

AS INTRODUCED IN LOK SABHA

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THE NATIONAL RURAL EMPLOYMENT GUARANTEE BILL, 2004

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SCHEDULE I

SCHEDULE II

Bill No. 106 of 2004

THE NATIONAL RURAL EMPLOYMENT GUARANTEE BILL, 2004

A

BILL

to provide for the enhancement of livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto:

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:

CHAPTER I

Preliminary

Short title,
extent and
commencement

(1) This Act may be called the National Rural Employment Guarantee Act, 2004.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area.

2. In this Act, unless the context otherwise requires –

Definitions

- (a) "adult" means a person who has completed his eighteenth year of age;
- (b) "applicant" means the head of a household or any of its other adult members who has applied for employment under the Scheme;
- (c) "Block" means a community development area within a district comprising a group of Gram Panchayats;
- (d) "Central Council" means the Central Employment Guarantee Council Constituted under sub-section (1) of section 10;
- (e) "District Programme Coordinator" means an officer of the State Government designated as such under sub-section (1) of section 14 for implementation of the Scheme in a district;
- (f) "household" means the members of a family related to each other by blood, marriage or adoption and ordinarily residing together and sharing meals or holding a common ration card;
- (g) "implementing agency" includes any department of the Central Government or a State Government, a Zila Parishad, Panchayat Samiti, Gram Panchayat or any local authority or Government undertaking or non-governmental organization authorized by the Central Government or the State Government, to undertake the implementation of any work taken up under a Scheme
- (h) "minimum wage", in relation to any area, means the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers as applicable in that area;
- (I) "National Fund" means the National Employment Guarantee Fund established under sub-section (1) of section 20;
- (j) "notification" means a notification published in the Official Gazette;
- (k) "poor household" means a household living, during the relevant financial year, below the poverty line and includes the households of all primitive tribal groups as approved, by notification, by the Ministry of the Central Government dealing with tribal affairs;
- (f) "preferred work" means any work which is taken up for implementation on a priority basis under a Scheme;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "Programme Officer" means an officer appointed under sub-section (1) of section 15 for implementing the Scheme in a Block;

- (o) "project" means any work taken up under a Scheme for the purpose of providing employment to the applicants;
- (p) "rural area" means any area in a State except those areas covered by any urban local body or a Cantonment Board established or constituted under any law for the time being in force;
- (q) "Scheme" means a Scheme notified by the State Government under sub section (1) of section 4;
- (r) "State Council" means the State Employment Guarantee Council constituted under sub-section (1) of section 12;
- (s) "unskilled manual work" means any physical work which any adult person is capable of doing without any skill or special training;
- (t) "wage rate" means the wage rate referred to in section 6.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN RURAL AREAS

Guarantee
of rural
employment
to poor
households

3. (1) Save as otherwise provided, the State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under this Act.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work.

(3) Save as otherwise provided in this Act, the disbursement of daily wages shall be made on a weekly basis or in any case not

later than a fortnight after the date on which such work was done.

(4) The Central Government or the State Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-section (1), as may be expedient

CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, every State Government shall, within six months from the date of commencement of this Act, by notification, make a Scheme, providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under this Act and in the Scheme:

Provided that until any such Scheme is notified by the State Government, the Annual Action Plan or Perspective Plan for the Sampoorna Grameen Rozgar Yojana (SGRY) or the National Food for Work Programme (NFFWP) whichever is in force in the concerned area immediately before notification shall be deemed, to be the action plan for the Scheme for the purposes of this Act.

(2) The State Government shall publish a summary of the Scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such Scheme shall apply.

(3) The Scheme made under sub-section (/) shall provide for the minimum features specified in Schedule I.

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| Conditions for providing guaranteed employment | <p>5. (1) The State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under this Act.</p> <p>(2) The persons employed under any Scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.</p> |
| Wage rate | <p>6. (1) Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act:</p> |

Provided that different rates of wages may be specified for different areas.

(2) Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area.

Payment of unemployment allowance 7. (1) If an applicant for employment under the Scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Schemes and the economic capacity of the State Government, the unemployment allowance payable under sub-section (I) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council:

Provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.

(3) The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as –

(a) the applicant is directed by the Gram Panchayat or the Programme Officer to report for work either by himself or depute at least one adult member of his household; or

(b) the period for which employment is sought comes to an end and no member of the household of the applicant had turned up for employment; or

(c) the adult members of the household of the applicant have received in total at least one hundred days of work within the financial year; or

(d) the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year.

(4) The unemployment allowance payable to the household of an applicant jointly shall be sanctioned and disbursed by the Programme Officer or such local authority as the State Government may, by notification, authorise in this behalf

(5) Every payment of unemployment allowance under sub-section(1) shall be made or offered not later than fifteen days from

the date on which it became due for payment.

(6) The State Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non disbursement of unemployment allowance in certain circumstances

8. (1) If the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reason beyond his control, he shall report the matter to the District Programme Coordinator and announce such reasons in a notice to be displayed on his notice board and the notice board of the Gram Panchayat and such other conspicuous places as he may deem necessary.

(2) Every case of non-payment or delayed payment of unemployment allowance shall be reported in the annual report submitted by the District Programme Coordinator to the State Government along with the reasons for such non-payment or delayed payment.

Disentitlement to receive unemployment allowance in certain circumstances

(3) The State Government shall take all measures to make the payment of unemployment allowance reported under sub-section (1) to the concerned household as expeditiously as possible.

9. An applicant who-

does not accept the employment provided to his household under a Scheme; or

does not report for work within fifteen days of being notified by the Programme Officer or the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month,

shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the Scheme at any time.

