

Chapter II: Compliance with the provisions of the Act

This chapter highlights the shortcomings in framing of required rules by the GoUP.

Brief snapshot of the chapter:

- Rules 2009 did not have provisions for constitution of Expert Committees, and for providing benefits to beneficiaries after attaining age of 60 years in compliance with the Sections 14(2) and 62(2)(i) of the Act.
- All mandatory functions of the Board, as provided in the Act, have not been included in Rules 2009.
- Required format and timeline for preparation and submission of budget estimates, annual report and annual accounts have not been provided by the GoUP under Rules 2009.

2.1 Comparison of State level Rules with requirements of the Act

As per Section 62 of the Act, State Governments were required to frame Rules for the implementation of its various provisions. The formulation of Rules was imperative for registration of establishments and beneficiaries, determination of entitlements for beneficiaries and ensuring safety; health and welfare measures of workers *etc.*

To address this, the GoUP notified Rules 2009 in February 2009, incorporating pertinent provisions that corresponded to requirements of the Act. However, in certain areas, not even provisions of the Rules 2009 but also their implementation was deficient against the requirement of the Act. The details in this regard are given in **Table 2.1** below:

Table 2.1: Comparison of provisions of the Rules 2009 with the requirements of the Act and their status of implementation

Requirements as per provisions of the Act	Status of compliance of requirements of the Act under the Rules 2009	Shortfalls against the requirement of the Act or in actual implementation of the Rules 2009
For constitution of State Advisory Committee (SAC), to advise State Governments on matters related to administration of Act, Sections 4(3) and 62(2)(a) requires that the number of nominated members, their term and other details required for functioning of SAC, shall be prescribed by the State Government.	Rules 10 to 22 provided required provisions in respect of constitution and functioning of SAC.	The constitution and functioning of SAC were deficient in the State as discussed in paragraph 7.2.4.
For constitution of Expert Committees (EC), to advise State Governments in framing of rules, Sections 5(2) & 62(2)(b) require that the fees and allowances that may be paid to the members of the EC, shall be prescribed by the State Government.	No rules were framed for constitution and functioning of EC.	To address the deficiencies of Rules 2009 (paragraphs 3.2.5, 5.3, 6.2 and 7.1.3), provisions of EC is required under Rules 2009.

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For registration of establishments, Sections 7(2)-(3) and 62(2)(c)-(d) require that form of application, registration fee, form of certificate and registration conditions may be prescribed by State Government through rules.	Rules 23 to 28 provided required provisions in this regard.	The conditions of registration certificate were not adhered to (<i>paragraphs 3.1.3 and 6.4</i>).
For Registration of workers as beneficiaries, Sections 12(2)-(3) and 62(2)(f)-(g) require that the form for registration of beneficiaries together with the required documents (including certificate of employment) and requisite fee for this, may be prescribed by the State Government through rules.	Rules 27 and 276 provided required provisions in respect of registration of beneficiaries.	Provisions for certificate of employment and identity cards were not as per requirement of Act (<i>paragraphs 3.2.2 and 3.2.5</i>).
Sections 14(2) and 62(2)(i) require provisioning of benefits by the State Government for those workers, who had been a beneficiary for at least three years continuously immediately before attaining the age of 60 years.	No provisions were made for providing benefits to beneficiaries as envisaged in related Sections of the Act.	In absence of rules, no action was initiated by the Board in this regard (<i>paragraph 7.1.3</i>).
Sections 15 and 62(2)(j) require prescribing of form by the State Governments to maintain Employment register by employers to keep details of employment of beneficiaries employed under their establishment.	Rule 278 provided required format of form in this regard.	Despite prescribing required format, related register was not maintained (<i>paragraph 6.8</i>).
For Constitution of the Board, Sections 18(4) and 62(2)(k) require prescribing of terms and conditions of appointment of the Chairman and nominated members, their salaries and other allowances, manner of filling vacancies <i>etc.</i> by the State Government through rules. Besides, Sections 19(3) and 62(2)(l) also require that terms and conditions of services and payment of salaries and allowances to the Secretary, and other officers & employees of the Board shall be prescribed by the State Government through rules.	Rules 256 to 269 provided required details in respect of constitution of the Board. However, there was no provisions for terms and conditions of services and payment of salaries and allowances to the Secretary and the other officers & employees.	Though the GoUP did not make provisions regarding payment of salary to the Secretary and employees of the Board, however, salary was being paid to them from the Welfare Fund by the Board.
Section 62(2)(n) requires prescribing of details for providing financial assistance to beneficiaries for house building loans or advances, education of their children, medical expenses <i>etc.</i> by the State Government. Besides, Sections 22(3) & 62(2)(o) also require provisioning of annual grants-in-aid to local authorities or employers for providing welfare measures and facilities to	Rules 2009 did not have any provisions for payment of medical expenses to the workers or their family members and engagement of local authority or employer for welfare of workers.	Despite no provision in the Rules 2009, the Board had implemented Medical Aid Scheme, Workers Critical Illness scheme <i>etc.</i> for payment of medical expenses to the workers.

