

Chapter-1

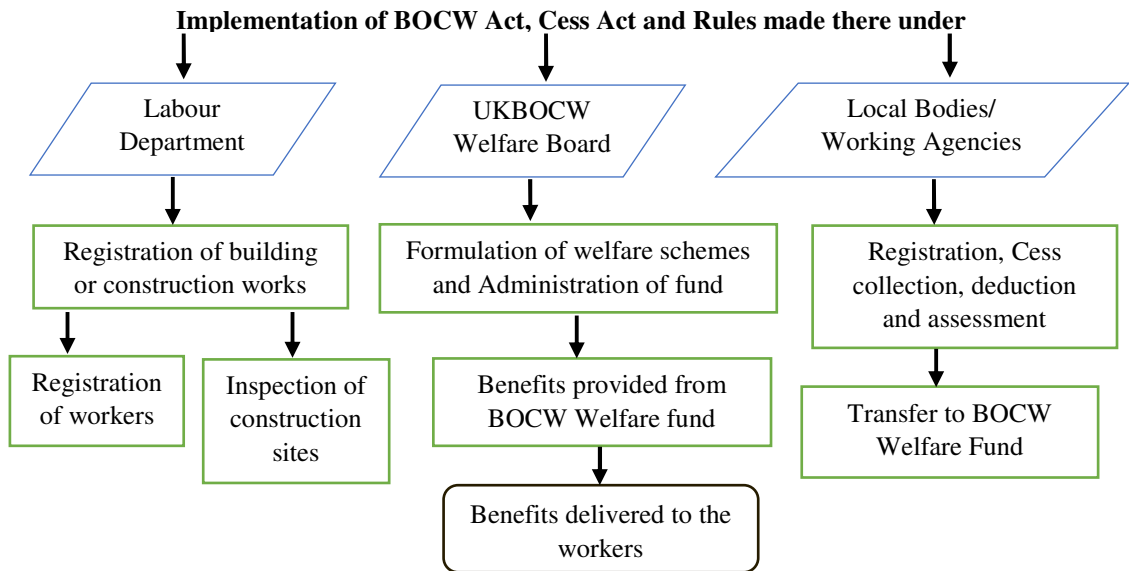
Introduction

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The Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act (the BOCW Act) came into existence in 1996 to regulate workers' employment, their safety, health and welfare measures and for other matters connected therewith or incidental thereto. In October 2005, the Uttarakhand Government constituted the Building and Other Construction Workers (BOCW) Welfare Board to implement welfare schemes for construction workers in the State. The Board provided benefits under 17 welfare schemes between 2017-22, however, a composite Model Scheme¹ was formulated under the directions of the Hon'ble Supreme Court in March 2018. According to the order of the Hon'ble Supreme Court, only workers employed in registered establishments are entitled to get any benefits under the BOCW Act.

Process Chart



To ensure availability of sufficient funds for welfare measures, the cess is levied at one *per cent* on the cost of construction incurred by an employer as per the provision of the Building and Other Construction Workers Welfare Cess Act 1996 (the BOCW Welfare Cess Act). The exception made for the collection of cess is only in respect of individual residential houses² with a construction cost not exceeding ₹ 10 lakh. Further, every employer³ shall make an application to registration authorities⁴ for registration of construction work within 60 days of its commencement.

¹ Model Scheme consists of seven schemes with defined financial criteria and a time frame for delivery of benefits. These schemes are Life and disability cover, health and Maternity cover, Education, Housing, Skill Development, Awareness Programme and Pension.

² Not for commercial and Government construction works.

³ Employing 10 or more workers on any day during construction.

⁴ As depicted in Table-1.1.

Besides this, every building worker engaged in building and construction work for at least 90 days in the preceding 12 months and falling within the age range of 18 to 59 years is eligible for registration with the Board for obtaining any benefit of welfare schemes. Once registered, a building and construction worker will contribute to the cess fund with an amount per month as prescribed by the State Government until reaching the age of 60 years. Further, as per Model Welfare guidelines, registered workers are entitled to get pension in case they have been registered for at least 10 years in the Board.

1.1 Organizational set-up

The Secretary Labour is the administrative head of the Department and is responsible for the due implementation of the BOCW Act. The administrative department has the responsibility to oversee the activities of the BOCW Welfare Board and to ensure that the accounts are finalized and adopted by the Board within the stipulated period.

The State Government has constituted a Board to be known as the Uttarakhand Building and Construction Workers (UKBOCW) Welfare Board to exercise the powers conferred on and perform the functions assigned to it under BOCW Act. The Board consists of 12 members, including the Chairman. The Board appoints Secretary who acts as the Chief Executive Officer of the Board. The Board Secretary also exercises administrative and financial powers delegated by the Board. The organizational structure concerning the function of the Board in the State is given in *Appendix-1.1*.

Details of designated authorities for implementation of the BOCW Act, the Cess Act and Rules made thereunder are given in **Table-1.1**.

