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**THE MAHARASHTRA PRIVATE SECURITY GUARDS
(REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1981**

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The Maharashtra Private Security Guards (Regulation of Employment And Welfare) Act, 1981

24-9-1981

MAHARASHTRA ACT No. LVIII OF 1981¹

Amended by Mah. 28 of 1996 (29-4-1996)²

An Act for regulating the employment of Private Security Guards employed in factories and establishment in the State of Maharashtra and for making better provisions for their terms and conditions of employment and welfare, through the establishment of a Board therefor, and for matters connected therewith.

WHEREAS both Houses of the State Legislature were not in session; AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law for regulating the employment of Private Security Guards employed in factories and establishment in the State of Maharashtra and for making better provisions for their terms and conditions of employment and welfare, through the establishment of a board therefor, and for matters connected therewith, and, therefore, promulgated the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 (Mah. Ord. V of 1981) on the 29th June, 1981;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Thirty- Second Year of the Republic of India as follows:-

1. Short title, extent, commencement and application.-(1) This Act may be called the **Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981.**

(2) It extends to the whole of the State of Maharashtra.

(3) This Act shall be deemed to have come into force only in Greater Mumbai and Thane District on the 29th June, 1981. It shall come into force in any other area of the State on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf for that area, and different dates may be appointed for different areas and for different provisions of this Act.

(4) It applies to persons who work as Security Guards in any factory or establishment, but who are not direct and regular employees of the factory or the establishment, as the case may be.

¹ This Act received assent of the President on 24th September, 1981; assent was first published in the Maharashtra Government Gazette, PL.IV. Ext. on 25th September, 1981.

For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1981, Part V at pages 473-474.

² This indicates the date of commencement of the Act

NOTE

Applicability to Educational Establishments.

The Act is not applicable to an establishment which is an education institution.

Vidya Prasarak Mandal v. V.M. Shevade 1999 II CLR 6 (Bom.H.C.)

2. Definitions.-In this Act, unless the context otherwise requires,-

¹[(1) "agency or agent", in relation to a Security Guard, means an individual or body of individuals or a body corporate, who or which employs Security Guards in his or its employment on wages and undertakes to execute any security work or watch and ward work on contract, for any factory or establishment by engaging the Security Guards in his or its employment, but does not include a sub-agency or sub-agent or the Board;]

(1-a) "Advisory Committee" means Committee constituted under Section 15;

(2) "Board" means a Board established under this Act;

²[(3) "employer", in relation to a Security Guard in the direct employment of an agency or agent and deployed in a factory or establishment through such agency or agent, means such agency or agent;]

(4) "establishment" means an establishment as defined in clause (8) of Section 2 of the Maharashtra Shops and Establishments Act, 1948;

(5) "Factory" means a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (LXIII of 1948);

(6) "Inspector" means an Inspector appointed under Section 16;

(7) "Prescribed" means prescribed by rules made under this Act;

³[(8) "principal employer", in relation to any class or classes of Security Guards deployed in a factory or establishment by the agency or agent or Board, means the person who has ultimate control over the affairs of the factory or establishment and includes any other person to whom the affairs of such factory or establishment are entrusted whether such person is called Authorised Representative, Manager or by any other name prevailing in the factory or establishment;]

(9) "Scheme" means a Scheme made under this Act;

⁴[(10) "Security Guard" or "Private Security Guard" means a person who is engaged through any agency or agent or Board to do security work or watch and ward work in any factory or establishment but does not include

¹ This clause was substituted for the original by Mah. Ord. 4 of 1996* and subsequently by Mah. 28 of 1996, s. 2(a).

*This Ordinance was promulgated on 9-2-1996 and ceased to operate on 28-4-1996.

² Clauses (3), (8) and (10) were substituted for the original by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.2(b), (c) and (d)

³ Clauses (3), (8) and (10) were substituted for the original by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 2(b), (c) and (d)

⁴ Clauses (3), (8) and (10) were substituted for the original by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 2(b), (c) and (d)

the members of any principal employer's family or any person who is a direct employee of the principal employer;]

(11) "wages" means all remuneration expressed in terms of money or capable of being so expressed, which would, if the terms of contract of employment express or implied, were fulfilled, be payable to a Security Guard in respect of security work or watch and ward work done in any factory or establishment, but does not include-

(i) the value of any house accommodation, supply of light, water, medical attendance, or any other amenity or any service excluded from the computation of wages by general or special order of the State Government;

(ii) any contribution paid by the employer ¹[or the principal employer, as the case may be,] to any pension fund or provident fund or under any scheme of social insurance and the interest which may have accrued thereon;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the Security Guard to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

3. Scheme for ensuring regular employment of Security Guards.-(1) For the purpose of ensuring an adequate supply and full and proper utilisation of Security Guards in factories and establishments, and generally for making better provision for the terms and conditions of employment of such workers, the State Government may by means of one or more Schemes provide for the registration of ²[principal employers) and Security Guards in any factory or establishment and provide for the terms and conditions of employment of registered Security Guards and make provision for the general welfare of such Security Guards.

(2) In particular, a Scheme may provide for all or any of the following matters, that is to say,-

(a) for the application of the Scheme to such classes of registered Security Guards and ³[principal employers], as may be specified therein;

(b) for defining the obligations of registered Security Guards and ⁴[principal employers], subject to the fulfilment of which the Scheme may apply to them;

(c) for regulating the recruitment and entry into the Scheme of Security Guards and the registration of Security Guards and ⁵[principal employers], including the maintenance of registers, removal or restoration, either temporarily or permanently, of the names from the registers, and the imposition of fees for registration;

¹ These words were inserted by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.2(e)

² These words were substituted for the word "employer" *ibid.*, s. 3(a)

³ These words were substituted for the words "employers" *ibid.*, s.3(b).

⁴ These words were substituted for the words "employers" *ibid.*, s.3(b)

⁵ These words were substituted for the words "employers" *ibid.*, s.3(b)

- (d) for regulating the employment of registered Security Guards and the terms and conditions of such employment including the rates of wages, hours of work, maternity benefit, overtime payment, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;
- (e) for providing the time within which registered ¹[principal employers] should remit to the Board the amount of wages payable to the registered Security Guards for the work done by such workers; for requiring such ²[principal employers] who, in the opinion of the Board, make default in remitting the amount of wages in time as aforesaid to deposit with the Board, an amount equal to the monthly average of the wages to be remitted as aforesaid; if at any time the amount of such deposit falls short of such average, for requiring such ³[principal employers] who, persistently make default in making such remittances in time, to pay also, by way of penalty, a surcharge of such amount not exceeding 10 per cent of the amount to be remitted as the Board may determine;
- (f) for securing that, in respect of a period during which employment or full employment is not available to registered Security Guards, though they are available for work, such Security Guards shall, subject to the conditions of the Scheme, receive a minimum guaranteed wage;
- (g) for prohibiting, restricting or otherwise controlling the employment of Security Guards to whom the Scheme does not apply, and the employment of Security Guards by ⁴[principal employers] to whom the Scheme does not apply;
- (h) for the welfare of registered Security Guards covered by the Scheme, in so far as satisfactory provision therefor does not exist apart from the Scheme;
- (i) for health and safety measures in places where the registered Security Guards are engaged, in so far as satisfactory provision therefor is required but does not exist, apart from the Scheme;
- (j) for the constitution of any fund or funds including provident fund for the benefits of registered Security Guards, the vesting of such funds, the

¹ These words were substituted for the words "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.3(b)

2. These words were substituted for the words "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.3(b)

3. These words were substituted for the words "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.3(b)

4. These words were substituted for the words "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.3(b)

payment and contributions to be made to such funds, provisions for provident fund and rates of contribution being made after taking into consideration the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, (XIX of 1952), and the Scheme framed thereunder, with suitable modifications where necessary, to suit the conditions of work of such registered Security Guards and all matters relating thereto;

- (k) for the manner in which the day from which (either prospective or retrospective) and the persons by whom, the cost of operating the Scheme is to be defrayed;
 - (l) for constituting the persons or authorities who are to be responsible for the administration of the Scheme, and the administration of funds constituted for the purposes aforesaid;
 - (m) for specifying the powers and duties, which the persons or authorities referred to in clause (e) may exercise or perform, for providing appeals and revision applications against the decisions or orders of such persons and authorities; and for deciding such appeals and applications and for matters incidental thereto;
 - (n) for such other incidental and supplementary matters as may be necessary or expedient for giving effect to the purposes of the Scheme.
- (3) The Scheme may further provide that a contravention of any provision thereof shall, on conviction, be punished with imprisonment for such term as may be specified (but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention), or with fine which may extend to such amount as may be specified (but in no case exceeding five hundred rupees in respect of the first contravention or one thousand rupees in respect of any subsequent contravention), or with both imprisonment and fine; and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

NOTE

S.3(3) - and Scheme of 1981 - Clause 14 - Appointment by factory not registered with Security Guards Board.

