made by the Committees.
- 5.3 Every District Level Committee shall co-ordinate the working of the Panchayat Samiti Committees in the District.
6. The Collector of the District shall be responsible for the implementation of the Scheme in the District and for this purpose all other officers of the State Government, the Zilla Parishad and other local authorities or bodies functioning in the District and having for their jurisdiction an area not bigger than the District shall be responsible to the Collector.
- 6.1 The Commissioner of the Division, or any officer not below the rank of Assistant Commissioner designated by him in this behalf, shall be competent to supervise and review the implementation of the Scheme in the Division. The Commissioner shall be competent to issue directions to the Collectors, other officers (including Divisional level officers), local authorities and other bodies regarding implementation of the Scheme, and it shall be incumbent on all of them to carry out such directions.
- 6.2 For the purpose of implementation of the Scheme, the Collectors, other officers, local authorities and other bodies in the Division, shall be responsible and subordinate to the Commissioner to such extent and in such manner as the State Government may direct.

- 7.1 For the purposes of giving effect to the employment guarantee mentioned in section 3, the State Government shall prepare a Scheme for providing employment to all adult persons residing in the rural areas, who volunteer to do unskilled manual work, subject to the conditions laid down by or under this Act or in the Scheme.
- 7.2 The Scheme shall have the following essential features:
- i. Only productive works shall be taken up under the Scheme.
(Provided that, if, in the opinion of the State Government, it is necessary to provide employment in any area on any works to meet the conditions created by natural calamities like heavy rains, floods, earthquakes, droughts, scarcity or cyclones, the State Government may permit such works being taken up under the Scheme for such temporary period as the State Government may, from time to time decide.)
 - ii. The works taken up under the Scheme shall be in the rural areas; it shall, however, be lawful for the State Government to direct that certain categories of works may be taken up in areas other than rural areas.
 - iii. Every Collector shall be asked to prepare blue-prints of the works to be taken up under the Scheme in the District. Such blue-prints shall be prepared by him as a part of the District plan, but be based on the Panchayat Samiti area development plans prepared with a view to give employment guarantee to all adult persons for unskilled manual work and to make use of natural resources actual or potential, which are readily available in the respective Panchayat Samiti areas. The Collector shall place the blue-prints for approval before the District Level Committee, which shall give its approval after taking into consideration the view of the Panchayat Samiti Level Committees.
 - iv. In order to anticipate the demand for manual work a man-power budget for the District shall be prepared, so that it may be possible to plan the works to be taken up under the Scheme, taking into account the special distribution of unemployment over the District.
 - v. The Scheme may also provide, as far as possible, for the training and upgradation of the skills of the unskilled labour.
 - vi. The wages shall be directly linked with the quality and quantity of work.
 - vii. The wages shall be paid according to the schedule rates which shall be fixed by the State Government for different types of works from time to time. The schedule of rates shall be fixed that a person working diligently for 7 hours a day would normally get a total wage equal to the minimum wage for agricultural labourer for the lowest zone fixed by the State Government, from time to time.
(In areas, which are affected by natural calamities like heavy rains, floods, earthquakes, droughts, scarcity or cyclones, wages may be paid on such works, at such daily rates and for such temporary period, as the State Government may direct.)