Table-1.1: Details of designated authorities

Authority	Department	Functions of the Authority
Deputy Labour Commissioner, Assistant Labour Commissioner	Labour Department	(i) Registration of beneficiaries and establishment (ii) Assessing Officers (iii) Responsible for Welfare of beneficiaries and delivery of benefits (iv) Cess collecting authority (iv) Inspecting authority
Secretary Development Authority	Development Authority	(i) Cess collector (ii) Cess assessing authority
Assistant Engineer	Development Authority	Registration of Establishments
Executive Engineer	Working Agencies	Cess deductor
Assistant Engineer	Working Agencies	Registration of Establishments

1.2 Audit Objectives

The broad objectives of the performance audit were to assess whether:

- i. There was an effective system for registration of establishments and beneficiaries.
- ii. The Government implemented a transparent and effective system of inspections to check evasion of Labour cess and compliance with health and safety norms by Employers.

- iii. Cess assessment, collection and transfer of collected cess to the Fund as well as administration and utilization of funds for the implementation of the welfare scheme was efficient and effective as per the Act and Rules made thereunder.
- iv. The Rules notified by the Government under the Act are consistent with the spirit of the BOCW Act.

1.3 Audit Criteria

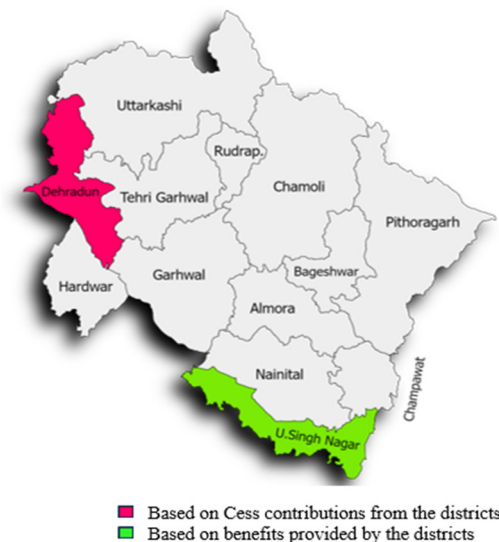
To evaluate the subject matter in pursuit of the above-mentioned Audit objectives, the criteria are sourced from various Acts and Rules issued by the Government of India and the Government of Uttarakhand. The source of audit criteria was:

- i. Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act 1996;
- ii. Uttarakhand Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Rules 2005;
- iii. Building and Other Construction Workers' Welfare Cess Act 1996 and Cess Rules 1998;
- iv. Uttarakhand Financial Rules;
- v. Resolutions passed by the Board;
- vi. National Building Code of India 2016 titled Construction Management, Practices & Safety and
- vii. Inspection Policy notified by Uttarakhand Government.

1.4 Audit Scope and Methodology

The performance audit commenced with an Entry Conference held on 12 October 2022 with the Secretary, Uttarakhand Building and Other Construction Workers Welfare Board, Government of Uttarakhand wherein the audit objectives, scope and audit criteria were discussed and the inputs of the Department were obtained. Out of 13 districts, Dehradun and U.S. Nagar⁵ were selected for performance audit.

Records of the Deputy Labour Commissioner, Dehradun and Assistant Labour Commissioner, U.S. Nagar were scrutinized.



⁵ Uttarakhand State has 13 districts which are divided into two regions i.e., Garhwal (seven districts) and Kumaon (six districts). Dehradun and U.S Nagar, these two out of 13 districts were selected as Dehradun in Garhwal region had maximum contribution in cess fund and U S Nagar in Kumaon region disbursed maximum amount of benefits under welfare schemes.

Records of four⁶ Working Agencies and two⁷ Development Authorities in the selected districts were test checked. Besides, a total of 10 welfare schemes were also selected by applying Stratified Random Sampling.

The performance audit was conducted from October 2022 to March 2023 covering a period of five years from 2017-18 to 2021-22.

The methodology included scrutiny of documents, issue of questionnaires and audit observations and physical inspection of various work sites at Dehradun and Udham Singh Nagar.

The findings and recommendations of the performance audit were discussed with the Secretary, Department of Labour in an Exit Conference on 10 October 2023 and the views of the Government have been suitably included in the report.

1.5 Constraints/Limitations

The audit was constrained due to the non-production of records/documents by various authorities (Board, working agencies, MDDA as detailed in *Appendix-1.2*).

In addition to the above, the Board also furnished records/documents/data to Audit with delay. Further, the Board/MDDA furnished replies with delays/furnished partial replies/ did not give replies to audit queries and observations.

1.6 Structure of the Report

The Performance Audit Report has been structured in five themes: Registration of establishments and beneficiaries; Cess collection, transfer, and assessment; Compliance of Health and safety measures and inspections; Implementation of welfare measures and Governance & Management Issues.

⁶ 1-Executive Engineer, Construction Division, Dehradun, 2-Executive Engineer, Temporary Division, Rishikesh, 3- Executive Engineer, Construction Division, Khatima, 4- Project Manager, Construction Division, Peyjal Sansadhan Nigam, Rudrapur.

⁷ Mussoorie Dehradun Development Authority, Dehradun and District Development Authority, U.S. Nagar.