Petitioner, a financial institution, and, not registered with Security Guards Board, employed private security guards for the safety of employees residing in staff quarters in suburb. Criminal complaint was filed against the petitioner and when the Magistrate issued process, petitioner filed this proceeding in High Court praying for quashing the order of process. The submission is that private security guards were engaged to work at staff quarters from where no commercial activity are carried.

Rejecting the submission it is observed that it is not the place of posting which is a relevant consideration under the Act and the scheme, but what is material is as to whether the appointment has been made by factory or establishment as defined under S.2(8) of the Bombay Shops and Establishments Act, 1948. The intention of the legislature is to safeguard the interest and service conditions of security guards employed by factories and establishments, and it is explicit that security guards employed by the factories and establishments are covered under the provisions of the Act and the scheme, irrespective of the place where they have been allotted work.

Narayanan Vaghal v. R.K. Mhatre 1995 1 CLR 298 (Bom.H.C.)

(4) Notwithstanding anything contained in this Act,-

(a) on and from the 29th June, 1981, in Greater Mumbai and Thane Districts, no principal employer or agency or agent shall dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard, merely by reason of the employer's liability to register himself under a Scheme framed under this section or by reason of any other liability likely to be cast on him under such Scheme or by reason of the liability of the Security Guard to register himself under such Scheme, during the period from the said date upto the date the whole Scheme so framed is applied to such employer and Security Guard or during the period of one year from the said date, whichever is earlier;

and

(b) on and from the date on which this Act or any provisions thereof are brought into force in any other area of the State, in that area, no principal employer or agency or agent shall dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard, merely for any of the reasons specified in Clause (a) during the period from the said date upto the date the whole Scheme framed under this section is applied to such employer and Security Guard:

Provided that, nothing contained in this sub-section shall affect the right of the ¹[principal employers], agency or agent to dismiss, discharge or retrench or otherwise terminate the appointment of any Security Guard as a penalty imposed for disciplinary action taken against him.

4. Making variation and revocation of Scheme.-(1) The State Government may, after consultation with the Advisory Committee constituted under Section 15, and, subject to the conditions of previous publication, by notification in the *Official Gazette*, make one or more schemes for Security Guards, class or classes of Security Guards in one or more areas specified in the notification; and in like manner add to, amend or vary any Scheme or substitute another Scheme for any Scheme made by it:

Provided that, no such notification shall come into force, unless a period of one month has expired from the date of its publication in the *Official Gazette*.

(2) The provisions of Section 24 of the Maharashtra General Clauses Act, shall apply to the exercise of the powers given by Sub-section (1) as they apply to the exercise of the power given by a Maharashtra Act to make rule subject to the condition of previous publication.

5. Disputes regarding application of Scheme.- If any question arises whether any Scheme applies to any class of Security Guards or ²[principal employers], the matter shall be referred to the State Government, and the decision of the State Government on the question, which shall be taken after consulting the Advisory Committee constituted under Section 15, shall be final.

¹ These words were substituted for the words "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 3(c)

² These words were substituted for the word "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.4

6. Constitution of Board.- (1) The State Government may, by notification in the *Official Gazette*, establish a Board to be known by such name as may be specified in the notification for any Security Guards in any area. One or more Boards may be established for one or more classes of Security Guards or for one or more areas.

(2) Every such Board shall be a body corporate with the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, and to contract, and may, by that name, sue or be sued.

(3) The Board shall consist of members nominated, from time to time, by the State Government representing the [principal employers], the Security Guards and the State Government.

NOTES

S.6(3) - Constitutionally valid.

In this case, the provision of S.6(3) which provides for the constitution of Security Guards Board is challenged as arbitrary on the ground that there are no guidelines for exercise of power under the said provision.

The challenge is rejected by observing that there is nothing from which it can be said that sub-section (3) of S.6 is hit by vice of arbitrariness.

The power under the provision is to be exercised by State Government. Following the dictum in the case of *R.S. Dass v. Union of India* AIR 1987 SC 393, it is observed that where power is vested in a high authority, in that case the State Government, there is a presumption that the same would be exercised in a reasonable manner. So, in this case the question of arbitrariness is ruled out. There is vital distinction between the provisions of a statute being arbitrary and action pursuant to those provisions being arbitrary. The statute cannot be invalidated as it cannot be presumed that the power will be exercised in an arbitrary manner, but if action taken, if hit by arbitrariness can be struck down. The validity of S.6(3) is upheld.

Suraksha Rakshak Kamgar Union v. State of Maharashtra 1996 1 CLR 1074 (Bom.-D.B.)

S.6(3) - Nomination of representatives of Security Guards on the Board.

State Government issued Notification on 8.1.1995 constituting Security Guards Board. Representatives of Security Guards are there on this newly constituted Board. However, these representatives are not themselves security guards. It is on this ground that the constitution of the Board is challenged.

The challenge is rejected on the ground that it is not necessary that representatives of security guards to be nominated on the Board must themselves be security guards. S.6(3) cannot be construed to mean that only security guard can be nominated on the Board. The State Government has to nominate members representing the employers, the security guards and the State Government. The members to be nominated may not necessarily be a security guard. Any person capable of representing the interest of the security guards can be nominated on the Board. The representatives may not necessarily be a security guard. If in the opinion of the State Government that person can represent the interest of the security guards, he or she can be nominated.

Suraksha Rakshak Kamgar Union v. State of Maharashtra 1996 1 CLR 1074 (Bom.-D.B.)

(4) The members representing the ²[principal employers], and the Security Guards shall be equal in number, and the members, representing the State

¹ These words were substituted for the word "employers". *ibid* s.5

² These words were substituted for the word "employers". *ibid* s.5.

Government shall not exceed one-third of the total number of members representing ¹[principal employers] and Security Guards.

(5) The Chairman of the Board shall be one of the members appointed to represent the State Government; nominated in this behalf by the State Government.

(6) After nomination of all the members of the Board including the Chairman, the State Government, shall, by notification in the *Official Gazette*, publish the names of all the members of the Board.

(7) The term of office of members of the Board shall be such as may be prescribed.

(8) There shall be paid to every member (not being a member representing the State Government) from the fund of the Board, travelling and daily allowances for attending meetings, of the Board at such rates as may be prescribed.

(9) The meetings of the Board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject to the approval of the State Government, be regulated by the Board.

7. Power of State Government to appoint Board consisting of one person.-

(1) Where by reason of the ²[principal employers] or the Security Guards refusing to recommend persons for representing them on the Board or for any reasons whatsoever it appears to the State Government that it is unable to constitute a Board for Security Guards in accordance with the provisions of Section 6, the State Government may, by notification in the *Official Gazette*, appoint a suitable person who shall hold office until a Board is duly constituted under Section 6 for such Security Guards.