CHAPTER IV

IMPLEMENTING AND MONITORING AUTHORITIES

Central
Employment
Guarantee
Council

10. (1) With effect from such date as the Central Government may, by notification, specify, there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this Act.

(2) The headquarters of the Central Council shall be at Delhi.

(3) The central Council shall consist of the following members to be appointed by the Central government, namely:

a Chairperson;

not more than such number of representatives of the Central Ministries including the Planning Commission not below the rank of Joint Secretary to the Government of India as may be determined by the Central Government

not more than such number of representatives of the State Governments as may be determined by the Central Government.

not more than fifteen non-official members representing panchayati Raj Institutions, organizations of workers and disadvantaged, groups:

Provided that such non-official members shall include two chairpersons of District Panchayats nominated by the Central Government by rotation for a period of one year at a time:

Provided further that not less than one-third of the non-official members nominated under this clause shall be women:

Provided also that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes and Minorities;

such number of representatives of the States as the Central Government may by rules, determine in this behalf;

a Member-Secretary not below the rank of Joint Secretary to the Government of India.

(4) The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council shall be such as may be prescribed by the Central Government.

Functions
and duties
of Central
Council

11. (1) The Central Council shall perform and discharge the following functions and duties, namely:

establish a central evaluation and monitoring system;

advise the Central Government on all matters concerning the implementation of this Act;

review the monitoring and redressal mechanism from time to time and recommend improvements required;

promote the widest possible dissemination of information about the Schemes made under this Act;

(e) monitoring the implementation of this Act;

(f) preparation of annual reports to be laid before Parliament by the Central Government on the implementation of this Act;

(g) any other duty or function as may be assigned to it by the Central Government.

(2) The Central Council shall have the power to undertake evaluation of the various Schemes made under this Act and for that purpose collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes.

State
Employment
Guarantee
Council

12. (1) For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every State Government shall constitute a State Council to be known as the(name of the State) State Employment Guarantee Council with a Chairperson and such number of official members as maybe determined by the State Govt and not more than fifteen non-official members nominated by the State Government from Panchayati Raj institutions, organizations of works and disadvantaged groups :

Provided that not less than one-third of the non-official members nominated under this clause shall be women:

Provided further that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes and Minorities.

(2) The terms and conditions subject to which the Chairperson and members of the State Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the State Council shall be such as maybe prescribed by the State Government.

(3) The duties and functions of the State Council shall include –

(a) advising the State Government on all matters concerning the Scheme and its implementation in the State;

(b) determining the preferred works;

(c) reviewing the monitoring and redressal mechanisms from time to time and recommending improvements;

(d) promoting the widest possible dissemination of information about this Act and the Schemes under it;

(e) monitoring the implementation of this Act and the Schemes in the State and coordinating such implementation with the Central Council;

(j) preparing the annual report to be laid before the State Legislature by the State Government;

(g) any other duty or function as may be assigned to it by the Central Council or the State Government.

(3) The State Council shall have the power to undertake an evaluation of the Schemes operating in the State and for that purpose to collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes and Programmes in the State.

Standing
Committee
at district
level

13. (1) The Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of . its members and subject to such terms and conditions as may be prescribed by the State Government to supervise, monitor and oversee the implementation of the Scheme within the district.

(2) The Standing Committee shall co-opt not more than seven representatives of intermediate panchayats, Gram Panchayats, organization of workers, women's organizations, non-governmental organizations and disadvantaged groups as special invitees.

(3) The functions of the Standing Committee shall be

(a) to finalise and approve blockwise shelf of projects to be taken up under a programme under the Scheme;

(b) to supervise and monitor the projects taken up at the Block level and district level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(4) The District Programme Coordinator shall assist the Standing Committee in discharging its functions under this Act and any Scheme made thereunder.

District Programme Coordinator 14. (1) The Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme the district.

(2) The District Programme Coordinator shall be responsible for the implementation of the Scheme in the district in accordance with the provisions of this Act and the rules, made there under.

(3) The functions of the District Programme Coordinator shall be-

(a) to assist the standing Committee constituted under sub-section (1) of section 13;

(b) to consolidate the plans prepared by the Blocks and project proposals received from other implementing agencies for inclusion in the shelf of projects to be approved by the Standing Committee;

(c) to accord necessary sanction and administrative clearance wherever necessary;

(d) to coordinate with the Programme Officers functioning within his jurisdiction and the implementing agencies to ensure that the applicants are provided employment as per their entitlements under this Act;

(e) to review, monitor and supervise the performance of the Programme Officers;

(f) to conduct periodic inspection of the works in progress; and

(g) to redress the grievances of the applicants.

(4) The State Government shall delegate such administrative and financial powers to the District Programme Co-ordinator as may be required to enable him to carry out his functions under this Act.

(5) The Programme Officer appointed under sub-section (1) of section 15 and all other officers of the State Government and local authorities and bodies functioning within the district shall be responsible to assist the District Programme Coordinator in carrying out his functions under this Act and the Schemes made thereunder.

(6) The District Programme Coordinator shall prepare in the month of December every year a labour budget for the next financial year containing the details of anticipated demand for unskilled manual work in the district and the plan for engagement of labourers in the works covered under the Scheme and submit it to the Standing Committee of the district panchayat.

Programme Officer 15. (1) For every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as Programme Officer for implementing the Scheme in that Block.

(2) The Programme Officer shall be responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.

(3) The Programme Officer shall prepare a plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from intermediate panchayats.

(4) The functions of the Programme Officer shall include -

monitoring of projects taken up by the Gram Panchayats and other implementing agencies within the Block;

sanctioning and ensuring payment of unemployment allowance to the eligible poor households;

ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;

ensuring that regular social audits of all works within the jurisdiction of the 20 Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the

objections raised in the social audit;

dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and

any other work as may be assigned to him by the District Programme Coordinator or the State Government.

