

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

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MAHARASHTRA ACT NO. LVIII OF 1981¹

[THE MAHARASHTRA PRIVATE SECURITY GUARDS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1981.]

[This Act received assent of the President on 24th September 1981: assent was first published in the Maharashtra Government Gazette, Part IV, Extraordinary on 25th September 1981.]

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 therefore, 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 therefore, 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 Bombay 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. 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.

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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 Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 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;

²[(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;

²[(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 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

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 28.4.96.
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)

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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 utilization 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 ³[Principal employers], subject to the fulfillment 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 ³[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;

(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 benefits, Overtime payment, Leave with Wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

1. These words were inserted by Mah. Ord 4 of 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)

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(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 ¹[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 such¹[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 wages;

(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 by¹[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 therefore 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 therefore 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 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;

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)

- (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) 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.
- (4) Notwithstanding anything contained in this Act,-
- (a) on and from the 29th June, 1981, in Greater Bombay 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.

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)

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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 in to 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 Bombay General Clauses Act, 1904,(Bom 1 of 1904), shall apply to the exercise of the powers given by sub-section (1) as they apply to the exercise of the powers 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 ¹(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.

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 Guard 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 ²(principal employers) the Security Guards and the State Government.

(4) The members representing the ²[principal employers], and the Security Guards shall be equal in number, and the members, representing the State Government shall not exceed one-third of the total number of members representing ²[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.

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| <p>1. These words were substituted for the word "employers", by Mah. Ord. 4 of 1996 and subsequently by Mah. 28 of 1996, s.4</p> <p>2. The words were substituted for the word "employers", ibid s.5</p> |
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(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 ¹[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 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.

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

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 direction 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 be fill in the vacancy shall hold office so long only as the member in whose place he is nominated would have hold it if the vacancy had not occurred;

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

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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 ¹[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.

(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 a 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 employer ¹[principal employer] or Security Guard shall be made under sub-section (1), unless the employer

¹[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 provision of this Act to any particular class of Security Guards and ²[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

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| <p>1. These words were ins. By Mah. Ord. 4 of 1996 and subsequently by Mah.28 of 1996, s.7
2. These words were substituted for the word "employer". <i>ibid</i>;s 15(a).</p> |
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members representing the ¹[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 meeting of the advisory Committee and procedure to be followed for the purpose shall be regulated according to the rules made under this Act.

(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 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 the 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 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 employer ²[or principal employer]; and

1. These words were substituted for the word "employers" by Mah Ord. 4 of 1996 and subsequently by Mah. 28 of 1996 s. 5(b)
2. These words were inserted. *ibid.* s 9

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(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).

17. Cognizance of offences.- (1) No court shall take cognizance of any offence made punishable by a scheme or of any abetment 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 abetment 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 Security Guard.

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

19. Application of Workmen's Compensation Act to Security Guards.- The provisions of the workmen's 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 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).

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| <ol style="list-style-type: none">1. These words were substituted for the word "employer" by Mah. Ord.4 of 1996 and subsequently by Mah.28 of 1996, S.102. These words were substituted for the word "employers". i bid, s. 11. |
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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[* * * * *]

⁴[Provided that], the State Government, may, by notification in the Official Gazette, at any time, for reasons to be specified, rescind the aforesaid notification.

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)
4. The words were substituted for the word "provided further that", *ibid*, s. 13(c).

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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 ground 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.

(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-sections(1), vacate their office;
- b) all the powers, duties and functions, which may be exercised, performed or discharge 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.

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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 extent 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 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.

31. Repeal of Mah. Ord. 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 an 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 provision of this Act.

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