(2) The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board by or under this Act and the Scheme made thereunder. He shall continue in office until the day immediately preceding the date of the first meeting of the Board constituted under Section 6.

(3) The person constituting the Board shall receive such remuneration, from the fund of the Board, and the terms and other conditions of his service shall be such as the State Government may determine.

8. Power and duties of Board.-(1) The Board shall be responsible for administering every Scheme and shall exercise such powers and perform and discharge such duties and functions as may be conferred on it by the Scheme.

(2) The Board may take such measures as it may deem fit for administering the Scheme.

(3) The Board shall submit to the State Government, as soon as may be, after the 1st day of April every year, and not later than the 21st day of October as annual report on the working of the Scheme during the preceding year ending on the 31st day of March of that year. Every report so received shall be laid, as soon as may be after it is received before each house of the State Legislature if

¹ These words were substituted for the word "employers", *ibid* s.5

² These words were substituted for the word "employer", by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.6.

it is in session, or in the session immediately following the date of receipt of the report.

(4) In exercise of the powers and performance and discharge of its duties and functions, the Board shall be bound by such directions as the State Government may, for reasons to be stated in writing give to it, from time to time.

NOTES

S.8(4) - Deduction from wages of membership subscription.

Petitioner is a trade union representing majority of private security guards. There was a practice of making deduction of membership subscription and permissible deductions by respondent no.2 from the wages, bonus etc. payable to those security guards who have given consent forms and to make over the deducted amount to petitioner union. State Government issued direction to respondent no.2 Board to stop the said practice. Petitioner challenges the said direction.

Held: It is not possible to uphold the direction by the State Government to respondent no.2 Board to discontinue the practice of deducting membership fees and permissible deductions from the salary of security guards. However as some difficulties are pointed out in making deductions, the Board should evaluate scheme in that regard, after hearing all concerned unions, within 3 months and in the meantime, the Board should permit deductions for the members of the petitioner union provided they have not revoked their consent letters.

Maharashtra Rajya Suraksha Rakshak & General Kamgar Union v. State of Maharashtra 1997 I CLR 380 (Bom.H.C.)

Power of Security Guards Board.

In this case, it is held as follows:

(1) Under the provisions of the Act and the Scheme, it is not incumbent to generally pinpoint an employer for security guard. However finding out the employer would become relevant only in the context of an injury to his rights as alleged by the security guard and the reliefs or the remedy claimed by him for redressal of such injury.

(2) The power of allotment of security guard, as available with the Security Guards Board, carries with it the necessary incidence of power of withdrawal and reallocation from the pool. Such power should not be exercised by the Board without a valid reason for the same.

(3) Withdrawal of a security guard on a complaint by principal employer should only be in consonance with the procedure as laid down in clause 31 of the scheme.

Krantikari Suraksha Rakshak Sangathana v. Security Guards Board 1997 II CLR 81 (Bom.-D.B.)

9. Accounts and audit.-(1) The Board shall maintain proper accounts and other relevant record and prepare an annual statement of accounts including a balance-sheet in such form as may be prescribed.

(2) The accounts of the Board shall be audited annually by such qualified persons as the State Government may appoint in this behalf.

(3) The auditor shall at all reasonable times have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require or examine any member or officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon, shall be forwarded annually to the State Government before such date as the State Government may specify in this behalf.

(5) The Board shall comply with such directions as the State Government may, after perusal of the report of the auditor, think fit to issue.

(6) The cost of audit, as determined by the State Government, shall be paid out of the funds of the Board.

10. Disqualifications and removal.-(1) No person shall be chosen as, or continue to be member of the Board who,-

(a) is a salaried officer of the Board; or

(b) is an undischarged insolvent; or

(c) is found to be a lunatic or becomes of unsound mind; or

(d) is or has been convicted of any offence involving moral turpitude, unless a period of five years has elapsed since the date of his conviction.

(2) The State Government may remove from office any member, who-

(a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or

(b) is absent without leave of the Board for more than three consecutive meetings of the Board.

11. Resignation of office by member.-Any member of the Board may at any time resign his office by writing under his hand addressed to the State Government, and his office shall, on acceptance of resignation, become vacant.

12. Vacancy to be filled as early as possible.-In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the State Government, and the vacancy shall be filled, as far as possible within ninety days from the date of the occurrence of the vacancy, and the person nominated to fill in the vacancy shall hold office so long only as the member in whose place he is nominated would have held it if the vacancy had not occurred:

Provided that, during any such vacancy, the continuing members may act as if no vacancy has occurred.

13. Proceedings presumed to be good and valid.-No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

14. Determination of moneys due from employers, ¹[principal employer] and Security Guards.- (1) The Board or such officer as may be specified by it in this behalf may by order, determine any sum due from any employer ²[principal employer] or Security Guards under this Act or any Scheme made thereunder, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

¹ These words were ins. by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 7.

² These words were ins. by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 7.

(2) The Board or such officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908) for trying a suit in respect of the following matters, namely:-

- (a) enforcing the attendance of any person or examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commission for the examination of witnesses; and

any such inquiry shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purpose of Section 196 of the Indian Penal Code, 1860 (XLV of 1860).

(3) No order determining the sum due from any employer¹ [principal employer] or Security Guard shall be made under sub-section (1), unless the employer² [principal employer] or Security Guard, as the case may be, is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be questioned in any Court.

(5) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.

15. Advisory Committees.-(1) The State Government may constitute an Advisory Committee to advise it upon such matters arising out of the administration of this Act or any Scheme made under this Act or relating to the application of the provisions of this Act to any particular class of Security Guards and³ [principal employer] as the Advisory Committee may itself consider to be necessary or as the State Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the State Government and shall be of such number and chosen in such manner as may be prescribed:

Provided that, the Advisory Committee shall include an equal number of members representing the⁴ [principal employers], the Security Guards and the Legislature of the State and the members representing the State Government shall not exceed one-fourth of its total number of members.

(3) The Chairman of the Advisory Committee shall be one of the members, appointed to represent the State Government, nominated in this behalf by the State Government.

(4) The State Government shall publish in the *Official Gazette* the names of the members of the Advisory Committee.

(5) The meetings of the Advisory Committee and procedure to be followed for the purpose shall be regulated according to the rules made under this Act.

¹ These words were inserted by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.7

² These words were inserted by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.7

³ These words were substituted for the word "employer", *ibid.*: s.15(a).

⁴ These words were substituted for the word "employers" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 5(b).

(6) The term of office of members of the Advisory Committee shall be such as may be prescribed.

(7) A member of the Advisory Committee (not being a member representing the State Government) shall receive travelling and daily allowances for attending meetings of the Committee at such rates as may be prescribed.

16. Inspectors and their powers.- (1) The Board may appoint such persons as it thinks fit to be Inspectors possessing the prescribed qualifications for the purposes of this Act or of any Scheme and may define the limits of their jurisdiction.

(2) Subject to any rules made by the State Government in this behalf, an Inspector may-

- (a) enter and search at all reasonable hours, with such assistants as he thinks fit, any premises or place, where Security Guards are employed or work is given out to Security Guards in any factory or establishment, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any scheme, and require the production thereof, for inspection;
- (b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a Security Guard employed therein or a Security Guard to whom work is given out therein;
- (c) require any person giving any work to a Security Guard or to a group of Security Guards to give any information, which is in his power to give, in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work;
- (d) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant, in respect of an offence under this Act or any Scheme, which he has reason to believe has been committed by an employer¹ [or principal employer]; and
- (e) exercise such other powers as may be prescribed;

Provided that, no one shall be required under the provisions of this section to answer any question or make any statement tending to incriminate himself.

(3) Every Inspector appointed under this Section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (XLV of 1860).