- viii. It shall be open for the Samiti Officer to direct any person who volunteers for employment under the Scheme to do work of any type permissible under the Scheme.
- ix. All works taken up under the Scheme shall be executed departmentally and not through any contractor.
- Provided that, skilled items of works such as gorge filling where it is absolutely necessary, and waste-weir component of work of percolation and minor irrigation tanks may be executed on the basis of a piece-rate system, but the wages payable to unskilled labour shall be in accordance with the tasks prescribed under the Scheme.
- x. When works are taken up under the Scheme on private lands, which will directly benefit the holders of the lands, then, notwithstanding the fact that under the provisions of any other law, or any executive orders, for the time being in force such holders are entitled to a subsidy in respect of such works, (a subsidy under the Scheme, at such rates as may be prescribed, shall be financed from the Employment Guarantee Fund).
- xi. The works taken up under the Scheme shall be so organised by the Collector that the normal agricultural operations in the District are not adversely affected and that a balance is maintained between the principle of guaranteed work with minimum wage on the one side and the requirements of labour for the implementation of the regular plan and non-plan works of the State Government on the other side.
- xii. The State Government shall provide in the scheme for a periodical inspection of the works taken up under the Scheme to ensure proper quality of the works as well as to ensure that the total wages paid for the completion of any work are commensurate with the quality and quantity of the work done.
- xiii. The State Government shall provide in the scheme of the appointment of an Audit squad to conduct a periodical audit of the expenditure incurred under the Scheme.
- xiv. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment he shall be entitled, free of charge, to such medical treatment as is admissible under the Scheme, and where hospitalisation is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment and diet. During the period he is undergoing treatment in the hospital, he shall be entitled to daily wages at the rates of half of the minimum wages referred to in clause (vii). In case of death of such person, an ex-gratia payment of Rs. 5,000 shall be made to his legal heirs in the manner laid down in the Scheme. In case of disablement, such person shall be entitled to such ex-gratia payment as may be determined in accordance with the Scheme, but the amount of such payment shall not exceed Rs. 5,000.

- xv. Subject to the rules made in this behalf, the State Government shall ordinarily provide all kinds of tools and implements and gunpowder required for any work and where tools and implements are not so provided and are brought by the person concerned he shall be paid such hire charges as may be prescribed.
 - xvi. The State Government shall, as far as possible, undertake comprehensive land development programmes on watershed basis. Such works shall, as far as possible, be provided within a radius of five kilometres from the village of the works engaged on such works.
- 7.3 The Scheme shall provide for the registration of the names and addresses of persons who volunteer to work under the Scheme. Such registration shall be done at the headquarters of the Gram Sevak or Talathi, as the State Government may specify, within whose jurisdiction the village where the person resides is situated.
- 7.4 The Scheme so prepared shall be published in the Official Gazette, and a summary thereof shall also be published in such local newspapers, having wide circulation in each District, as the State Government may determine.
- 7.5 Until the Scheme is prepared and published under this Section, the Employment Guarantee Scheme of the State Government in operation immediately before the date of commencement of this Act shall be deemed to be the Scheme made and published under this Act.
- 8.1 Every adult person who:
- i. is residing in any rural area;
 - ii. is willing to do any unskilled manual work;
- may get his name and address registered with an authority or officer specified by the State Government in this behalf (hereinafter referred to as "the registering authority") who shall register the name and address of such person, after making such enquiry as it deems fit. The registration shall be for such period as may be laid down in the Scheme and may be renewed, from time to time. The registering authority, if satisfied that any person has got himself registered by making a false declaration of his age, may, after giving reasonable opportunity to the person concerned of being heard, delete his name from the register.
- 8.2 Every registered person shall be entitled to be provided with employment in accordance with the Scheme for the time being in force.
- 8.3 It shall be the duty of the State Government to provide employment in accordance with the provisions of the Scheme to every such person, if a letter asking for such employment and stating therein the period for which employment is required and the period for which such a person is willing to work continuously, which shall not be less than one month, is received from such person by the Samiti Officer, or by the Gram Sevak or the Talathi, this, as may be specified by the State Government, within whose jurisdiction the village where the person resides is situated. Such person shall be provided with employment as far as possible on any work

within the area of the Panchayat Samiti where he resides, but in any case not outside the District.