(5) The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.

(6) The State Government may, by order, direct that all or any of the functions of a Programme Officer shall be discharged by the Gram Panchayat or a local authority.

Responsibilities of Gram Panchayats 16. (1) The Gram Panchayat shall be responsible for identification of the projects in the Gram Panchayat area to be taken up under a Scheme as per the recommendations of the Gram Sabha and the Ward Sabhas and for executing and supervising such works.

(2) A Gram Panchayat may take up any project under a Scheme within the area of the Gram Panchayat as may be sanctioned by the Programme Officer.

(3) Every Gram Panchayat shall, after considering the recommendations of the Gram Sabha and the Ward Sabhas, prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme as and when demand for work arises.

(4) The Gram Panchayat shall forward its proposals for the development projects including the order of priority between different works to the Programme Officer for scrutiny and preliminary approval prior to the commencement of the year in which it is proposed to be executed.

(5) The Programme Officer may allot at least fifty per cent. of the works in terms of its cost under a Scheme to be implemented through the Gram Panchayats.

(6) The Programme Officer shall supply each Gram Panchayat with-

(a) the muster rolls for the works sanctioned to be executed by it; and

(b) a list of employment opportunities available elsewhere to the residents of the Gram Panchayat.

(7) The Gram Panchayat shall allocate employment opportunities among the applicants and ask them to report for work.

(8) The works taken up by a Gram Panchayat under a Scheme shall meet the required technical standards and measurements.

Social
audit of
work by
Gram
Sabha

17. (1) The Gram Sabha shall monitor the execution of works within the Gram Panchayat.

(2) The Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat.

(3) The Gram Panchayat shall make available all relevant documents including the muster rolls, bills, vouchers, measurement books, copies of sanction orders and other connected books of account and papers to the Gram Sabha for the purpose of conducting the social audit.

Responsibilities
of State
Government in
implementing
Schemes

18. The State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Grievances
redressal
mechanism

19. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

CHAPTER V

. ESTBALISHMENT OF NATIONAL AND STATE EMPLOYMENT GUARANTEE.FUNDS AND AUDIT

National
Employment
Guarantee
Fund

20. (1) The Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this Act

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

(3) The amount standing to the credit of the National Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the Central Government.

State
Employment
Guarantee
Fund

21. (1) The State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of implementation of the Scheme.

(2) The amount standing to the credit of the State Fund shall be expended in such manner and subject to such conditions and limitations as may be prescribed by the State Government for the purposes of implementation of this Act and the Schemes made thereunder and for meeting the administrative expenses in connection with the implementation of this Act

(3) The State Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

Funding
pattern

22. (1) Subject to the rules as may be made by the Central Government in this behalf, the Central Government shall meet the cost of the following, namely:

the amount required for payment of wages for unskilled manual work under the Scheme;

up to three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

such percentage of the total cost of the Scheme as may be determined by the Central Government

towards the administrative expenses, which may include the salary and allowances of the Programme Officers and his supporting staff, the administrative expenses of the Central Council, facilities to be provided under Schedule 11 and such other item as may be decided by the Central Government.

2) The State Government shall meet the cost of the following, namely:-

the cost of unemployment allowance payable under the Scheme;

one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

the administrative expenses of the State Council.

Transparency
and
accountability

23. (1) The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilization and management of the funds placed at their disposal for the purpose of implementing a Scheme.

(2) The State Government may prescribe the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder.

(3) The State Government may, by rules, determine the arrangements to be made for the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes.

(4) All payments of wages in cash and unemployment allowances shall be made directly to the person concerned and in the presence of independent persons of the community on pre-announced dates;

(5) If any dispute or complaint arises concerning the implementation of scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

(6) The Programme Officer shall enter every complaint in a complaint register maintained by him and shall dispose of the disputes and complaints within seven days of its receipt and in case it relates to a matter to be resolved by any other authority it shall be forwarded to such authority under intimation to the complainant.

24. (1) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the Schemes at all levels.

Audit
accounts

(2) The accounts of the Scheme shall be maintained in such form and in such manner as may be prescribed by the State Government.

CHAPTER VI

MISCELLANEOUS

Penalty for
non-
compliance

25. Whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.

Power
delegate

26. (1) The Central Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules) may, in such circumstances and subject to such conditions and limitations, be exercisable also by the State Government or such officer subordinate to the Central Government or the State Government as it may specify in such notification.

(2) The State Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules and Schemes) may, in such circumstances and subject to such conditions and limitations, be exercisable also by such officer subordinate to it as it may specify in such notification.

Power of
Central
Government
to give
directions

27. The Central Government may give such directions as it may consider necessary to the State Government for the effective implementation of the provisions of this Act.

Act to have
overriding
effect

28. The provisions of this Act or the Schemes made 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:

Provided that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Act under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this Act, the State Government shall have the option of implementing its own enactment:

Provided further that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the State would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented.

Power to
amend
Schedules

29. (1) If the Central Government is satisfied, that it is necessary or expedient so to do, it may, by notification, amend Schedule I or Schedule II and thereupon Schedule I or Schedule II, as the case may be, shall be deemed to have been amended accordingly.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made. .

Protection of
action taken
in good faith

30. No suit, prosecution or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything which is in good faith done or intended to be done under this Act or the rules or Schemes made thereunder.

Power of
Central
Government
to make rules

31. (1) The Central Government may by notification and subject to the condition of previous publication, make rules to carry out the provisions of this Act.

(2) In particular, and without the prejudice of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10;

(b) the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such-meetings) of the Central Council, under sub-section (4) of section 10;

(c) the manner in which and the conditions and limitations subject to which the National Fund shall be utilized under sub-section (3) of section 20;

the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22;

any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the Central Government by rules.