NOTE

S.16 - Private Security Guards (Regulation of Employment and Welfare) Scheme, 1981 - Clauses 9, 14 and 26(2)(3) - Petitioner No.1 (Accused No.1) is registered with respondent no.2 Security Guards Board for Greater Bombay constituted under the Act - Petitioner No.2 (Accused No.2) is the Chairman and Managing Director of Petitioner No.1 and Petitioner No.3 (Accused no.3) is Manager, Estate and Establishment Department of petitioner - Respondent No.3, Inspector appointed by respondent No.2, filed criminal complaint against petitioners alleging that accused no.1 engaged Private Security Guards provided by illegal agency in breach of Clause 26(2) of the Scheme and

¹ These words were inserted, *ibid.*, s.9

for other breaches of Clauses 26(2) and 26(3) of the Scheme and Magistrate issued process against the petitioners (accused) - Hence this petition for quashing issue of process - Held: There are sufficient averments making out a case against accused no.1 (Petitioner No.1) of breach of Clauses 26(2) and (3) of the Scheme, there is nothing to indicate that the complaint is mala fide and as such process issued against accused no.1 cannot be quashed. However so far as accused nos. 2 and 3 (Petitioners Nos. 2 and 3) are concerned, Learned Magistrate erred in issuing process against them in the absence of any allegation as to how they are concerned with breaches of Clauses 26(2) and (3) of the Scheme committed by accused No.1 and process issued against them is quashed.

New India Assurance Company Ltd. & Ors. v. State of Maharashtra & Ors. 2006 III CLR 470 (Bom.H.C.)

17. Cognisance of offences.-(1) No Court shall take cognisance of any offence made punishable by a Scheme or of any abatement thereof, except on a complaint in writing made by an Inspector or by a person specially authorised in this behalf by the Board or the State Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (II of 1974), an offence made punishable by a Scheme or an abatement thereof shall be triable only by a Metropolitan Magistrate or a Magistrate of the first class.

18. Prohibition of employment of children.-No child shall be required or allowed to work as a Security Guard.

Explanation.-"Child" means a person who has not completed fourteen years of age.

19. Application of Employees' Compensation Act to Security Guards.-The provisions of the Employees' Compensation Act, 1923, and the rules made thereunder, shall *mutatis mutandis* apply to the registered Security Guards employed in any factory or establishment; and for that purpose they shall be deemed to be workmen within the meaning of that Act; and in relation to such workmen, employer shall mean where a Board makes payment of wages to any such workmen, the Board, and in any other case, the ¹[principal employer] as defined in this Act.

20. Application of Payment of Wages Act to Security Guards.-(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (IV of 1936) (hereinafter referred to in this section as "the said Act"), the State Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of the said Act and the rules made thereunder shall apply to all or any class of registered Security Guards employed in any factory or establishment, with the modification that in relation to registered Security Guards, employer shall mean, where a Board makes payment of wages to any such Guards, the Board; and in any other case, the ²[principal employer] as defined in this Act; and on such application of the provisions of the said Act, an

¹ These words were substituted for the word "employer" by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.10.

² These words were substituted for the word "employers", *ibid.* s. 11

Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(2) The State Government may, only if the Advisory Committee so advises, by a like notification, cancel or vary any notification issued under sub-section (1).

21. Application of Maternity Benefit Act to Women Security Guards.- Notwithstanding anything contained in the Maternity Benefits Act, 1961 (53 of 1961) (hereinafter referred to in this section as "the said Act"), the State Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of the said Act and the rules made thereunder shall apply to registered Women Security Guards employed in any factory or establishment; and for that purpose, they shall be deemed to be women within the meaning of the said Act; and in relation to such women, employer shall mean, where a Board makes payment of wages to such women, the Board, and in any other case, ¹[principal employer] as defined in this Act; and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of such provisions of the said Act within the local limits of his jurisdiction.

22. Rights and privileges under other laws not affected in certain cases.- Nothing contained in this Act shall affect any rights or privileges, which any registered Security Guard employed in any factory or establishment is entitled to on the date on which this Act comes into force, under any other law, contract, custom or usage applicable to such Security Guard, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act and the Scheme:

Provided that, such Security Guard shall not be entitled to receive any corresponding benefit under the provisions of this Act and the Scheme.

23. Exemptions.-The State Government may, after consulting the Advisory Committee, by notification in the *Official Gazette*, and subject to such conditions and for such period as may be specified in the notification, exempt from the operation of all or any of the provisions of this Act or any Scheme made thereunder, all or any class or classes of Security Guards employed ²[by the agency or agent as may be specified in the notification and deployed] in any factory or establishment or in any class or classes of factories or establishment, if in the opinion of the State Government, all such Security Guards or such class or classes of Security Guards are in the enjoyment of benefits, which are on the whole not less favourable to such Security Guards than the benefits provided by or under this Act or any Scheme made thereunder.

³* * * * *

¹ These words were substituted for the word "employer", by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s. 12

² These words were inserted. *ibid.*, s.13(a)

³ The first proviso was deleted *ibid.*, s. 13(b)

¹[Provided that], the State Government, may, by notification in the *Official Gazette*, at any time, for reasons to be specified, rescind the aforesaid notification.

NOTE

S.23 - Notification granting exemption-In this writ petition the validity of Notification granting exemption to security guards employed by certain private agencies is challenged.

It is held that the controversy is covered by the Supreme Court decision in the case of *Security Guards Board 1987 I CLR 424*. Exemption can be granted only to Security Guards employed in class or classes of factories or establishments.

In the instant Notification the exemption is granted to security guards employed by certain private agencies and there is no reference at all to class or classes of factories or establishments. The notification is thus beyond the power of the State Government under S.23 of the Act and it is quashed.

Maharashtra Rajya Suraksha Rakshak and General Kamgar Union v. State of Maharashtra 1991 I CLR 291 (Bom.-D.B.)

24. Inquiry into working of the Board.-(1) The State Government may, at any time, appoint any person to investigate or inquire into the working of any Board or Scheme and submit a report to the State Government in that behalf.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of the investigation or inquiry, and furnish to him such documents, accounts or information in possession of the Board as he may require.

(3) Any person so appointed to investigate or inquire into the working of any Board or Scheme may exercise all the powers of an Inspector appointed under this Act.

25. Supersession of the Board.-(1) If the State Government, on consideration of the report referred to in sub-section (1) of Section 24 or otherwise, is of the opinion -

- (a) that the Board is unable to perform and discharge its duties and functions; or
- (b) that the Board has persistently made default in the performance and discharge of its duties and functions or has exceeded or abused its powers,

the State Government may, by notification in the *Official Gazette*, supersede the Board and reconstitute it in the prescribed manner, within a period of twelve months from the date of supersession. The period of supersession may be extended by the State Government for sufficient reasons by a like notification by not more than six months:

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in Clause (b), the State Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the Board.

¹ These words were substituted for the words "provided further that". *ibid.* s. 13(c)

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

(3) When the Board is superseded, the following consequences shall ensue, that is to say:-

- (a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1), vacate their office;
- (b) all the powers, duties and functions, which may be exercised, performed or discharged by the Board shall, during the period of supersession, be exercised, performed or discharged by such person or persons as may be specified in the notification;
- (c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the State Government; and on the reconstitution of the Board, such funds and property shall revert in the Board.

26. Contracting out.- Any contract or agreement, whether made before or after the commencement of this Act, whereby a registered Security Guard relinquishes any right conferred by, or any privilege or concession accruing to him under this Act or any Scheme, shall be void and of no effect, in so far as it purports to deprive him of such right or privilege or concession.

27. General penalty for offences.- Save as otherwise expressly provided in this Act, any person, who contravenes any of the provision of this Act, or any rule made thereunder, shall, on conviction, be punished with fine, which may extend to five hundred rupees, and in case of continued contravention thereof, with an additional fine which may extend to one hundred rupees per day for every day during which such contravention continues.

28. Protection of action taken under this Act.- No suit, prosecution or other legal proceedings shall lie against the State Government or the Board or the Chairman, Secretary or any member of the Board or the Advisory Committee or any Inspector or any other officer of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or any Scheme or any rule or order made thereunder.