- 8.4 If within 15 days of the receipt of the letter of employment under the Scheme by the Samiti Officer or by the Gram Sevak or the Talathi, as the case may be, the State Government is unable to provide employment to such person under the Scheme, in the manner mentioned in sub-section 3, the person shall be entitled to receive from the Employment Guarantee Fund an unemployment allowance at such rate as may be fixed by the State Government from time to time, but not less than Rs. 1.00 per day.
- 8.5 The liability of the State Government to pay unemployment allowance under sub-section 4, shall commence after the expiry of 15 days from the receipt of the letter for employment by the Samiti Officer or by the Gram Sevak or the Talathi, as the case may be, and shall cease immediately after the Samiti Officer, by a letter sent to the person on the address mentioned in the register, directs him to report at any work taken up under the scheme.
- 8.6 Notwithstanding anything contained in this Act, if the State Government is during any period unable, owing to circumstances beyond human control like rains, or other unusual natural calamities, to provide employment under sub-section 3, there shall be no liability on the State Government to pay the unemployment allowance under sub-section 4 during that period.
- 8.7 When it is not expedient for the State Government to provide employment immediately on works sanctioned under the Scheme, notwithstanding anything to the contrary contained in any other law for the time being in force, it shall be lawful for the Collector to issue directives to Village Panchayats to take up such works as are prescribed, from the Village Employment Fund constituted under the Bombay Village Panchayats Act, 1958, for such duration as he may direct. If a person from whom a letter has been received under sub-section 3 is provided with employment on such works, he shall be deemed to have been provided with employment under that sub-section.
- 8.8 The unemployment allowance to be paid to an unemployed person under sub-section 4 shall be sanctioned and paid by an authority empowered by the State Government in this behalf and for this purpose the State Government may prescribe such procedure as it deems fit.
- 8.9 No person shall be entitled to any unemployment allowance under sub-section 4, if he —
- i. does not accept employment provided to him under sub-section 3;
 - ii. does not report for work within 7 days of being asked to do so;
 - iii. continuously remains absent from work, without the permission of the implementing officer, for a period of more than one week, or remains absent for a total period of more than one week in any month.
- 8.10 Any person, who is provided with employment under sub-section 3 and does not accept the same or who loses his entitlement to the unemployment allowance under sub-section 9, shall stand debarred from claiming unemployment allowance for a period of three months, but during this period of three month, shall not be debarred from getting employed on

- any works. Such defaults shall be reported by the Samiti Officer to the concerned registering authority.
- 8.11. Whenever any dispute arises between any person who sends a letter for employment under sub-section 3 and the Samiti Officer, it shall be referred by the Samiti Officer to such Authority as the State Government may prescribe and the decision of such Authority shall be final. The aggrieved person may also refer the dispute directly to the Authority. The State Government may prescribe the procedure to be followed by such Authority while deciding such disputes, as well as the functions and the powers of the Authority.
- 8.12. Notwithstanding anything contained in the foregoing sub-sections, where there is no able bodied adult member in a family, a minor member of such family, who has completed the age of fifteen years shall also be entitled to register his name and address under sub-section 1 and shall be paid wages according to the quantum of his work.
- Explanation:- For the purpose of this sub-section the expression 'member in a family' means a husband, wife, father, mother, brother or sister residing together.
- 8.13. The registering authority specified under sub-section 1 shall prepare and maintain such register or registers and in such manner and issue such identity cards or pass books as may be prescribed. The registering authority shall send such list or lists of the names and addresses of persons registered with it and supply such other information to the Samiti Officer at such times and in such forms as may be prescribed.
9. Any person:
- who has an employment but sends a letter asking for employment under sub-section 3 of section 8 and draws unemployment allowance under sub-section 4 of that section; or
 - who is in receipt of unemployment allowance under sub-section 4 of section 8 and accepts employment elsewhere but does not bring this fact to the notice of the Samiti Office and continues to draw unemployment allowance under that sub-section, shall on conviction, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both.
- 10.1. For every Panchayat Samiti area, the State Government shall appoint a Panchayat Samiti Level Officer, to be called the Samiti Officer, for the implementation of the Scheme in the Panchayat Samiti area concerned.
- 10.2. The Samiti Officer shall, from time to time, obtain from the registering authority a list containing the names and addresses of persons registered with it.
- 10.3. The works to be taken up under the Scheme shall be sanctioned by the State Government or the Collector or by such other officer as the State Government may specify for this purpose, subject to such limits on the costs of works as the State Government may, by order, specify.

The Samiti Officer shall, from time to time, obtain from the Collector a list of works sanctioned within the District.