32. (1) The State Government may, by notification, and subject to the condition of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all

Power of
State
Government
to make
rules

or any of the following matters, namely:

the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7;

the procedure for payment of unemployment allowance under sub-section (6) of section 7;

the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12;

(d) the number of members of the Standing Committee at district level and their terms and conditions of their appointment under sub-section (1) of section 13;

(e) the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19;

(f) the manner in which and the conditions and limitations subject to which the State Fund shall be utilized under sub-section (2) of section 21;

(g) the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21;

(h) the manner of maintaining books of account of employment of labourers and the expenditure under sub-section (2) of section 23;

(i) the arrangements required for proper execution of Schemes under sub-section (3) of section 23;

(j) the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24;

(k) any other matter Which is to be, or may be. prescribed or in respect of which provision is to be made by the State Government by rules.

33. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, 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

Laying of
rules and
Schemes

the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall have thereafter 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.

(2) Every rule or Scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

Power to
remove
difficulties

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made be, before each House of Parliament.

SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF A RURAL EMPLOYMENT GUARANTEE SCHEME

1. The focus of the Scheme shall be on the following works in their order of priority:

water conservation and water harvesting;

drought proofing (including afforestation and tree plantation);

irrigation canals including micro and minor irrigation works;

provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes;

renovation of traditional water bodies including desilting of tanks;

land development;

flood control and protection works including drainage in water logged areas;

rural connectivity to provide all-weather access; and

any other work which may be notified by the Central Government

2. Creation of durable assets and strengthening the livelihood resource base of the rural poor shall be an important objective of the Scheme.

3. The works taken up under the scheme shall be in rural areas.

4. The State Council shall prepare a list of preferred works for different areas based on their ability to create durable assets.

5. The Scheme shall be subject to appropriate arrangements as may be laid down by the State Government under the rules issued by it for proper maintenance of the public assets created under the Scheme.

6. Under no circumstances shall the labourers be paid less than the wage rate.

7. When wages are directly linked with the quantity of work, the wages shall be paid according to the schedule of rates fixed by the State Government for different types of work every year, in consultation with the State Council.

8. The schedule of rates of wages for unskilled labourers shall be so fixed that a person working diligently for seven hours would normally earn a wage equal to the wage rate.

9. The cost of material component of projects including the wage of the skilled and semi-skilled workers taken up under the Scheme shall not exceed forty percent of the total project costs.

10. It shall be open to the Programme Officer and Gram Panchayat to direct any person who applied for employment under the Scheme to do work of any type permissible under it.

11. The Scheme shall not permit engaging any contractor for implementation of the projects under it.
12. As far as practicable, a task funded under the Scheme shall be performed by using manual labour and not machines.
13. Every Scheme shall contain adequate provisions for ensuring transparency and accountability at all level of implementation.
14. Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.
15. The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within his or its jurisdiction and a copy of the same shall be made available to the public on demand and on payment of such fee as may be specified in the Scheme.
16. All accounts and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a copy or relevant extracts therefrom may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme.
17. A copy of the muster rolls of each Scheme or project under a Scheme shall be made available in the offices of the Gram Panchayat and the Programme Officer for inspection by any person interested after paying such fee as may be specified in the Scheme.

SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED RURAL EMPLOYMENT UNDER A SCHEME AND MINIMUM ENTITLEMENTS OF LABOURERS

I. The adult members of every household who –

(i) reside in any rural areas; and

(ii) are willing to do unskilled manual work,

- may submit their names, age and the address of the household to the Gram Panchayat in the jurisdiction of which they reside for registration of their household for issuance of a job card.
2. It shall be the duty of the Gram Panchayat to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the Scheme.
 3. The registration made under paragraph 2 shall be for such period as may be laid, in the Scheme, but in any case not less than five years, and may be renewed from time to time.
 4. Every adult member of a registered household whose name appears in the job card shall be entitled to apply for unskilled manual work under the Scheme.
 5. All registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of one hundred days per household in a given financial year.
 6. The Programme Officer shall ensure that every applicant referred to in paragraph 5 shall be provided unskilled manual work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later.
 7. Applications for work must be for at least fourteen days of continuous work.
 8. There shall be no limit on the number of days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.
 9. Applications for work may be submitted in writing either to the Gram Panchayat or to the Programme Officer, as may be specified in the Scheme.
 10. The Gram Panchayat and Programme Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.
 11. Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the Gram Panchayat Office.
 12. As far as possible, employment shall be provided within a radius of five kilometres of the village where the applicant resides at the time of applying.

13. A new work under the Scheme shall be commenced only if-

at least fifty labourers become available for such work; and

the labourers cannot be absorbed in the ongoing works:

Provided that this condition shall not be applicable for new works, as determined by the State Government, in hilly areas and in respect of afforestation.

14. In cases the employment is provided outside such radius, it must be provided within the Block, and the labourers shall be paid ten per cent. of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Programme' Officer shall inform the District Programme Coordinator in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Programme Coordinator shall, in his Annual Report to the State Council, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may submitted in advance of the date from which employment is sought.

19. Provision shall be made in the scheme for submission of multiple applications by the same person provided that the corresponding periods' for which employment is sought do not overlap.

20. The Gram Panchayat shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particulars of job cards and passbooks issued, name, age and address of the head of the household and the adult members of the household registered with the Gram Panchayat.

21. The Gram Panchayat shall send such list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Programme Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Gram Panchayat and at the office of the Programme Officer and at such other places as the Programme Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Gram Panchayat is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. 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 to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an ex gratia payment at the rate of ten thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case where at least twenty women are employed at a work site, provision shall be made for one of them to be deputed to look after any children under the age of six years who may be brought to the work site, if need arises.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Payment of Wages Act, 1936 (4 of 1936).