29. Power to make rules.- (1) The power to make rules under this Act shall be exercised by the State Government, subject to the condition of previous publication and by notification in the *Official Gazette*.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules, consistent with this Act generally to carry out the purposes of this Act.

30. Schemes and rules to be laid before State Legislature.- Every Scheme and every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the Scheme or the rule, or both Houses agree that the Scheme or the rule

should not be made and notify such decision in the *Official Gazette*, the Scheme or the Rule as the case may be shall thereafter from the date of publication of such notification, have effect only in such modified form or be of no effect as the case may; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that Scheme or Rule.

NOTES

Scheme framed thereunder - Clause 26(2) - Petitioner is a Trade Union espousing cause of security guards employed by second respondent-Second respondent has not registered itself as an employer and continued to engage services of security guards from third respondent - Petitioner seeks direction to respondent No.2 to get registered with the Board - After hearing the parties, directions are given as stated in Para 7 some of which are that security guards stated in Ex.-A to move respondent no.1 for registration and so also second respondent shall make an application with first respondent for registration.

Bharatiya Suraksha Rakshak & General Kamgar Union v. Security Guard Board & Ors.
2006 II CLR 873 (Bom.H.C.)

31. Repeal of Mah. Order V of 1981 and Saving.- (1) The Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 (Mah. Ord. V of 1981), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken (including any notification issued, rules, scheme or any order made) under the said Ordinance, shall be deemed to have been done, taken, issued or made as the case may be, under the corresponding provisions of this Act.

The Maharashtra Private Security Guards (Regulation of Employment and Welfare) Rules, 1981¹

Notification No. SGO.1081/CR-6/Lab-13

August 28, 1981

In exercise of the powers conferred by sub-sections (1) and (2) of section 29 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 (Mah.Ord.V of 1981), and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section 29, namely:-

1. Short title.- These rules may be called the **Maharashtra Private Security Guards (Regulation of Employment and Welfare) Rules, 1981.**

2. Definitions.-(1) In these rules, unless the context otherwise requires,-

- (a) "Chairman" means the Chairman of the Board;
- (b) "Form" means a form appended to these rules;
- (c) "Member" means a member of the Board;
- (d) "Ordinance" means the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Ordinance, 1981 (Mah. Ord. V of 1981);
- (e) "Section" means a section of the Ordinance.

(2) Words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Ordinance.

3. Term of Office.-(1) Members of the Board other than the members representing the State Government shall ordinarily hold office for a period of three years from the date of the notification published under sub-section (6) of section 6, appointing them as members; and they shall be eligible for re-appointment on the same terms and conditions on which they are first appointed;

Provided that the State Government may by order curtail the term of office of any such member or members for reasons to be recorded in writing;

Provided further that, a member shall continue in office even after the expiry of the term of three years until another person is appointed in his place.

(2) A member representing the State Government including the Chairman may be appointed either by name or by virtue of his office. The appointment of a member representing the State Government may be terminated by Government regard being had to circumstances or exigencies of service in the State Government.

(3) All appointments of members to fill in vacancies shall also be notified in the *Official Gazette*.

(4) A member other than a member representing the State Government may resign his office by a letter under his hand addressed to the Chairman.

¹ Mah. Govt. Gaz. Ext., No.110, dt. 28.8.1981, Pt. I-L, p. 305

4. Maintenance of Accounts, Records, Annual Statement of Accounts including Balance-sheet.- The annual statement of accounts of the Board and its records shall be maintained in Forms I, II and III and the budget shall be prepared in Form IV. The accounts shall be audited annually by a qualified person appointed by the State Government.

5. Allowance for non-official members.-(1) The non-official members of the Board shall be eligible to draw travelling allowance and daily allowance for any journey performed by them in connection with the work of the Board in accordance with Scale I specified in the Rule 1(1)(b) of Appendix XLII-A, to Section I of the Bombay Civil Services Rules 1959, as amended from time to time, read with Government Resolution, Finance Department, No.TRA 1477/1032-C/SER-5, dated the 23rd September, 1977. The non-official members who are local persons, residing within a distance of 8 kilometres shall be eligible to draw actual conveyance charges limited to Rs.10 incurred by them from their place of residence to the place of meeting and back, per sitting for every day of the meeting of the Board, which they attend.

(2) The non-official members of the Board, who are members of the State Legislature or of the Parliament shall be entitled to draw travelling and daily allowance in accordance with the law relating to allowances of members of the State Legislature, or as the case may be of the Parliament.

(3) The Secretary to the Board shall be the Controlling Authority in respect of travelling allowance bills of the non-official members.

6. Qualification of Inspector.-(1) No person shall be appointed to be an Inspector under the Ordinance unless he is a graduate of a statutory University or holds any other qualification recognised as equivalent thereto by the State Government and is able to speak, read and write Marathi:

Provided that a person who is not a graduate, but who has passed the Secondary School Certificate Examination or any other equivalent examination of a recognised Board or University may be appointed to be an Inspector with the previous sanction of the State Government, regard being had to his previous experience, if any, or his connections with or experience of security functions.

(2) No person shall be appointed to be an Inspector under the Ordinance or having been so appointed, shall continue to hold office if he has or acquires, directly or indirectly by himself or by any partner, any share or interest in any establishment or factory within the limits of his jurisdiction to which the Ordinance applies:

Provided that, nothing in this sub-rule shall apply-

- (i) to any person who has been permitted by the Board to hold or acquire directly or indirectly by himself or in the name of any member of his family living with him or dependent on him, any share or interest in any Co-operative Bank or Co-operative Society registered under any law relating to Co-operative Societies;
- (ii) to any person who acquires by inheritance any share or interest in any establishment or factory but who is not a working partner therein.

7. Duties of Inspector.-The Inspector shall, subject to any directions of the Board, make such examination of establishments or factories to which the Ordinance applies as may appear to him to be necessary for the purpose of satisfying himself that the provisions of the Ordinance and the Scheme in relation to such establishments or factories are duly observed.

8. Reconstitution of Board.-On supersession of a Board the State Government may reconstitute the Board within the period specified in sub-section (1) of section 25 in the manner in which the Board is constituted by the State Government under section 6; and thereupon the provisions of rule 3 shall apply in relation to the members of the Board reconstituted under that section.

FORM
(See Rule 4)

.....Board

Form of income and expenditure account for the year ending 31st March.....

Figures for the previous year	Expenditure	Figures for the current year	Figures for the previous year	Income	Figures for the current year
---	To Administrative charges	By levy from registered employers. Interest on investment in securities. Interest on call money deposit. Miscellaneous receipts

FORM II
(See Rule 4)

.....Board

Form of Assets Register Account for the year ending 31st March.....

Voucher No. and Date	Particulars of suppliers Bill/Bills	Depre-ciation of articles	Quan-tity	Net Price	Incidental charges	Total price	Net value as at	Depre-ciation	Other adjustment

Total _____

Grand Total _____

FORM III
(See Rule 4)

Form of balance-sheet as at 31st March.....

Figure for the previous year	Liabilities	Figures for the current year	Figures for the previous year	Assets	
				Cash & Bank Balance	Figures for the current year

FORM IV
(See Rule 4)

.....Board

Final Revised Budget Estimates for the year..... and Original Budget Estimates for the year.....

