

## Apprentices Act, 1961

### Chapter 3 - Authorities

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(1) In addition to the Government there shall be the following authorities under this Act, namely:--

- (a) The National Council,
- (b) The Central Apprenticeship Council,
- (c) The State Council,
- (d) The State Apprenticeship Council, 1 [(e) The All India Council,
- (f) The Regional Boards,
- (g) The Boards or State Councils of Technical Education,]
- 2 [(h)] The Central Apprenticeship Adviser, and
- 2 [(i)] The State Apprenticeship Adviser.

(2) Every State Council shall be affiliated to the National Council and every State Apprenticeship Council shall be affiliated to the Central Apprenticeship Council.

1 [(2A) Every Board or State Council of Technical Education and every Regional Board shall be affiliated to the Central Apprenticeship Council.]

(3) Each of the authorities specified in sub-section (1) shall, in relation to apprenticeship training under this Act, perform such functions as are assigned to it by or under this Act or by the Government:

Provided that a State Council shall also perform such functions as are assigned to it by the National Council and the State Apprenticeship Council 1 [and the Board or State Council of Technical Education] shall also perform such functions as are assigned to it by the Central Apprenticeship Council.

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1. Inserted by Act 27 of 1973, section 17 (w.e.f. 1-12-1974).

2. Clauses (e) and (f) re-lettered as clauses (h) and (i) respectively by Act 27 of 1973, section 17 (w.e.f. 1-12-1974).

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### Section 24 - Constitution of Councils

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(1) The Central Government shall, by 1 notification in the Official Gazette, establish the Central Apprenticeship Council and the State Government shall, by notification in the Official Gazette, establish the State Apprenticeship Council.

(2) The Central Apprenticeship Council shall consist of 2 [a Chairman and a Vice-Chairman] and such number of other members as the Central Government may think expedient, to be appointed by that Government by notification in the Official Gazette from among the following categories of persons, namely:--

- (a) representatives of employers in establishments in the public and private sectors,
- (b) representatives of the Central Government and of the State Governments, [3](#) [\*\*\*]
- (c) persons having special knowledge and experience on matters relating to [4](#) [industry, labour and technical education, and]

[5](#) [(d) representatives of the All India Council and of the Regional Boards.]

(3) The number of persons to be appointed as members of the Central Apprenticeship Council from each of the categories specified in sub-section (2), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Council shall be such as may be prescribed.

(4) The State Apprenticeship Council shall consist of [2](#) [a Chairman and a Vice-Chairman] and such number of other members as the State Government may think expedient, to be appointed by that Government by notification in the Official Gazette from among the following categories of persons, namely:--

(a) representatives of employers in establishments in the public and private sectors,

(b) representatives of the Central Government and of the State Government [3](#) [\*\*\*]

(c) persons having special knowledge and experience of matters relating to [4](#) [industry, labour and technical education, and] [5](#) [(d) representatives of the Board or of the State Council of Technical Education.]

(5) The numbers of persons to be appointed as members of the State Apprenticeship Council from each of the categories specified in sub-sections (4), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Council shall be such as the State Government may, by notification in the Official Gazette, determine.

(6) The fees and allowances, if any, to be paid to [6](#) [the Chairman and the Vice-Chairman] and the other members of the Central Apprenticeship Council, shall be such as may be determined by the Central Government and the fees and allowances, if any, to be paid to [6](#) [the Chairman and the Vice-Chairman] and the other members of the State Apprenticeship Council shall be such as may be determined by the State Government.

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1. For notification see Annexe.
  2. Substituted by Act 27 of 1973, section 18, for "a Chairman" (w.e.f. 1-12-1974).
  3. The word "and" omitted by Act 27 of 1973, section 18 (w.e.f. 1-12-1974).
  4. Substituted by Act 27 of 1973, section 18, for "industry and labour" (w.e.f. 1-12-1974).
  5. Inserted by Act 27 of 1973, section 18 (w.e.f. 1-12-1974).
  6. Substituted by Act 27 of 1973, section 18, for "the Chairman" (w.e.f. 1-12-1974).

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## Section 25 - Vacancies not to invalidate acts and proceedings

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No act done or proceeding taken by National Council, the Central Apprenticeship Council, the State Council or the State Apprenticeship Council under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Council.

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## Section 26 - Apprenticeship Advisers

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(1) The Central Government shall, by notification in the Official Gazette, appoint a suitable person as the Central Apprenticeship Adviser.

(2) The State Government shall, by notification in the Official Gazette, appoint a suitable person as the State Apprenticeship Adviser.

(3) The Central Apprenticeship Adviser shall be the Secretary to the Central Apprenticeship Council and the State Apprenticeship Adviser shall be Secretary to the State Apprenticeship Council.

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## **Section 27 - Deputy and Assistant Apprenticeship Advisers**

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(1) The Government<sup>1</sup>[may appoint suitable persons as Additional, Joint, Regional, Deputy and Assistant Apprenticeship Advisers] to assist the Apprenticeship Adviser in the performance of his functions.

(2)<sup>2</sup>[Every Additional, Joint, Regional, Deputy or Assistant Apprenticeship Adviser] shall, subject to the control of the Apprenticeship Adviser, perform such functions as may be assigned to him by the Apprenticeship Adviser.

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1. Substituted by Act 27 of 1973, section 19, for "may appoint suitable persons as Deputy and Assistant Apprenticeship Adviser" (w.e.f. 1-12-1974).