31. The Wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourer on a daily basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of

death or disablement, through an ex gratia payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Equal Remuneration Act, 1976 (25 of 1976), shall be complied with.

STATEMENT OF OBJECTS AND REASONS

Productive absorption of under-employed and surplus labour force in the rural sector has been a major focus of planning for rural development. In order to provide direct supplementary wage-employment to the rural poor through public works, many programmes were initiated by the Government of India, namely, National Rural Employment Programme (NREP), Rural Landless Employment Guarantee Programme (RLEGP) and Jawahar Rozgar Yojana (JRY). Currently, Sampooma Gramin Rozgar Yojana (SGRY) is being implemented all over the country with the objective to provide supplementary wage employment in rural areas, create durable rural infrastructure and to ensure food security. Though the SGRY is providing some relief to the rural poor, its reach has been inadequate in view of the dimension of the unemployment in rural areas. It has been observed that the scale of employment generation under SGRY in 2002-03 and 2003-04 was barely adequate to provide on an average 20 days of employment to each Below Poverty Line (BPL) household in the rural areas. Secondly, there is no guarantee that employment will be available to the rural households on demand as SGRY is an allocation based programme. The situation of unemployment has been compounded by the absence of any social security mechanism. There is, therefore, an urgent need to ensure at least some minimum days of employment in the shape of manual labour to every household in the rural areas.

Recognizing the urgent need to ensure a certain minimum days of wage-employment, the United Progressive Alliance (UP A) Government has declared in its National Common Minimum Programme (NCMP) that it will immediately enact a National Employment Guarantee Act. This will provide a legal guarantee for at least 100 days of employment, to begin with; on asset creating public works programmes every year at Minimum Wages for at least one able-bodied person in every rural, urban poor and lower middle class household. It is also necessary to empower the poor in the rural areas by appropriate enactment so that they can demand work on the strength of this legal entitlement.

2. The proposed legislation constitutes a pioneering endeavour to secure wage employment for the poor households in the rural areas as a guaranteed entitlement on this scale. It takes into account the experience gained under the Employment Guarantee Scheme in Maharashtra. Considering that a programme of this kind is being contemplated on such a massive scale for the first time, it has to be necessarily implemented in phases so as to eventually cover all the rural areas of the country, subject to the economic capacity of the Central and State Governments.

3. In view of the above, it is proposed to enact a new legislation through the National Rural Employment Guarantee Bill, 2004. The salient features of the proposed legislation are the following :-

(i) The objective of the legislation is to enhance the livelihood security of the poor households in

rural areas of the country by providing at least one hundred days of guaranteed wage employment to every poor household whose adult members volunteer to do unskilled manual work.

(ii) The State Government shall, in such rural areas in the State and for such period as may be notified by the Central Government, provide to every poor household guaranteed wage employment in unskilled manual work at least for a period of one hundred days in a financial year in accordance with the provisions made in the legislation.

(iii) Every State Government shall, within six months from the date of commencement of this legislation, prepare a scheme to give effect to the guarantee proposed under the legislation.

(iv) The one hundred days of employment under the legislation will be provided at the wage rate to be specified by the Central Government for the purpose of this legislation. Until such time a wage rate is specified by the Central Government for an area, the minimum wage rate fixed by the State Government under the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area.

(v) If an eligible applicant is not provided work as per the provisions of this legislation within the prescribed time limit, it will be obligatory on the part of the State Government to pay unemployment allowance at the prescribed rate.

(vi) A Central Employment Guarantee Council at the Central level and State Employment Guarantee Councils at the State level in all States where the legislation is made applicable will be constituted for review, monitoring and effective implementation of the legislation in their respective areas.

(vii) The Standing Committee of the District Panchayat, District Programme Coordinator, Programme Officers and Gram panchayats have been assigned specific responsibilities in implementation of various provisions of the legislation at the Gram Panchayat, Block and District levels.

(viii) The Central Government shall establish a fund to be called 'National Employment Guarantee Fund' for the purposes of this legislation. Similarly, the State Governments may constitute State Employment Guarantee Funds.

(ix) Provisions for transparency and accountability, audit, establishment of grievance and redressal mechanisms and penalty for non-compliance are also envisaged.

(x) Provisions for Minimum features of Rural Employment Guarantee Scheme and conditions for

guaranteed Rural Employment under a scheme and minimum entitlements of labourers have been laid.

4. The Notes on clauses explain in detail the various provisions contained in the Bill.
5. The Bill seeks to achieve the above objects.

RAGHUVANSH PRASAD SINGH.

NEW DELHI;

The 17th December, 2004.

Notes on clauses

Clause 1. This clause gives the short title of the Bill and the area to which it extends. Sub-clause (3) provides that the proposed legislation shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the commencement of the proposed legislation shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area.

Clause 2. This clause contains definition of certain terms used in the Bill. The definitions of "adult", "applicant", "Block", "Central Council", "District Programme Coordinator", "household", "implementing agency", "minimum wage", "National Fund", "notification", "poor household", "preferred work", "prescribed", "Programme Officer", "Project", "Rural area", "Scheme", "State Council", "unskilled manual work" and "wage rate" have been given in this clause. The expression "poor household" means a household living during the relevant financial year below the poverty line and includes the households of all primitive tribal groups as approved by the Ministry of the Central Government dealing with Tribal Affairs.