Particulars	Original estimate for the year	Amount provided in the first revised budget estimates for the year	Actual amount spent upto Dec.	Estimated expenditure from Jan. to March	Final revised estimates for the year	Estimate for the year	Remarks
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The Maharashtra Private Security Guards (Regulation of Employment and Welfare) Scheme, 2002¹

No. SGA.152002/(91/5)LAB-5.- In exercise of the powers conferred by sub-section (1) of Section 4 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (Mah.LVIII of 1981); and of all other powers enabling it in that behalf, the Government of Maharashtra, after consultation with the Advisory Committee, hereby amends the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 as required by sub-section (1) of said Section 4, of the said Act, namely:-

1. Title.- (1) This Scheme may be called **The Maharashtra Private Security Guards (Regulation of Employment and Welfare) Scheme, 2002.**

(2) ²[The Scheme shall come into force with effect from ,-

(a) 12th November 2002 in the Brihan Mumbai and Thane Districts;

(b) 5th December 2002 in Nagpur, Aurangabad, Pune, Nashik and Raigad Districts, and

(c) 21st February 2012 in Dhule, Nandurbar, Jalgaon, Sangli, Satara, Solapur, Ahmednagar, Amaravati, Akola, Washim, Yavatmal, Buldhana, Chandrapur, Gadchiroli, Kolhapur, Ratnagiri, Sindhudurg, Jalna, Wardha, Bhandara and Gondia Districts.]

2. Objects and Application.-(1) **Objects.-**The objects of the Scheme are,-

(i) to regulate employment of Private Security Guards employed in factories and establishment, and to make better provisions for their terms and conditions of employment and welfare through the establishment of a Board therefore and for matters connected therewith;

(2) **Application.-**This Scheme shall apply to the registered Security Guards of the Board and the Security Guards in the employment of an employer agency deployed in any factory or establishment and employer agencies and registered principal employers, ³[in the State of Maharashtra] in the areas specified in the Schedule appended hereto.

3. Interpretation.-(1) In this Scheme, unless the context otherwise requires,-

(2) **"Act"** means the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (Mah. LVIII of 1981),-

(a) **"Appointed Day"** means the day of commencement of the Scheme;

¹ M.G.G. Pt.II, Ext. dt. 12.11.2002.

² Subs. by G.N. SGA-1508/C.R. 1236/Lab-5 dt. 21.2.2012 MGG Pt.I-I, Ext. dt. 21.2.2012

³ Added vide Corrigendum dt. 6th December, 2002. M.G.G. Pt.II, Ext. dt. 6.12.2002 p. 742

- (b) **"Board"** means the Security Guards Board ¹[xxxx] constituted under section 6 of the Act for the areas specified in this Schedule;
 - (c) **"Board Pool"** means a list or register of registered Security Guards maintained by the Board but shall not include directly employed Security Guards and the Security Guards registered in the register of "other pool";
 - (d) **"Chairman"** means Chairman of the Board;
 - (e) **"Employer agency"** means an employer agency within the meaning of the term "Employer" as defined in section 2(3) of the Act which directly employs Security Guards and supplies them to principal employer for deploying in his factory or establishment and whose security guards are granted exemption by the Government;
 - (f) **"Other pool"** means a list or register of exempted Security Guards of the employer agencies registered with the Board, maintained by the Board;
 - (g) **"Personnel officer"** means the personnel officer appointed by the Board under Clause 4;
 - (h) **"Pool Security Guard"** means a Security Guard whose name is entered in the Board pool or other pool, as the case may be;
 - (i) **"register of employer agency"** means the register of employer agency as defined in entry (e), registered with the Board maintained by the Board under the Scheme;
 - (j) **"register of principal employers"** means the register of principal employers maintained by the Board under the Scheme;
 - (k) **"register of Security Guards"** means the register of registered Security Guards of the Board and the Security Guards of the employer agency registered with the Board, maintained under the Scheme;
 - (l) **"register of principal employer"** means the principal employer, whose name is for the time being entered in the register of principal employer maintained by the Board;
 - (m) **"registered Security Guard of the Board" or "Security Guards of the employer agencies registered with the Board"** means a person whose name is for the time being entered in the register of Security Guards;
 - (n) **"rules"** means the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Rules, 1981.
- (3) Words and expressions used but not defined in the Schedule shall have the meaning assigned to them in the Act.

¹ Del. by G.N. SGA-1508/C.R. 1236/Lab-5 dt. 21.2.2012 MGG Pt.I-L, Ext. dt. 21.2.2012.

4. Secretary, Personnel Officer and other servants of the Board.-The Board may appoint a Secretary, a Personnel Officer and such other officers and servants on such conditions of service as it deems fit:

Provided that no post, the maximum salary of which exclusive of allowances is Rs.5,500 and above per month shall be created, and no appointment to such post shall be made, by the Board except with the previous approval of the State Government:

Provided further that the previous approval of the State Government shall not be necessary to any appointment in a leave vacancy of a duration of not more than three months.

5. Functions of the Board.-(1)The Board may take such measures as it may consider desirable for carrying out the objective of administering the Scheme set out in clause 2 including measure for:-

- (i) ensuring the adequate supply and the full and proper utilisation of registered Security Guards of the Board for the purpose of facilitating and doing security work or watch and ward work in any factory or establishment;
- (ii) determining and keeping under review the number of registered Security Guards of the Board from time to time, on the registers or records and the increase or reduction to be made in the number of registered Security Guards of the Board;
- (iii) keeping, adjusting and maintaining the registered principal employers, registers, entering there in the name of any registered principal employer in accordance with the provisions of this Scheme;
- (iv) keeping, adjusting and maintaining from time to time, such registers or records as may be necessary of registered Security Guards of the Board including any registers or records of registered Security Guards of the Board who are temporarily not available for work and whose absence has been approved by the Board; And where circumstances so require, removing from any register or record the name of any registered Security Guards of the Board either at his own request or in accordance with the provisions of the Scheme;
- (v) grouping or re-grouping of all registered Security Guards of the Board into such group as may be determined by the Board and reviewing the grouping of any registered Security Guards of the Board on the application of a registered Security Guard of the Board;
- (vi) making provision, subject to availability of funds, for welfare of registered Security Guards of the Board including medical services in so far as such provision does not exists apart from this Scheme;
- (vii) recovering from registered principal employers contribution in respect of the expenses of this Scheme, wages, levy and other contributions under this Scheme;

- (viii) disbursing of wages and other allowances to registered Security Guards of the Board;
 - (ix) making provision subject to availability of funds for the health and safety measures in places where Security Guards of the Board are employed in so far as such provision does not exist apart from this Scheme;
 - (x) maintaining and administering the Security Guards of the Board welfare fund recovering from all the registered principal employers contribution towards the fund when such fund is constituted in accordance with the rules of the fund;
 - (xi) maintaining and administering provident fund and gratuity fund for registered Security Guards of the Board in the Board pool when such funds are constituted;
 - (xii) making adequate infrastructure to provide for the physical training facilities for the registered Security Guards of the Board;
 - (xiii) Sanctioning the creation of posts, the maximum salary of which exclusive of allowances is below Rs.5,500 per month and to make appointment to such post.
- (2) The property, fund and other assets vesting in the Board shall be held and applied by it subject to the provisions and for the purposes of this Scheme.
- (3) The Board shall have and maintain its own fund to which shall be credited,-
- (a) all monies received by the Board from the State Government;
 - (b) all fees, wages and levies received by the Board under this Scheme;
 - (c) all monies received by the Board by way of sale and disposal of properties and other assets;
 - (d) interest on investment in securities and deposits, rents and all monies received by the Board in any other manner or from and other source.
- (4) All monies forming part of the funds shall be kept in savings account or fixed deposit account with any nationalised bank. Such accounts shall be operated by such officers of the Board as may be authorised by the Board.
- Explanation.-* For the purpose of this sub-clause, "nationalised bank" means a bank specified in column 2 of the first scheduled to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) and also to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)
- (5) The Board may, with the previous permission of the State Government borrow money from open market or otherwise with a view to provide itself with adequate resources.