- 10.4 On receipt of a letter for employment under sub-section 3 of Section 8, the Samiti Officer shall decide to which sanctioned work in his PanchayatSamiti area the applicant may be directed, and accordingly inform the applicant and also the officer in charge of the execution of the work. If it is not possible for the Samiti Officer to direct the person to any work in his Panchayat Samiti area, he may, in consultation with the Collector, direct him to a work outside the Panchayat Samiti area, but within the District.
- 10.5 The Collector and the other implementing agencies in the District shall be responsible for the funds placed at their disposal by the State Government. They shall maintain the accounts of employment and expenditure in such manner as may be prescribed.
- 11.1 Whenever any work taken up under the Scheme is completed and it is no longer possible to provide unskilled manual employment on such work it shall be the duty of the implementing officer concerned to report this fact to the Collector as well as to the Samiti Officer concerned. It shall then be the duty of the Samiti Officer to direct the persons employed on such works to any other work already taken up under the Scheme or to a work to be started under the Scheme with the sanction of the Collector or of the State Government, as the case may be.
- 11.2 If within four days of the receipt of intimation of the completion of the work the Samiti Officer is unable to direct the workers employed on such work to any other work under the Scheme mentioned in sub-section 1, the State Government shall from fifth day onwards pay to the person concerned unemployment allowance as per sub-section 4 of Section 8.
- 11.3 If any person who under sub-section 2 has been asked by the Samiti Officer to report at any other work under the Scheme fails to do so within 7 days of being directed by the Samiti Officer to do so, he shall stand debarred from claiming unemployment allowance as if he has been disqualified under sub-sections 9 and 10 of Section 8.
- 11.4 The State Government's liability to pay unemployment allowance under sub-section 2 shall cease immediately after the Samiti Officer directs the person concerned to report at some other works, either existing or yet to be started, under the Scheme.
- 12.1 On the date of commencement of this Act, a Fund to be called the Employment Guarantee Fund shall be deemed to be established.
- 12.2 Any amount standing to the credit of the Employment Guarantee Fund established under the Maharashtra State Tax on Professions, Trades, Callings and Employments, Act, 1975 read with the Maharashtra Tax Acts (Amendment) Act, 1975, shall stand transferred to, and form part of, the Fund deemed to be established under sub-section 1 with effect from the date of commencement of this Act.
- 12.3 The following shall form part of, or be paid into, the Fund, namely:-
- a. The amounts transferred to the Fund under Section 30 of the Maharashtra State Tax on Professions, Trades, Callings and

Employments, Act, 1975' and under Section 4 of the Maharashtra Tax Acts (Amendment) Act, 1975, and the amounts of the matching contributions made by the State Government as laid down in the said Acts;

- b. Any contribution or grants made by the State Government, the Central Government or any local authority;
 - c. Any sums received from other bodies or individuals, whether incorporated or not.
- 12.4 Any amount transferred or credited to the Fund shall be charged on the Consolidated Fund of the State.
- 12.5 The amount standing to the credit of the Fund shall be expended in such manner and subject to such conditions as may be prescribed for the purpose of implementing the Scheme.
- 12.6 Temporary diversions of Funds for utilisation on other departmental schemes or plan schemes, which have for their objective, the generation of employment or the creation of productive assets or both may be permitted by the State Government, subject to the Fund being reimbursed by such amount in the same or next financial year.
- 12.7 The Fund shall be held and administered on behalf of the State Government by an officer not below the rank of a Secretary to the State Government, subject to such general or special directions as may be given by the State Government, from time to time.
- 13.1 The enactments specified in the second column of the Schedule are hereby amended in the manner and to the extent specified in the third column thereof.
- 13.2 All references in any other law or any instruments for the time being in force to the Employment Guarantee Scheme or Fund of the State Government or in the State of Maharashtra shall be construed as references to the Scheme or the Fund as the case may be, under this Act.
14. The State Government may, by notification in the Official Gazette, direct that the powers exercisable by it, except the powers to make the Scheme and the rules shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by such officer or officers subordinate to it as may be specified in the notification.
15. No suit, prosecution or other legal proceedings shall lie against the State Government or any authority or officer or body or person for anything which is in good faith done or intended to be done in pursuance of this Act or the Scheme or the rules made thereunder.
16. The provisions of this Act or the Scheme, rules, notifications or orders made or issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law.
- 17.1 The power to make rules under this Act shall be exercisable by the State Government by notification in the Official Gazette.

- 17.2 Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act to carry out the purposes of this Act.
- 17.3 All rules made under this Act shall be subject to the condition of previous publication.
- 17.4 Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.