Clause 3.- This clause describes the guarantee of employment to poor rural households. As per this Clause, the state Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under the proposed legislation. This clause further provides that every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work on a weekly basis or in any case not later than a fortnight after the date on which such work was done. This clause also provides that the Central Government or the State Government may, within the limits of its economic capacity and

development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-clause (1), as may be expedient.

Clause 4.- This clause provides that for the purposes of giving effect to the provisions of clause 3 every State Government shall, within six months from the date of commencement of the proposed legislation, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under the proposed legislation and in the Scheme. This clause also requires that the State Governments shall provide adequate publicity to the Scheme in the areas where it is to be implemented. The minimum features of the Scheme are specified in Schedule I.

Clause 5.- This clause provides that the State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under the proposed legislation. The persons employed under any Scheme made under the proposed legislation shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

Clause 6.-This clause defines the wage rate for the purpose of this Bill. This clause also provides that notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government, may, by notification, specify the wage rate for the purposes of the proposed legislation, which may be different for different areas. Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area.

Clause 7. This clause lays down the terms and conditions for payment of unemployment allowance. If an applicant for employment under the Scheme is not provided employment as per the provisions of the proposed legislation within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this clause. The unemployment allowance payable shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council, provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the relevant financial year and not less than one-half of the wage rate for the remaining period of the financial year. This clause further lays down the conditions under which the liability of the State Government to pay unemployment allowance to a household during any financial year shall cease. It also provides for the mechanism for payment of unemployment allowance.

Clause 8.- This clause provides for the measures to be taken if the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reasons beyond his control.

Clause 9.- This clause lays down the conditions which would make an applicant ineligible to claim the unemployment allowance payable under the proposed legislation for a period of three months. The applicant will, however, be eligible to seek employment under the Scheme at any time including that period.

Clause 10. This clause provides that the Central Government shall, by notification, constitute a Council to be called the Central Employment Guarantee Council to discharge the functions and perform the duties, assigned to it by or under the proposed legislation. This clause further provides for the composition of the Central Council and the terms and conditions of appointment of the Chairperson and other members and the time, place and procedure of the meetings of the Central Council.

Clause II.-This clause lays down the functions and duties of the Central Council.

Clause 12.-This clause provides that the State Government shall, by notification, constitute a State Council to be know as the (name of the State) State Employment Guarantee Council for the purposes of regular monitoring and reviewing the implementation of the proposed legislation at the State level. This clause further provides for the composition of the State Council and the terms and conditions of their appointment of the Chairperson and other members the time, place and procedure of the meetings of the State Council and its functions and duties.

Clause 13.- This clause provides that the Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be laid down by rules by the State Government, to supervise, monitor and oversee the implementation of the Scheme within the District. This clause further provides for the co-option of members, the functions of the Standing Committee and the role of the District Programme Coordinator to assist the Standing Committee in discharging its functions under the proposed legislation and any scheme made thereunder.

Clause 14.- This clause provides that the Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district. It further provides the responsibilities and functions of the District Programme Coordinator. It also prescribes various modalities to facilitate effective functioning of the District Programme Coordinator.

Clause 15.- This clause provides that for every B lock, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as the Programme Officer for implementing the Scheme in that B lock. It further lays down the responsibilities and functions of the Programme Officers.

Clause 16.- This clause sets out the responsibilities of the Gram Panchayat in implementation of the provisions of the proposed legislation and the Scheme made there under. It also defines the role of the Programme Officer vis-a-vis the Gram Panchayat.

Clause 17.- This clause provides that the Gram Sabha shall monitor the execution of works within the Gram Panchayat and conduct regular social audit of all projects under the scheme. taken up within the Gram Panchayat. The Gram Panchayat shall make available all relevant documents to the Gram Sabha for the purpose of conducting the social audit.

Clause 18.- This clause provides that the State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme.

Clause 19.- This clause relates to the grievance redressal mechanisms under the proposed legislation. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints.

Clause 20.-:This clause provides that the Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of the proposed legislation. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund. This Clause further provides that the amount standing to the credit of the National Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the Central Government, by rules.

Clause 21.- This clause provides that the State Government may, by notification, establish a fund to be called the State Employment-Guarantee Fund for the purposes of the implementation of the Scheme. It further lays down the conditions for operationalisation and functioning of the State Employment Guarantee Fund.

Clause 22. This clause lays down the funding pattern for implementation of the proposed legislation and defines the liabilities of the Centre and the State Government.

Clause 23. This clause provides for various mechanisms for ensuring transparency and accountability in the implementation of the Scheme under the proposed legislation.

Clause 24.- This clause provides for arrangements to be put in place for audit of accounts of the Scheme at all levels.

Clause 25. This clause relates to penalty for non-compliance. It provides that any person who contravenes the provisions of the proposed legislation shall, on conviction, be liable to a fine which may extend to one thousand rupees.

Clause 26.- This clause seeks to empower the Central Government to delegate its powers (except the power to make rules) to the State Governments or such officers of the Central Government or State Governments. Such delegation shall be subject to the conditions and limitation as may be imposed by the Central Government.

Clause 27.- This clause seeks to empower the Central Government to give directions to the State Governments for effective implementation of the provisions of the proposed legislation.

Clause 28.- This clause provides that the proposed legislation will have over-riding effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of such law. It further provides that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Bill under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this legislation, the State Government shall have the

option of implementing its own enactment.

Clause 29.- This clause seeks to empower the Central Government to amend Schedule I or Schedule II if that Government is satisfied that it is necessary or expedient to do so.

Clause 30.- This clause seeks to provide for protection of action taken in good faith by the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code.

Clause 31.- This clause empowers the Central Government to make rules to carry out the provisions of the proposed legislation. Sub-clause (2) thereof enumerates the matters in respect of which such rules may be made. The rule making under this clause is subject to previous publication.