- (6) The Board may, accept deposits on such conditions as it deems fit from persons, authorities or establishments with whom it has to transact any business.
- (7) The Board shall make provision for such reserve and other denominated funds as may be provided in this Scheme.
- (8) The Board shall have the authority to spend such sums as it thinks fit for the purpose authorised under this Scheme from and out of the general fund of the Board or from the reserve and other funds as the case may be.
- (9) The Board shall cause the proper account to be kept of the cost of operating this Scheme and all receipts and expenses under this Scheme.
- (10) The Board shall submit to the State Government,-
- (a) as soon as may be, after the first day of April, in every year and not later than the 31st day of October, an annual report on the working of the Scheme during the preceding year ending the 31st of March, together with an audited balance-sheet; and
 - (b) copies of proceeding of the meeting of the Board.
- (11) The Board may,-
- (i) fix the number of Security Guards of the Board to be registered under the various categories;
 - (ii) increase or decrease the number of registered Security Guards of the Board in any category on the register from time to time as may be necessary after a periodical review of the register and anticipated requirements;
 - (iii) sanction the temporary registration of a specified number of Security Guards of the Board in any category for specific periods which shall not be more than 5% of the prescribed total registered Security Guards of the Board by following procedure of registration of Security Guards;
 - (iv) devise forms, records, registers, statements and the like required for administration of the Scheme;
 - (v) determine the wages, allowances and other conditions of service including age of retirement of all the pool;
 - (vi) determine the manner of disbursement of wages and other allowances of all the Security Guards and the Security Guards of the employer agencies registered with the Board. The payment of all Security Guards shall be made through cheque;
 - (vii) fix the rate of levy under ¹[Clause 40];
 - (viii) sanction the annual budget;
 - (ix) subject to the provisions of clause 4, appoint a Secretary, the Personnel Officer and other staff of the Board;
 - (x) make recommendation to the State Government about any modification in the Scheme;

¹ Corrected vide Corrigendum dt. 6th December, 2002, M.G.G., Pt.II., Ext. dt. 6.12.2002 p.742.

- (xi) settle disputes between registered principal employers and registered Security Guards of the Board;
- (xii) subject to such conditions as it thinks fit, delegate in writing to the Chairman, Secretary or to any other officer of the Board any of its functions under this Scheme;
- (xiii) to ensure that Employees State Insurance Scheme is made applicable to all the Security Guards.

6. Annual Estimate.- The Chairman shall at a special meeting to be held before the end of February in each year lay before the Board, the annual budget of the Scheme for the year commencing on the first day of April then next ensuing in such details and forms as the Board may from time to time specify. The Board shall consider the estimate so presented to it and shall within four weeks of its presentation sanctions the same either unaltered or subject to such alteration as it may deem fit.

7. Responsibilities and duties of Chairman.-Without prejudice to the powers and functions of the Board, the Chairman shall be generally responsible for satisfactory execution of this Scheme and shall have powers to execute the decisions of the Board subject to its directions and particulars,-

- (a) to ensure that the decisions of the Board in regard to the adjustment of the registers of Security Guards are carried out expeditiously;
- (b) to ensure that the sanctions for temporary registration of Security Guards are carried out without delay;
- (c) to supervise and control the working of this scheme;
- (d) to take suitable steps, if any irregularities are detected by him or brought to his notice;
- (e) to regulate the recruitment and entry into, and the discharge from the Scheme of registered Security Guards of the Board and the allotment of registered Security Guards of the Board in the Board pool to the registered principal employers;
- (f) to ensure that the provisions of this Scheme in regard to transfer and promotion of registered Security Guards of the Board are carried out;
- (g) to constitute medical boards when required;
- (h) to ensure that conditions laid down in this scheme for the registration of principal employers are complied with by them;
- (i) to ensure that all forms, registers, returns and documents, devised by the Board are properly maintained;
- ✓ (j) to take disciplinary action against registered Security Guards of the Board and registered principal employers in accordance with the provisions of this Scheme;
- (k) to deal with appeals from the registered Security Guards and registered principal employers under clauses 35 and 36;

- (l) discharge all functions relating to disciplinary action against registered principal employers and registered Security Guards of the Board to the extent permitted under clause 32;
- (m) to take suitable steps to give or make available adequate physical training, security training and fire fighting training to the registered Security Guards of the Board;

8. Functions of Secretary.-Without prejudice to the powers and functions of the Board and the Chairman, the Secretary shall perform duties imposed on him by this Scheme in the discharge of his duties and in particular be responsible for,-

- (a) keeping, adjusting and maintaining the register of registered principal employers;
- (b) keeping, adjusting and maintaining from time to time, such registers or records, as may be necessary of registered Security Guards of the Board and the Security Guards of employer agency registered with the Board including any registers or records of registered Security Guards of the Board and the Security Guards of employer agency registered with the Board who are temporarily not available for work and whose absence has been approved by the Board and where the circumstances require removing from any registers or records the name of any registered Security Guard of the Board either at his request or in accordance with the provisions of this Scheme;
- (c) the employment and control of registered Security Guards of the Board, who are available for work, when they are not otherwise employed in accordance with this Scheme;
- (d) the grouping or re-grouping of registered Security Guards of the Board in suitable Board's pool in accordance with the instructions received from the Board in such groups as may be determined by the Board;
- (e) the allotment of registered Security Guards of the Board in the Board pool who are available for work to registered principal employers and for this purpose the Secretary shall,-
 - (i) make the fullest possible use of registered Security Guards of the Board in the Board pool;
 - (ii) provide for the maintenance of records of employment and earnings of registered Security Guards of the Board.
- (f) (i) the collection of levy or any other contribution from the registered principal employers under this Scheme;
- (ii) the collection from registered Security Guards of the Board of contribution to the provident fund, insurance fund or any other fund which may be constituted under the scheme;
- (iii) the payment to each registered Security Guards of all earnings lawfully due to him from the registered principal employer and the

- payment to such Security Guards of all monies payable by the Board in accordance with the provisions of this scheme;
- (g) appointing, subject to budget provisions, such officers and servants, from time to time, as may be authorised by the Board or the Chairman to appoint;
 - (h) the keeping of proper accounts of the cost of operating this scheme and of all receipts and expenses under it and making and submitting to the Board an Annual Report and Audited Balance Sheet and profit and loss accounts statement;
 - (i) framing budget annually for submission to the Board on or before the 15th day of February each year;
 - (j) maintaining complete service records of all registered Security Guards and record sheet of all registered principal employers;
 - (k) authorising the employment of unregistered Security Guards in case registered Security Guards are not available for work in the Board pool or in such other circumstances as the Chairman may approve; and
 - (l) such other function as may, from time to time, subject to the provisions of this Scheme, be assigned to him by the Board or the Chairman.

9. Function of Personnel Officer.-The personnel officer shall assist the secretary in the discharge of his duties and shall in particular carry out the functions assigned to him by clause 32 of this Scheme.

10. Maintenance of registers.-The following registers shall be maintained by the Board, namely:-

(a) Register of principal employers.-There shall be a register of employers in the form devised by the Board wherein the names, addresses and other details of the principal employers of the Board, registered under the Scheme shall be entered.

(b) Register of registered employer agency.-There shall be a register of employer agencies registered with the Board, in form devised by the Board, wherein the names, addresses and other details of the employer agencies under the Scheme shall be entered.

(c) Register of Security Guards.-There shall be a register of registered Security Guards of the Board and register of Security Guards of employer agencies registered with the Board in the form devised by the Board wherein the names, addresses and other details of the registered Security Guards of the Board, and Security Guards of the employer agencies registered with the Board, shall be maintained.

11. Classification of registered Security Guards of the Board.-The Board shall arrange for the classification of the registered Security Guards of the Board in suitable categories as may be determined by it from time to time.

12. Fixation of number of registered Security Guards of the Board on the registers.-Before the commencement of registration in any category, the Board shall determine the number of the registered Security Guards of the Board required in that category in consultation with the registered principal employers.

13. (1) Registration of principal employer.-(a) Every principal employer who engages registered Security Guards of the Board or Security Guards of employer agencies, whose Security Guards are granted exemption by the Government, in his establishment, shall get himself registered with the Board, by applying in the form devised by it:

Provided that, principal employers who are already registered under the existing scheme shall be deemed to be registered under this scheme.