2. Substituted by Act 27 of 1973, section 19, for "Every Deputy or Assistant Apprenticeship Adviser" (w.e.f. 1-12-1974).

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## **Section 28 - Apprenticeship Advisers to be public servants**

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Every Apprenticeship Adviser and<sup>1</sup>[every Additional, Joint, Regional, Deputy or Assistant Apprenticeship Adviser] appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

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1. Substituted by Act 27 of 1973, section 20, for "every Deputy or Assistant Apprenticeship Adviser" (w.e.f. 1-12-1974).

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## **Section 29 - Powers of entry, inspection, etc**

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(1) Subject to any rules made in this behalf, the<sup>1</sup>[Central Apprenticeship Adviser or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorised by the Central Apprenticeship Adviser in writing in this behalf] may--

(a) with such assistants, if any, as he thinks fit, enter, inspect and examine any establishment or part thereof at any reasonable time;

(b) examine any apprentice employed therein or require the production of any register record or other documents maintained in pursuance of this Act and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(c) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed in the establishment;

(d) exercise such other powers as may be prescribed:

Provided that<sup>2</sup>[a State Apprenticeship Adviser or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorised by the State Apprenticeship Adviser in writing in this behalf] may also exercise any of the powers specified in clause (a), (b), (c) or (d) of this sub-section in relation to establishments for which the appropriate Government is the State Government.

(2) Notwithstanding anything in sub-section (1), no person shall be compelled under this section to answer any question or make any statement which may tend directly or indirectly to incriminate him.

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1. Substituted by Act 27 of 1973, section 21, for "Central Apprenticeship Adviser" (w.e.f. 1-12-1974).

2. Substituted by Act 27 of 1973, section 21, for "a State Apprenticeship Adviser" (w.e.f. 1-12-1974).

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### **Section 30 - Offences and penalties**

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(1) If any employer--

(a) engages as an apprentice a person who is not qualified for being so engaged, or

(b) fails to carry out the terms and conditions of a contract of apprenticeship, or

(c) contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions,

he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) If any employer or any other person--

(a) required to furnish any information or return--

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

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

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

(b) refuses or wilfully neglects to afford<sup>1</sup>[the Central or the State Apprenticeship Adviser or such other persons, not below the rank of an Assistant Apprenticeship Adviser, as may be authorised by the Central or the State Apprenticeship Adviser in writing in this behalf], any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act, or

(c) requires an apprentice to work overtime without the approval of the Apprenticeship Adviser, or

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

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

(f) requires an apprentice to take part in any out-put bonus or incentive scheme,

he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

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1. Substituted by Act 27 of 1973, section 22, for "the Central or the State Apprenticeship Adviser" (w.e.f. 1-12-1974).

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### **Section 31 - Penalty where no specific penalty is provided**

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If any employer or any other person contravenes any provision of this Act for which no punishment is provided in section 30, he shall be punishable with fine<sup>1</sup>[which shall not be less than one thousand rupees but may extend to three thousand rupees].

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1. Substituted by Act 4 of 1997, section 7, for "which may extend to five hundred rupees" (w.e.f. 8-1-1997).

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### **Section 32 - Offences by companies**

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(1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section,--

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
  - (b) "director" in relation to a firm means a partner in the firm.
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### **Section 33 - Cognizance of offences**

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No court shall take cognizance of any offence under this Act or the rules made thereunder except on a complaint thereof in writing made by the Apprenticeship Adviser<sup>1</sup>[or the officer of the rank of Deputy Apprenticeship Adviser and above] within six months from the date on which the offence is alleged to have been committed.

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1. Inserted by Act 4 of 1997, section 8 (w.e.f. 8-1-1997).

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### **Section 34 - Delegation of powers**

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The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or the rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction be exercisable also--

(a) where the appropriate Government is the Central Government by such officer or authority, subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is the State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

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## **Section 35 - Construction of references**

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(1) Any reference in this Act or in the rules made thereunder to the Apprenticeship Council shall, unless the context otherwise requires, mean in relation to apprenticeship training in a designated trade in an establishment in relation to which the Central Government is the appropriate Government, the Central Apprenticeship Council and in relation to apprenticeship training in a designated trade in an establishment in relation to which the State Government is the appropriate Government, the State Apprenticeship Council.

(2) Any reference in this Act or in the rules made thereunder to the Apprenticeship Adviser shall, unless the context otherwise requires,--

(a) mean in relation to apprenticeship training in a designated trade in an establishment in relation to which the Central Government is the appropriate Government, the Central Apprenticeship Adviser and in relation to apprenticeship training in a designated trade in an establishment in relation to which the State Government is the appropriate Government, the State Apprenticeship Adviser;

(b) be deemed to include<sup>1</sup>[an Additional, a Joint, a Regional, a Deputy or an Assistant Apprenticeship Adviser] performing the functions of the Apprenticeship Adviser assigned to him under sub-section (2) of section 27.

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1. Substituted by Act 27 of 1973, section 23, for "a Deputy or Assistant Apprenticeship Adviser" (w.e.f. 1-12-1974).

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## **Section 36 - Protection of action taken in good faith**

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

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## **Section 37 - Power to make rules**

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(1) The Central Government may, after consulting the Central Apprenticeship Council, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Rules made under this Act may provide that a contravention of any such rule shall be punishable with fine which may extend to fifty rupees.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament which it is in session for a total period of thirty days which may be comprised in one session<sup>1</sup>[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 the rule shall 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.

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1. Substituted by Act 27 of 1973, section 24, for certain words (w.e.f. 1-12-1974).

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**Section 38 - Repealed**

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[Rep. by the Repealing and Amending Act, 1964 (52 of 1964) section 2, and Schedule I. (w.e.f. 29-12-1964).]

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