Clause 32.-This clause empowers the State Government to make rules to carry out provisions of the proposed legislation. Such rules shall be consistent with the Act and the rules made by the Central Government. The rule making under this clause is subject to previous publication.

Clause 33.-This clause provides for laying of rules made by the Central Government before each House of Parliament and the rules and schemes made by the State Government before each House of the State Legislature.

Clause 34.- This clause empowers the Central Government to remove difficulties, if any, arising in giving effect to the provision of the proposed legislation by order. Such orders can be issued before the expiry of three years from the commencement of the proposed legislation.

Schedule I.-This Schedule lays down the minimum features of a Rural Employment Guarantee Scheme to be made under the provisions of the proposed legislation.

Schedule II.- This Schedule lays down the conditions for Guaranteed Rural Employment under a Scheme and the minimum entitlements of labourers.

FINANCIAL MEMORANDUM

Clause 3 of the bill provides that a State Government shall, in such rural area in the State and for such period as may be notified by the Central Government, provide to every poor household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under the proposed legislation. This will require a large number of works to be taken up under the Scheme to be prepared in each State where the legislation is to be implemented. This will entail expenditure on execution of works on material and wage components of the projects. The

wage component of projects will be entirely borne by the Central government while seventy-five per cent. of the cost of material components {including the wages of skilled and semi-skilled workers} would be borne by the Central Government. The expenditure under the Scheme will depend on the number of persons reporting for work, wage rate and the composition of the wage and material components of the works. Assuming that wage and material components would be in the ratio of sixty is to forty and the average wage rate would be sixty rupees per day, the cost of generating employment is estimated to be one hundred rupees per person per diem. Hence, the cost of providing one hundred days of employment to a poor household in a financial year is estimated to be ten thousand rupees. If the whole country is covered under the legislation, the total requirement of funds on material and wage components, including the State share of funds is estimated to be approximately thirty-eight thousand six hundred crore rupees of which the Central share will be thirty-four thousand seven hundred forty crores rupees (this does not include, administrative expenses). Although the total expenditure would depend on the extent of coverage of areas of the country under the proposed legislation, it has estimated that if the legislation is extended to 150 districts where the National Food for Work Programme is being implemented, the requirement of central funds will be approximately eight thousand nine hundred eighty four crore seventy lakh rupees. The State Government will bear twenty five per cent of the material component (including the wages of skilled and semi-skilled workers). Since the employment is to be provided every year this expenditure would be a recurring expenditure.

Clause 6 of the Bill provides that the Central Government may by notification, specify the wage rate for the purposes of the proposed legislation which may be different for different areas. Until such time the wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers shall be considered as the wage rate applicable to that area. The wages under this legislation are to be paid to the labourers at the wage rate. At present, the minimum wage rates for agricultural labourers in the States vary from twenty-five rupees to one hundred thirty-five rupees. For the purpose of financial estimates, an average wage rate of sixty rupees per person per diem has been assumed. While fixing the wage rate, the Central Government may take into consideration the criteria and factors in addition to and other than those provided in the Minimum Wages Act, 1948. The financial liability of the Central Government will vary according to the wage rate fixed for the purposes of the proposed legislation.

Clause 7 of the bill provides that if an applicant for employment under the Scheme made under the proposed legislation is not provided employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance, The unemployment allowance shall be paid to the applicants of a household subject to the entitlement of the household as a unit at such rate as may be specified by the State Government, by notification, in consultation with the State Council provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the relevant financial year and not less than one-half of the wage rate for the remaining period of that year. The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year. The entire expenditure on account of unemployment allowance is to be borne by the State Government. However, the principal objective of the legislation is to guarantee wage employment to the rural poor household and adequate provisions have been made enabling the State Government to formulate an appropriate Scheme in such a manner that the need for payment of unemployment allowance will be minimum.

Clause 10 of the Bill provides that there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this legislation. The Council shall have both official and nonofficial members. The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings of the Central Council shall be such as may be prescribed by the Central Government. The Central Government will bear all expenses of the Central Council which will be of a recurring nature and would be a part of the administrative costs permissible under the Scheme.

Clause 12 of the Bill, provides that the State Government shall constitute a Council to be called the (name of the State) State Employment Guarantee Council for the purposes of regular monitoring and reviewing the implementation of this legislation at the State level. The Council shall have both official and non-official members. The terms and conditions subject to which the Chairperson and other members of the State Council may be appointed and the time, place and procedure of the meetings of the State Council shall be such as may be prescribed by the State Government. The State Government will bear all expenses of the State Council which will be of a recurring nature. In so far the State Councils for Union territories are concerned the Central Government will have to bear the expenditure.

Clause 13 of the Bill provides that the Panchayat at district level in every district within which a Scheme is being implemented shall constitute a Standing Committee consisting of such number of its members and subject to such terms and conditions as may be prescribed by the State Government to supervise, monitor and oversee the implementation of the Scheme within the district. This is the normal function of the District Panchayats and expenditure for this purpose would be borne by the District Panchayat.

Clause 15 of the Bill provides that for every Block, the State Government shall appoint a person with such qualifications and experience as may be determined by the State Government, as Programme Officer for implementing the Scheme in that Block. The Programme Officer would be a crucial person for the implementation of the Scheme. The salary and allowances of the Programme Officer and his supporting staff would be borne by the Central Government out of the admissible administrative expenses, which will be a recurring expenditure.

Clauses 16 and 17 of the Bill lay down the role and responsibilities of the Gram Panchayats in implementation of the Scheme made under this legislation. In order to effectively carry out their responsibilities, the capacity building of the Gram Panchayats will be needed and its expenditure will be borne by the Central Government from the funds provided for administrative expenses.