(b) The registered principal employers of the Board on appointed day shall continue to be principal employers of the Board and the employer agencies whose Security Guards are granted exemption, shall be strictly prohibited to provide their Security Guards to such principal employers.

¹[(c) Every ²[Principal employer] who had engaged Private Security Guards before the commencement of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) (Amendment) Scheme, 2005 shall get himself registered with the Board, by applying in the form devised by the Board, within Fifteen Days from the date of commencement of the said Scheme:

Provided that, an employer of any establishment coming into existence after the commencement of the said Scheme shall apply for registration within a period of one month from the date of commencement of his business.]

(2) Registration of employer agency.-Every employer agency which has directly employed private Security Guards or class or classes of Security Guards for deployment to various establishments and ³[factories] to whose security guards, the State Government has granted exemption, from operation of all or any of the provisions of the Act or Scheme by issuing notification under section 23 of the Act, shall get itself registered with the Board within 15 days from the date of publication of the exemption notification by applying in the form devised by the Board, along with the number of Security Guards on its rolls.

(3) Notwithstanding anything contained in sub-clause (2).-Directorate General Resettlement, Government of India, Ministry of Defence, New Delhi, recognised sponsored employer agencies which employ only ex-serviceman as Security Guards, shall register with the Board with police verification certificate of the Security Guards enrolled with them for exemption.

14. Registration of existing and new Security Guards.-(1)(a) Any person who desires to work as Security Guards shall, after following the procedure

¹ Added by Mah.Govt. Notification SGA No.152002/(91/5)/Lab.5 dt. 5.4.2005

² Corrected vide G.N. dt. 6.6.2005

³ Added vide Corrigendum dt. 6th December, 2002. M.G.G. Pt.II, Ext. dt. 6.12.2002 p. 742

prescribed for selection as a Security Guard of the Board and on his selection as a Security Guard, apply for registration to the Board in the form devised by it.

Provided that, Security Guards who are already registered under the existing scheme, shall be deemed to be registered under this scheme.

(b) The qualifications for new registration shall be such as may be specified by the Board having regard to local conditions, physical fitness, capacity or experience. No person other than a citizen of India shall be eligible for registration, provided that a Gurkha who is a citizen of Nepal and was employed as Security Guard in the State of Maharashtra as on the appointed day shall be eligible for registration.

(2) Notwithstanding any provision of this scheme, where the Board is of the opinion that a registered Security Guard of the Board has secured his registration by furnishing false information in his application or by withholding any information required therein or where it appears that a Security Guard has been registered improperly or incorrectly, the Board may direct the removal of his name from the register:

Provided that, before giving any such direction, the Board shall give such Security Guard an opportunity of showing cause why the proposed direction should not be issued.

(3) **Registration of Security Guards of employer agency.**-Every Security Guard who is exempted from the operation of or any of the provisions of the Act or Scheme by issuing notification under section 23 of the Act shall get himself registered with the Board, within two months from date of publication of such notification by applying in the form devised by the Board.

(4) No eligible Security Guard shall be denied registration on the grounds of domicile, or the prescribed age.

In the absence of any authentic proof of age, the medical certificate issued by an authorised Government Medical Hospital shall be deemed as final and conclusive evidence of age.

15. Promotion and transfer of registered Security Guards of the Board.-

(1) A vacancy (other than casual vacancy) in any category of registered Security Guard of the Board in a pool register shall ordinarily be filled by promotion of a registered Security Guard of the Board from the next lower category.

Explanation.-The criteria for promotion shall ordinarily be-

- (a) Seniority,
- (b) merit and fitness for the category to which promotion is to be made,
- (c) record of past service.

(2) A registered Security Guard of the Board who is deployed with the registered principal employer of the Board shall be transferred at regular

intervals as per guidelines of the Board, and a maximum of 1/3rd of the registered Security Guards of the Board deployed with the registered principal employer may be transferred every year.

16. Medical examination.-(1) [Before registration, every Security Guard has] to undergo, free of charge, a medical examination for physical fitness by a medical officer nominated by the Chairman for this purpose. A Security Guard found medically unfit by medical officer may apply in writing to the Chairman and simultaneously deposit with him such fees as may be specified in this behalf for examination by a Medical Board. On receipt of such a request, the Chairman shall set up a Medical Board. The decision of the Medical Board shall be final and a Security Guard who is medically unfit shall not be entitled to registration.

(2) If the Chairman deems it necessary so to do, he may require a Security Guard to undergo, free of charge, a medical examination by a Medical Board to be constituted by the Chairman. The decision of the Medical Board shall be final and if a Security Guard is found permanently unfit by a Medical Board, the Chairman shall terminate his service forthwith.

17. Registration fee.-(1) A registration fee of rupees one hundred shall be paid to the Board by each Security Guard at the time of registration/enrollment under the Scheme.

(2) A registration fee of rupees one thousand shall be paid by each principal employer as well as employer agency at the time of registration under this Scheme.

18. Supply of cards.- (1) Every registered Security Guard of the Board shall be supplied with an identity card by the Board and an attendance card and wage slips by the registered principal employer in the forms devised by the Board.

(2) In case of loss of identity card, a fresh identity card will be issued to the registered Security Guard of the Board concerned on payment of such amount as may be fixed by the Board.

(3) It will be obligatory on the part of exempted security guard to obtain identity card duly approved which shall be sealed with serial number and authority and signed by Security Board.

19. Service records for registered Security Guard of the Board.-A service record for every registered Security Guard shall be maintained in a form to be specified by the Board which shall contain among other things, a complete record of disciplinary actions taken against the Security Guard, promotions, commendations for good work etc. and such other matters as the Board may think fit.

20. Record sheets for registered principal employers.-The Personnel Officer shall maintain a record sheet in respect of each registered principal

¹ Subs. by Mah. Govt. Notification SGA No.152002/(91/5)/Lab-5 dt. 5.4.2005

employer in a form to be devised by the Board which shall contain, among other things, a complete record of disciplinary action taken against the registered principal employer.

21. Surrender of identity cards.- A Registered Security Guard of the Board shall surrender his identity card to the Board in the following circumstances, namely:-

- (a) when proceeding on leave for seven days or more;
- (b) when retiring from service;
- (c) on death;
- (d) on termination.

22. Disappointment money.-When a Registered Security Guard of the Board in the Board pool presents himself for work and for any reason the work cannot commence or proceed and he is relieved within two hours of his attending for work, he shall be entitled to disappointment money, from the registered principal employer at a rate as may be fixed by the Board as appropriate to the category to which he belongs. A Registered Security Guard of the Board detained for more than two hours shall be paid full wages inclusive of dearness allowance.

23. Holidays.-Each registered Security Guard of the Board shall be entitled in a year to four holidays with pay at such rates as may be specified by the Board under clause 30. Out of the four holidays, three holidays will be on,-

- (i) 26th January (Republic Day);
- (ii) 1st May (Maharashtra Day);
- (iii) 15th August (Independence Day).

The fourth holiday shall be decided by the Board :

Provided that the registered principal employer may require any Security Guard to work in the factory or establishment on all or any of these days, subject to the condition that for such work the Security Guard shall be paid at the overtime rate as may be specified by the Board under clause 30 and substitute holiday.

24. Obligations of registered Security Guards of the Board.- (1) Every registered Security Guard of the Board shall be deemed to have accepted the obligations of this Scheme.

(2) A Registered Security Guard of the Board in the pool who is available for work shall not engage himself for employment under registered principal employer, unless he is allotted to that principal employer by the Secretary.

(3) A Registered Security Guard of the Board in the Board pool who is available for work shall carry out directions of the Board and shall accept employment under any registered principal employer for which he is considered suitable by the Board.

(4) A Registered Security Guard of the Board who is available for work when allotted by the Board for employment under a registered principal