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workers and their family members by the State Governments under rules.		
Sections 25 & 62(2)(p) require prescribing of form and timeline for preparation and submission of annual budget of the Board.	Rules 2009 did not mention required form and timeline in this regard.	Due to lack of provisions, the preparation and submission of budget estimate was delayed (<i>paragraph 7.2.1</i>).
Sections 26 & 62(2)(q) require prescribing of form and timeline for preparation and submission of an annual report on activities of the Board. Similarly, Sections 27 & 62(2)(r) require prescribing of form and timeline for preparation and submission of an annual statement of account of the Board.	Rules 2009 did not mention required forms and timelines in this regard.	Due to lack of these provisions, the Board did not prepare annual report and annual statement of accounts (<i>paragraphs 7.2.2 and 7.2.3</i>).
Sections 28 & 62(2)(s) require fixing of working hours and provisioning of rest day and payment for work on rest day <i>etc.</i> for workers through framing of rules in this regard.	Rules 35 to 43 provided requisite provisions in this regard.	Due to non-maintenance of prescribed registers, compliance of provisions could not be ensured (<i>paragraph 6.8</i>).
Sections 30 and 62(2)(t) to (v) require prescribing of required registers and records, to be maintained by the employer for keeping details of works performed by workers such as working hours, rest day, wages paid to them and receipts thereof. Besides, manner and place for display of required notices and issuance of wage book or slip to workers by the employer are also to be include in rules.	Rules 46 to 51 provided requisite provisions in this regard.	Due to insufficient inspections, compliance of provisions in this regard could not be ensured (<i>paragraphs 6.5 and 6.8</i>).
Sections 33, 36, 37 and 62(2)(w) to (y) require provisioning for facilities such as latrines/urinals, first-aid, canteens <i>etc.</i> , for workers at the construction sites by the employers through rules.	Rule 54, 55 and 56 provided requisite provisions in this regard.	Due to insufficient inspections, compliance of provisions could not be ensured (<i>paragraph 6.5</i>).
Sections 38 and 62(2)(za) require prescribing of number of representatives of employer and worker for constitution of Safety Committee and appointment of a Safety Officer by deciding qualifications and duties in this regard through rules.	Rule 2009 did not prescribe number of representatives of employer and worker for constitution of Safety committee.	Employers neither constituted Safety Committee nor appointed Safety Officer (<i>paragraph 5.3 and 5.4</i>).
Sections 39(1) and 62(2)(zb) require prescribing of format for submission of notice of accident at worksite causing death or bodily injury to workers and timeline for	Rule 251 provided required provisions in this regard.	The employers did not submit required notice to the

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submission of such notice by employers through rules.		Inspectors (<i>paragraph 5.5</i>).
Sections 40 and 62(2)(zc) require framing of rules by the State Government regarding measures to be taken for safety and health of workers in course of their employment.	Rule 60 to 249 provided required provisions in this regard.	The GoUP could not ensure implementation of these provisions (<i>paragraph 5.8</i>).
Sections 43 and 62(2)(zd) require empowering and engaging Inspectors for conducting inspections through rules.	Rules 253 and 254 provided required provisions in this regard.	Sufficient inspections were not conducted by Inspectors during the period 2017-22 (<i>paragraph 6.5</i>).
Sections 45(1) and 62(2)(ze) require deciding date of payment of wages to workers by the employer through rules.	Rule 49 provided required provisions in this regard.	Due to non-maintenance of required registers, compliance of provisions could not be ensured (<i>paragraph 6.8</i>).

The foregoing table demonstrates that the enacted statutes broadly adhered to the stipulations of the Act. However, it is noteworthy that certain provisions of the Act were yet to be fully addressed by the GoUP.

Furthermore, audit identified inconsistencies within the rules concerning the submission of a notice of work commencement by employers to the Inspector. Section 46 of the Act mandates this submission to occur before 30 days of work commencement. However, Rule 27(3) of the Rules 2009 specifies that employers are required to notify the relevant Inspector 15 days prior to commencing the work. A similar incongruity was noted where some of the works notified as ‘Building and Other Construction Works’ by the GoUP was contrary to the provisions of Section 2(d) of the Act, as discussed in *paragraph 3.2.3*.

Nevertheless, adhering to constitutional provisions through legislation does not inherently ensure proficient execution in practical contexts. The audit has discerned that the legal frameworks lacked resolute enforcement. This situation is particularly pronounced in aspects concerning the constitution of the Board and State Advisory Committee, the registration of establishments and beneficiaries, safeguarding the safety and health of workers, managing service conditions and welfare initiatives, as well as the formulation and submission of budget estimates, annual accounts, and annual reports, all of which are elaborated upon in the subsequent chapters.

The State Government did not offer (March 2024) any comments on the Audit observations.

To sum up:

The GoUP has established the requisite Rules in accordance with the provisions outlined in the Act. However, certain issues remain unaddressed which include the formation of Expert Committee, delineation of benefits to be extended to workers who reach the age of sixty and have maintained three years of continuous membership with the Board before their retirement age, stipulations regarding the terms and conditions of service for the Secretary and other Board officials, encompassing the provision for their salary and other allowances, stipulating the mandatory functions to be carried out by the Board, specifying the format and timeline for the preparation of the annual report and accounts, determining the number of members for the Safety Committee, among others. As a result of these gaps, there have been deficiencies in the administration of the relevant provisions of the Act.

Recommendation 1: *The State Government may consider plugging the gaps of Rules 2009 with the requirements of the Act such as constitution of Expert Committee, delineation of benefits to be extended to workers who reach the age of sixty and specifying format and timeline for preparation of the annual report and accounts.*