Clause 18 of the Bill provides that the State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme. The cost of the staff support to the Programme Officers will be borne by the Central Government while all other incidental expenses, if any, needed to operationalise this clause will be borne by the State Government.

Clause 20 of the Bill provides that the Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this legislation. The Central Government may, after due appropriation made

by Parliament by law in this behalf. credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

Clause 21 of the Bill provides that the State Government may, by notification. establish a fund to be called the State Employment Guarantee Fund for the purposes of the implementation of the Scheme.

Clause 22 of the Bill provides the funding pattern of various costs of implementation of the proposed legislation: Sub-clause (1) provides that the Central Government shall meet the costs of wages for unskilled manual work under the Scheme. Upto three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provision that the material component does not exceed 40 per cent under the projects, and such percentage of the total cost of Scheme as may be determined by the Central Government towards administrative expenses, which may include the salary and allowances of the Programme Officers and their supporting staff. the administrative expenses of the Central Council, various facilities to be provided to the labourers and such other items as may be decided by the Central Government. It is estimated that if two percent of the programme cost is earmarked for administrative expenses, it would be adequate for effective implementation of the programme. Sub-clause (2) provides that the State Government shall meet the costs of unemployment allowance payable under the Scheme, one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provision that the material component does not exceed 40 per cent. under the projects, and the administrative expenses of the State Council. These costs will be of a recurring nature.

Clause 28 of the Bill provides that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Bill under which the entitlement of the Households is not less than and the conditions of employment are not inferior to what is guaranteed under this Bill, the State Government shall have the option of implementing its own enactment. It further provided that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the state would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented. It is estimated that there will be no additional financial liability for the Central Government under this clause.

Paragraph 24 of Schedule II of the Bill provides that 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 to, free of charge, such medical treatment as is admissible under the Scheme. Paragraph 25 of Schedule II further provides that where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work. The expenditure on such medical expenses, hospitalization and daily wages would be borne by the Central Government within the limit fixed for admissible administrative expenses and will be a recurring expenditure.

Paragraph 26 of Schedule II provides that if a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment. he shall be paid by the implementing agency an ex gratia payment at the rate of ten thousand rupees or such amount as may be notified by the Central Government and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be. The expenditure on such payments would be borne by the Central Government within the limit fixed for admissible administrative expenses and will be a recurring expenditure.

Paragraph 27 of Schedule II provides that the facilities of safe drinking water, shade for children and periods of rest, first aid box with adequate material for emergency treatment for minor injuries and for other health hazards connected with the work being performed shall be provided at the work site. These are normal amenities to be provided by any employer and as such State Government would be required to provide sufficient safeguards and meet consequential expenses, which will be of a recurring nature.

Paragraphs 28 of Schedule II of the Bill provides that in case where at least twenty women are employed at a worksite, provision shall be made for one of them to be deputed to look after any children under the age of six years who may be brought to the work site, if need arises. Paragraph 29 provides further that the person deputed under paragraph 28 shall be paid wage rate. The expenditure on such payments would be borne by the Central Government under the admissible unskilled wage component and will be of a recurring expenditure.

Paragraph 33 of Schedule II of the Bill provides that if any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, within the limit fixed for admissible administrative expenses such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an ex gratia payment as may be determined by the State Government. The expenditure on such payments would be borne by the Central Government and will be of a recurring expenditure.

The Central Government will have to bear the expenditure in relation to implementation of the proposed legislation in so far as the Union territories are concerned.

Apart from the estimates given above, as the exact expenditure which will be involved in implementing the proposed legislation will depend upon the areas in which the Schemes will be implemented and these are required to be decided after the Bill is passed, it is not practicable to make an exact estimate of the recurring and non-recurring expenditure for the financial year, 2004-05.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 4 of the Bill empowers every State Government to make a scheme for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under such scheme and whose adult members by application volunteer to do unskilled manual work. The scheme is intended to give effect to the provisions of clause 3 of the Bill. Sub-clause (2) of clause 4 requires that the State Government shall publish a summary of the scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which the scheme shall apply. Sub-clause (3) of clause 4 provides that the scheme should have the minimum features as specified in Schedule I of the Bill.

2. Sub-clause (1) of clause 29 of the Bill empowers the Central Government to amend Schedule I and Schedule II, by

notification, if it considers it necessary or expedient to do so. Every notification issued under this sub-clause is required to be laid before each House of Parliament.

3. Sub-clause (1) of clause 31 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, inter alia, relates to the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10, the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the Central Council, under sub-section (4) of section 10, the manner in which and the conditions and limitations subject to which the National Fund shall be utilized under sub-section (3) of section 20 and the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22.

4. Sub-clause (1) of clause 32 of the Bill empowers the State Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, inter alia, relates to the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7, the procedure for payment of unemployment allowance under sub-section (6) of section 7, the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12, the number of members of the Standing Committee at district level and their terms and conditions of their appointment under sub-section (1) of section 13, the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19, the manner in which and the conditions and limitations subject to which the State Fund shall be utilized under sub-section (2) of section 21, the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21, the manner of maintaining books of accounts of employment of labourers and the expenditure under sub-section (2) of section 23, the arrangements required for proper execution of Schemes under sub-section (3) of section 23 and the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24.

5 The scheme made by the State Government is required to be laid before the State Legislature. The rules which may be made by the Central Government or the State Government under the proposed legislation shall be subject to previous publication and shall be required to be laid before the Parliament and the State Legislature respectively.

6. The aforesaid matters in respect of which schemes or rules may be made or notification may be issued under clause 29 relate to manners of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

A

Bill

to provide for the enhancement of livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

(Shri Raghuvansh Prasad Singh, Minister of Rural
Development)